

No. 16555

UNITED STATES OF AMERICA
and
PANAMA

**Loan Agreement for Panamá City water supply system
(with annex). Signed at Panamá on 6 May 1969**

**Amendatory Agreement No. 1 to the above-mentioned
Agreement (with annex). Signed at Panamá on 30 Sep-
tember 1971**

**Amendatory Agreement No. 2 to the above-mentioned
Agreement. Signed at Panamá on 2 June 1976**

Authentic texts: English.

Registered by the United States of America on 27 April 1978.

ÉTATS-UNIS D'AMÉRIQUE
et
PANAMA

**Accord de prêt relatif au système d'adduction d'eau de la
ville de Panamá (avec annexe). Signé à Panamá le 6 mai
1969**

**Avenant n° 1 à l'Accord susmentionné (avec annexe). Signé
à Panamá le 30 septembre 1971**

**Avenant n° 2 à l'Accord susmentionné. Signé à Panamá le
2 juin 1976**

Textes authentiques : anglais.

Enregistrés par les États-Unis d'Amérique le 27 avril 1978.

LOAN AGREEMENT¹ BETWEEN [THE] REPUBLIC OF PANAMA
INSTITUTO DE ACUEDUCTOS Y ALCANTARILLADOS NACIO-
NALES AND THE UNITED STATES OF AMERICA FOR PANAMÁ
CITY WATER SUPPLY SYSTEM

Dated 6 May 1969

A.I.D. Loan Number 525-L-028

LOAN AGREEMENT dated May 6, 1969, between the INSTITUTO DE ACUEDUCTOS Y ALCANTARILLADOS NACIONALES, an autonomous agency of the Government of the Republic of Panama ("Borrower"), the REPUBLIC OF PANAMA ("Government") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I. THE LOAN

Section 1.01. THE LOAN. A.I.D. agrees to lend to the Borrower in furtherance of the Alliance for Progress and pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed fifteen million United States dollars (\$15,000,000) ("Loan") to assist the Borrower in carrying out the Project referred to in Section 1.02 ("Project"). The Loan shall be used exclusively to finance United States dollar costs of goods and services required for the Project ("Dollar Costs") and local currency costs of goods and services required for the Project ("Local Currency Costs"). The aggregate amount of disbursements under the Loan plus interest capitalized in accordance with Section 2.01 is hereinafter referred to as "Principal".

Section 1.02. THE PROJECT. The Project shall consist of two elements: first, the design and construction by Borrower of a new water supply system for Panamá City with a normal capacity of 56 million gallons daily (MGD) ("Water System"); secondly, studies to be conducted by qualified consultants of the rates, organization, administration and operations of Borrower and implementation by Borrower of the recommendations contained therein. The Project is more fully described in Annex I, attached hereto, which Annex may be modified in writing by mutual consent of the parties hereto.

Article II. LOAN TERMS

Section 2.01. INTEREST. The Borrower shall pay to A.I.D. interest which shall accrue at the rate of three and one-half percent (3½ %) per annum on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement (as such date is defined in Section 7.04), and shall be computed on the basis of a 365-day year. For a period of four and one-half years from the date of first disbursement hereunder, interest payments shall not be made by Borrower but all interest accrued (computed in accordance with this Section) shall be capitalized and added to Principal. Thereafter, interest on the total outstanding balance of Principal (including capitalized interest) shall be payable semi-annually. The first payment of interest shall be due and payable no later than five (5) years after the first disbursement hereunder, on a date to be specified by A.I.D.

¹ Came into force on 6 May 1969 by signature.

Section 2.02. REPAYMENT. The Borrower shall repay to A.I.D. the Principal within thirty (30) years from the date of the first disbursement hereunder in fifty-one (51) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be payable on the same date on which the first interest payment is due in accordance with Section 2.01. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 2.03. SPECIAL PAYMENT PROCEDURE. (a) If prior to the date when the first interest payment is due, A.I.D. notifies Borrower in writing that the Government of the Republic of Panama ("Government") has elected to use the Special Payment Procedure described in this Section, Borrower, until A.I.D. gives notice otherwise, shall discharge its obligations to make payments pursuant to this Article, and, if A.I.D. so directs, pursuant to Section 8.02, by making all such payments in accordance with the terms of this Agreement to Government in balboas (rather than to A.I.D. in dollars), the applicable exchange rate to be the lowest rate at which Borrower, on the date of payment in balboas to Government, could have lawfully purchased dollars to meet its obligation to pay interest and Principal to A.I.D. in dollars had it been discharging its obligation by direct payment of A.I.D.

(b) In the event of election of Special Payment Procedure under a Special Payment Agreement between the Government and A.I.D., the Government shall, subject to the terms of such Agreement, pay to A.I.D.:

- (1) The equivalent in United States dollars, determined as of a time and in a manner calculated to obtain repayment of all dollars disbursed plus interest, of all amounts paid by Borrower to Government, as follows:
 - (i) All interest immediately upon receipt from Borrower subject to Government's right to retain all such payments in excess of two (2) percent per annum during a grace period of not to exceed ten (10) years from the first disbursement under the Loan Agreement ("Government Grace Period") and all payments in excess of two and one-half (2½) percent per annum thereafter.
 - (ii) Principal within forty (40) years from the date of the first disbursement under the Loan Agreement in sixty-one (61) approximately equal semi-annual installments of Principal and interest, the first of which installments shall be payable five (5) years after the date on which the first interest payment is due in accordance with Section 2.01.
- (2) Interest in United States dollars of two (2) percent per annum during the Government Grace Period, and two and one half (2½) percent per annum thereafter on all amounts of outstanding Principal paid by Borrower to Government from the respective dates of such payments of Principal.

(c) Receipt by borrower of notice of election pursuant to this Section shall not terminate those payment obligations of Borrower to A.I.D. under this Agreement which have not been discharged in accordance with the terms of this Section nor the rights of A.I.D. with respect thereto nor any other rights of A.I.D. under this Agreement.

Section 2.04. APPLICATION, CURRENCY, AND PLACE OF PAYMENT. All payments of interest and Principal hereunder shall be made in United States dollars and shall be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, all such payments shall be made to the Controller, USAID Mission to Panama, and shall be deemed made when received by the Office of the Controller.

Section 2.05. PREPAYMENT. Upon payment of all interest and refunds then due, the Borrower may prepay, without penalty, all or any part of the Principal. Any such prepayment shall be applied to the installments of Principal in the inverse order of their maturity.

Section 2.06. RENEGOTIATION OF THE TERMS OF THE LOAN. In the light of the undertakings of the United States of America, and the other signatories of the Act of Bogotá¹ and the Charter of Punta del Este² to forge an Alliance for Progress, the Borrower agrees to negotiate with A.I.D., at such time or times as A.I.D. may request, an acceleration of the repayment of the Loan in the event that there is any significant improvement in the internal and external economic and financial position and prospects of the country of the Borrower taking into consideration the relative capital requirements of the Republic of Panama and of the other signatories of the Act of Bogotá and the Charter of Punta del Este.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT. Prior to the first disbursement or to the issuance of the first commitment document under the Loan Agreement, the Borrower or the Government, as appropriate, shall, except as Borrower and A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to Borrower and A.I.D.:

A. Borrower

- (1) An opinion, satisfactory to A.I.D., of the Attorney General of the Government, stating that Borrower is an autonomous agency of Government, that it is empowered to enter into this Agreement and undertake all actions contemplated hereunder, that this Agreement has been duly authorized and executed in accordance with all necessary action of Borrower, and that it constitutes a valid and legally binding obligation of Borrower in accordance with all of its terms;
- (2) A statement by the Attorney General of the Government of the names of the persons holding or acting in the office of Borrower and the office of Government specified in Section 10.02 and a specimen signature of each person specified in such statement;
- (3) Evidence of a contract with an engineering firm, satisfactory to Borrower and A.I.D., for the preparation of final designs, specifications, invitations for bid and construction supervision for the Water System;
- (4) Evidence of a commitment that Borrower will obtain with funds other than those provided under the Loan, in accordance with a time schedule satisfactory to A.I.D., any real property rights including easements and rights of way required for the construction of the Water System. The said commitment shall include an opinion, satisfactory to A.I.D., of the Attorney General of the Government, indicating that Borrower has the legal power to acquire the required property rights, if necessary, by eminent domain, equivalent legal procedures or otherwise and that the said property rights may be obtained by said procedures in a time frame which will permit the prompt construction of the Water System;
- (5) Evidence of a commitment that the full amount of Borrower's local currency contribution to the Project, eight million dollars (\$8,000,000) equivalent,

¹ United States of America, *Department of State Bulletin*, 30 October 1960, p. 537.

² *Ibid.*, 11 September 1961, p. 462.

will be made available on a timely basis in order to assure the prompt implementation of the Project.

B. Government

- (1) Evidence including amounts, timing and proposed source of funds, that it will make available to Borrower all local currency funds and other resources required by Borrower in order to assure the prompt implementation of the Project;
- (2) An opinion, satisfactory to A.I.D., of the Attorney General of the Government that this Agreement, including the guaranty of Government contained in Article IX hereof, has been duly authorized or ratified by and executed on behalf of Government, and that it constitutes a valid and legally binding obligation of Government in accordance with all of its terms.

Section 3.02. ADDITIONAL CONDITIONS PRECEDENT TO DISBURSEMENT FOR MANAGEMENT CONSULTING SERVICES. Prior to any disbursement or to the issuance of any commitment document for Management Consulting Services, the Borrower shall, except as Borrower and A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to Borrower and A.I.D.:

- (1) Evidence of contractual arrangement for a study of Borrower's water rates by a qualified firm or institution satisfactory to Borrower and A.I.D.;
- (2) Evidence of contractual arrangements for a study of Borrower's organization, administration and operations by a qualified firm or institution satisfactory to Borrower and A.I.D.

Section 3.03. CONDITIONS PRECEDENT TO DISBURSEMENT FOR OTHER THAN ENGINEERING AND MANAGEMENT CONSULTING SERVICES. Prior to any disbursement or to the issuance of any commitment document for other than Engineering and Management Consulting services, Borrower shall, except as Borrower and A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to Borrower and A.I.D.:

- (1) Final design, plans and specifications, bid documents, cost estimates and a time-phased construction schedule for construction of the Water System to be financed hereunder;
- (2) Evidence that Borrower has taken action, to the extent of its legal capacity, to comply with the recommendations contained in the completed study of Borrower's water rates together with a commitment that Borrower will promptly implement recommendations of the study for future action;
- (3) Evidence that Borrower has taken action, to the extent of its legal capacity, to comply with the recommendations contained in the completed study of Borrower's organization, administration and operations, together with a commitment that Borrower will promptly implement recommendations of the study for future action;
- (4) A detailed operating and maintenance program and budget, ready for implementation, for the entire water supply system serving the City of Panamá, including provision for necessary skilled staff and training of additional staff as may be required, and for equipment and material maintenance and replacement;
- (5) Evidence of an agreement with the Panama Canal Company for the right of way on and use of Canal Zone area and for the use of Madden Lake water to the extent necessary for this Project and projected expansions;

- (6) Evidence that Borrower has obtained all real property rights, including easements and rights of way, required for the construction and operation of the Water System;
- (7) A written understanding with the Panama Canal Company setting forth, among other things, the annual quantity and cost of water to be made available to Borrower from the Miraflores system up to the 1988-1990 period;
- (8) A contract with a firm, satisfactory to Borrower and A.I.D., for construction services.

Section 3.04. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. (1) If all of the conditions specified in Section 3.01 shall not have been met within 210 days from the date of this Agreement, or such later date as Borrower and A.I.D. may agree in writing, A.I.D., at its option, may terminate this Agreement by giving written notice to the Borrower. Upon the giving of such notice, this Agreement and all obligations of the parties hereunder shall terminate.

(2) If all of the conditions specified in Section 3.02 shall not have been met within 210 days from the date of this Agreement, or such later date as Borrower and A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of the amount of the Loan and/or may terminate this Agreement by giving written notice to the Borrower. In the event of a termination, upon the giving of notice, the Borrower shall immediately repay the Principal then outstanding and shall pay any accrued interest and, upon receipt of such payments in full, this Agreement and all obligations of the parties hereunder shall terminate.

(3) If all of the conditions specified in Section 3.03 shall not have been met within thirty-two (32) months from the date of this Agreement, or such later date as Borrower and A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of the amount of the Loan and/or may terminate this Agreement by giving written notice to the Borrower. In the event of a termination, upon the giving of notice, the Borrower shall immediately repay the Principal then outstanding and shall pay any accrued interest and, upon receipt of such payments in full, this Agreement and all obligations of the parties hereunder shall terminate.

Section 3.05. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement specified in Section 3.01 and, as the case may be, 3.02 and 3.03 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROJECT. (1) The Borrower shall carry out the Project with due diligence and efficiency, and in conformity with sound engineering, construction, financial, administrative and management practices. In this connection, the Borrower shall at all times employ suitable qualified and experienced consultants to be professionally responsible for the design and execution of the project and suitably qualified and competent construction contractors for construction of the Water System.

(2) The Borrower shall cause the Project to be carried out in conformity with all of the plans, specifications, contracts, schedules and other arrangements, and with all modifications therein, approved by A.I.D. pursuant to this Agreement.

Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER. The Borrower or Government shall provide promptly as needed all funds, in addition to the Loan, and all other resources required for the punctual and effective carrying out, maintenance, operation and repair of the Project.

Section 4.03. CONTINUING CONSULTATION. The Borrower and A.I.D. shall assist each other and cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower and A.I.D. shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower and A.I.D. of their obligations under this Agreement, the performance of the consultants, contractors and suppliers engaged on the Project, and other matters relating to the Project.

Section 4.04. MANAGEMENT. The Borrower shall provide qualified and experienced management and staff for the Project and it shall train such staff as may be appropriate for the maintenance and operation of the Project in accordance with program approved by A.I.D pursuant to Section 3.03(4) above.

Section 4.05. OPERATION AND MAINTENANCE. The Borrower shall operate, maintain and repair the Water System financed hereunder during the life of the Loan in conformity with sound engineering, financial, administrative and management practices and in such manner as to insure the continuing and successful achievement of the purposes of the Project.

Section 4.06. TAXATION. This Agreement, the Loan and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal and interest shall be paid without deduction for and free from, any taxation or fees imposed under the laws in effect within the Republic of Panama. To the extent that (a) any contractor, including any consulting firm, any personnel of such contractor financed hereunder and any property or transactions relating to such contracts, and (b) any commodity procurement transaction financed hereunder, are not exempt from identifiable taxes, tariffs, duties and other levies imposed under laws in effect in the Republic of Panama, the Government shall, as and to the extent prescribed in and pursuant to Implementation Letters, pay or reimburse the same with funds other than those provided under the Loan.

Section 4.07. UTILIZATION OF GOODS AND SERVICES. (1) Goods and services financed under the Loan shall be used exclusively for the Project, except as Borrower and A.I.D. may otherwise agree in writing.

(2) Except as Borrower and A.I.D. may otherwise agree in writing, no goods or services financed under the Loan shall be used to promote or assist any foreign aid project or activity associated with or financed by any country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

Section 4.08. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES. The Borrower represents and warrants that all facts and circumstances that it has disclosed or caused to be disclosed to A.I.D. in the course of obtaining the Loan are accurate and complete, and that it has disclosed to A.I.D., accurately and completely, all facts and circumstances that might materially affect the Project and the discharge of its obligations under this Agreement. The Borrower shall promptly inform A.I.D. of any facts and circumstances that may hereafter arise that might materially affect, or that it is reasonable to believe might materially affect, the Project or the discharge of the Borrower's obligations under this Agreement.

Section 4.09. COMMISSIONS, FEES AND OTHER PAYMENTS. (1) Borrower warrants and covenants that in connection with obtaining the Loan, or taking any action under or with respect to this Agreement, it has not paid, and will not pay or agree to pay, nor to the best of its knowledge has there been paid nor will there be paid or agreed to be paid by any other person or entity, commissions, fees or other payments of any kind, except as regular compensation to the Borrower's full time officers and employees or as compensation for bona fide professional, technical, or

comparable services. The Borrower shall promptly report to A.I.D. any payment or agreement to pay for such bona fide professional, technical or comparable services to which it is a party or of which it has knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by Borrower or A.I.D., the same shall be adjusted in a manner satisfactory to A.I.D.

(2) The Borrower warrants and covenants that no payments have been or will be received by the Borrower, or any official of the Borrower, in connection with the procurement of goods and services financed hereunder, except fees, taxes or similar payments legally established in the country of the Borrower.

Section 4.10. MAINTENANCE AND AUDIT OF RECORDS. The Borrower shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating both to the Project and to this Agreement. Such books and records shall, without limitation, be adequate to show:

- (1) The receipt and use made of goods and services acquired with funds disbursed pursuant to this Agreement;
- (2) The nature and extent of solicitations of prospective suppliers of goods and services acquired;
- (3) The basis of the award of contracts and orders to successful bidders; and
- (4) The progress of the Project.

Such books and records shall be regularly audited, in accordance with sound auditing standards, for such period and at such intervals as A.I.D. may require, and shall be maintained for five years after the date of the last disbursement by A.I.D. or until all sums due A.I.D. under this Agreement have been paid, whichever date shall first occur.

Section 4.11. REPORTS. The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Project as A.I.D. may request.

Section 4.12. INSPECTIONS. The authorized representatives of A.I.D. shall have the right at all reasonable times to inspect the Water System, the utilization of all goods and services financed under the Loan and the Borrower's books, records and other documents relating to the Project and the Loan. The Borrower shall cooperate with A.I.D. to facilitate such inspections and shall permit representatives of A.I.D. to visit any of Borrower's facilities for any purpose relating to the Loan.

Article V. SPECIAL COVENANTS AND WARRANTIES

Section 5.01. SPECIAL COVENANTS AND WARRANTIES. Until final performance by all parties to this Agreement of all other obligations contained herein, and unless A.I.D. and Borrower shall otherwise agree in writing, Borrower further covenants that:

- (1) It will implement on a timely basis the recommendations contained in the water rate study financed hereunder;
- (2) It will implement on a timely basis the recommendations contained in the management study financed hereunder;
- (3) It will continue its program of installation of water meters in accordance with the program furnished pursuant to Section 3.03(4) above, endeavoring to complete such installation for all connections before commencement of operation of the Water System;

- (4) It will pay all of its debts due and owing to the Panama Canal Company within ninety (90) days from the dates of invoices submitted to the Borrower for such debts.

Article VI. PROCUREMENT

Section 6.01. PROCUREMENT FROM THE UNITED STATES. Except as Borrower and A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 7.01 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in the United States of America. All ocean shipping and marine insurance financed under the Loan shall have both their source and origin in the United States of America.

Section 6.02. PROCUREMENT FROM THE REPUBLIC OF PANAMA. Disbursements made pursuant to Section 7.02 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in the Republic of Panama.

Section 6.03. ELIGIBILITY DATE. Except as Borrower and A.I.D. may otherwise agree in writing, no goods or services may be financed under the Loan which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement.

Section 6.04. GOODS AND SERVICES NOT FINANCED UNDER LOAN. Goods and services procured for the Project, but not financed under the Loan, shall have their source and origin in countries included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed for such goods and services.

Section 6.05. IMPLEMENTATION OF PROCUREMENT REQUIREMENTS. The definitions applicable to the eligibility requirements of Sections 6.01, 6.02 and 6.04 will be set forth in detail in Implementation Letters.

Section 6.06. PLANS, SPECIFICATIONS AND CONTRACTS. (1) Except as Borrower and A.I.D. may otherwise agree in writing, the Borrower shall furnish to A.I.D. upon preparation, all plans, specifications, construction schedules, bid documents and contracts relating to the Project, and any modifications therein, whether or not the goods and services to which they relate are financed under the Loan.

(2) Except as Borrower and A.I.D. may otherwise agree in writing, all of the plans, specifications and construction schedules furnished pursuant to subsection (1) above shall be approved by A.I.D. in writing.

(3) All bid documents and documents related to the solicitation of proposals relating to goods and services financed under the Loan shall be approved by A.I.D. in writing prior to their issuance. All plans, specifications and other documents relating to goods and services financed under the Loan shall be in terms of United States standards, except as Borrower and A.I.D. may otherwise agree in writing.

(4) The following contracts financed under the Loan shall be approved by A.I.D. in writing prior to their execution:

- (i) Contracts for engineering and other professional services;
 - (ii) Contracts for construction services;
 - (iii) Contracts for such other services as A.I.D. or Borrower may specify; and
 - (iv) Contracts for such equipment and materials as A.I.D. or Borrower may specify.
- In the case of any of the above contracts for services, A.I.D. and Borrower shall also approve in writing the contractor and such contractor personnel as A.I.D. or Bor-

rower may specify. Material modifications in any of such contracts and changes in any of such personnel shall also be approved by A.I.D. in writing prior to their becoming effective.

(5) Consulting firms used by the Borrower for the Project but not financed under the Loan, the scope of their services and such of their personnel assigned to the Project as A.I.D. or Borrower may specify and construction contractors used by the Borrower for the Project but not financed under the Loan shall be acceptable to Borrower and A.I.D.

Section 6.07. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods or services financed, in whole or in part, under the Loan, as more fully described in Implementation Letters. Such items shall be procured on a fair and, except for professional services, on a competitive basis in accordance with procedures therefor prescribed in Implementation Letters.

Section 6.08. EMPLOYMENT OF THIRD-COUNTRY NATIONALS UNDER CONSTRUCTION CONTRACTS. The employment of personnel to perform services under construction contracts financed under the Loan shall be subject to requirements with respect to third-country nationals prescribed in Implementation Letters.

Section 6.09. SHIPPING AND INSURANCE. (1) Goods procured from the United States and financed under the Loan shall be transported to the Republic of Panama on flag carriers of any country included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time of shipment.

(2) At least fifty percent (50%) of the gross tonnage of all goods procured from the United States and financed under the Loan (computed separately for dry bulk carriers, dry cargo liners and tankers) which shall be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels unless Borrower and A.I.D. shall determine that such vessels are not available at fair and reasonable rates for United States-flag commercial vessels. No such goods may be transported on any ocean vessel (or aircraft) (i) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods or (ii) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by Borrower and A.I.D.

(3) If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, the Republic of Panama, by statute, decree, rule or regulation, favors any marine insurance company of any country over any marine insurance company authorized to do business in any state of the United States of America, goods procured from the United States and financed under the Loan shall during the continuance of such discrimination be insured against marine risk in the United States of America with a company or companies authorized to do a marine insurance business in any state of the United States of America.

(4) The Borrower shall insure, or cause to be insured, all goods procured in the United States and financed under the Loan against risks incident to their transit to the point of their use in the Project. Such insurance shall be issued upon terms and conditions consistent with sound commercial practice, shall insure the full value of the goods and shall be payable in the currency in which such goods were financed. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or any loss of the goods insured or shall be used to reimburse the Borrower for the replacement or repair of such goods. Any such replacements shall be of United States source and origin and otherwise subject to the provisions of this Agreement.

Section 6.10. NOTIFICATION TO POTENTIAL SUPPLIERS. In order that all United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan, the Borrower shall furnish to A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Implementation Letters.

Section 6.11. UNITED STATES GOVERNMENT-OWNED EXCESS PROPERTY. The Borrower shall utilize, with respect to goods financed under the Loan to which the Borrower takes title at the time of procurement, such reconditioned United States Government-owned Excess Property as may be consistent with the requirements of the Project and as may be available within a reasonable period of time. The Borrower shall seek assistance from A.I.D. and A.I.D. will assist the Borrower in ascertaining the availability of and in obtaining such Excess Property. A.I.D. will make arrangements for any necessary inspection of such property by the Borrower or its representative. The costs of inspection and of acquisition, and all charges incident to the transfer to the Borrower of such Excess Property, may be financed under the Loan. Prior to the procurement of any goods, other than Excess Property, financed under the Loan and after having sought such A.I.D. assistance, the Borrower shall indicate to A.I.D. in writing, on the basis of information then available to it, either that such goods cannot be made available from reconditioned United States Government-owned Excess Property on a timely basis or that the goods that can be made available are not technically suitable for use in the Project.

Section 6.12. INFORMATION AND MARKING. Borrower shall give publicity to the Loan and the Project as a program of United States aid in furtherance of the Alliance for Progress, identify the Water System and mark goods financed under the Loan, as prescribed in Implementation Letters.

Article VII. DISBURSEMENTS

Section 7.01. DISBURSEMENT FOR UNITED STATES DOLLAR COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANK. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request A.I.D. to issue Letters of Commitment for specified amounts to one or more United States banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, through the use of Letters of Credit or otherwise, for Dollar Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement. Payment by a bank to a contractor or supplier will be made by the bank upon presentation of such supporting documentation as A.I.D. may prescribe in Letters of Commitment and Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Borrower and may be financed under the Loan.

Section 7.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request A.I.D. to finance Local Currency Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documentation as A.I.D. may prescribe in Implementation Letters. A.I.D., as its option, may finance such Local Currency Costs either by:

- (1) Making such local currency available from currency of the Republic of Panama owned by the U.S. Government and obtained by A.I.D. with United States dollars; or
- (2) (i) Requiring the Borrower to make available local currency in a manner satisfactory to A.I.D. for the payment of such Local Currency Costs; and

- (ii) Thereafter making available to Borrower, through the opening or amendment of Special Letters of Credit by A.I.D. in favor of Borrower or its designee, an amount of United States dollars equivalent to the amount of local currency made available hereunder, which dollars shall be utilized for procurement from the United States in accordance with requirements prescribed by A.I.D.

The United States dollar equivalent of the local currency made available hereunder will be, in the case of local currency made available as described in paragraph (1) above, the amount of United States dollars required by A.I.D. to obtain the currency of the country of the Borrower and, in the case of local currency made available as described in paragraph (2) above, an amount calculated at the rate of exchange specified in the Special Letter of Credit Implementation Memorandum dated Sept. 14, 1964, between A.I.D. and the Banco Nacional de Panamá as of the date of opening or amendment of the applicable Special Letter of Credit.

Section 7.03. OTHER FORMS OF DISBURSEMENT. Disbursements of the Loan may also be made through such other means as the Borrower and A.I.D. may agree to in writing.

Section 7.04. DATE OF DISBURSEMENT. Disbursements by A.I.D. shall be deemed to occur (a) in the case of disbursements pursuant to Section 7.01, on the date on which A.I.D. makes a disbursement to the Borrower, to its designee or to a banking institution pursuant to a Letter of Commitment, and (b) in the case of disbursements pursuant to Section 7.02, on the date on which A.I.D. disburses the local currency to the Borrower or its designee, or on date on which A.I.D. opens or amends the Special Letter of Credit referred to in Section 7.02, as the case may be.

Section 7.05. TERMINAL DATE FOR DISBURSEMENT. Except as Borrower and A.I.D. may otherwise agree in writing, no Letter of Commitment, or other commitment documents which may be called for by another form of disbursement under Section 7.03, or amendment thereto shall be issued in response to requests received by A.I.D. after sixty (60) months from the date of signing of this Agreement, and no disbursement shall be made against documentation received by A.I.D. or any bank described in Section 7.01 after sixty-six (66) months from the date of signing this Agreement. A.I.D., as its option, may, at any time or times after expiration of the said sixty-six (66) months, reduce the Loan by all or any part thereof for which documentation was not received by such date.

Article VIII. CANCELLATION AND SUSPENSION

Section 8.01. CANCELLATION BY THE BORROWER. The Borrower may, with the prior written consent of A.I.D., by written notice to A.I.D., forgo any part of the Loan (i) which, prior to the giving of such notice, A.I.D. has not disbursed or committed itself to disburse, or (ii) which has not been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under Irrevocable Letters of Credit.

Section 8.02. EVENTS OF DEFAULT; ACCELERATION. If any one or more of the following events ("Events of Default") shall occur:

- (1) The Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement;
- (2) The Borrower shall have failed to comply with any other provision of this Agreement, including, but without limitation, the obligation to carry out the Project with due diligence and efficiency;

- (3) The Government shall have failed to comply with its commitment furnished pursuant to Section 3.01, B(1), above;
- (4) The Borrower or Government shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement or any other agreement between the Borrower or Government or any of its agencies and A.I.D. or any of its predecessor agencies,

then A.I.D. may, at its option, give to the Borrower and Government notice that all or any part of the unrepaid Principal shall be due and payable sixty (60) days thereafter, and, unless the Event of Default is cured within such sixty (60) days:

- (i) Such unrepaid Principal and any accrued interest hereunder shall be due and payable immediately; and
- (ii) The amount of any further disbursements made under then outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

Section 8.03. SUSPENSION OF DISBURSEMENT. In the event that at any time:

- (1) An Event of Default has occurred;
- (2) An event occurs that A.I.D. determined to be an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement;
- (3) Any disbursement by A.I.D. would be in violation of the legislation governing A.I.D.; or
- (4) The Borrower or Government shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement or any other agreement between the Borrower or Government or any of its agencies and the Government of the United States or any of its agencies;

then A.I.D. may, as its option:

- (i) Suspend or cancel outstanding commitment documents to the extent that they have not been utilized through the issuance of Irrevocable Letters of Credit or through bank payments made other than under Irrevocable Letters of Credit, in which event A.I.D. shall give notice to the Borrower promptly thereafter;
- (ii) Decline to make disbursements other than under outstanding commitment documents;
- (iii) Decline to issue additional commitment documents;
- (iv) At A.I.D.'s expense, direct that title to goods financed under the Loan shall be transferred to A.I.D. if the goods are from a source outside the Republic of Panama, are in a deliverable state and have not been offloaded in ports of entry of the Republic of Panama. Any disbursement made or to be made under the Loan with respect to such transferred goods shall be deducted from Principal.

Section 8.04. CANCELLATION BY A.I.D. Following any suspension of disbursements pursuant to Section 8.03, if the cause or causes for such suspension of disbursements shall not have been eliminated or corrected within sixty (60) days from the date of such suspension, A.I.D. may, at its option, at any time or times thereafter, cancel all or any part of the Loan that is not then either disbursed or subject to irrevocable Letters of Credit.

Section 8.05. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursement or acceleration of repayment, the pro-

visions of this Agreement shall continue in full force and effect until the payment in full of all Principal and any accrued interest hereunder.

Section 8.06. REFUNDS. (1) In the case of any disbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursement not made or used in accordance with the terms of this Agreement, A.I.D., notwithstanding the availability or exercise of any of the other remedies provided for under this Agreement, may require the Borrower to refund such amount in United States dollars to A.I.D. within thirty days after receipt of a request therefor. Such amount shall be made available first for the cost of goods and services procured for the Project hereunder, to the extent justified; the remainder, if any, shall be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder. Notwithstanding any other provision in this Agreement, A.I.D.'s right to require a refund with respect to any disbursement under the Loan shall continue for five years following the date of such disbursement.

(2) In the event that A.I.D. receives a refund from any contractor, supplier or banking institution, or from any other third party connected with the Loan, with respect to goods or services financed under the Loan, and such refund relates to an unreasonable price for goods or services, or to goods that did not conform to specifications, or to services that were inadequate, A.I.D. shall first make such refund available for the cost of goods and services procured for the Project hereunder, to the extent justified, the remainder to be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder.

Section 8.07. EXPENSES OF COLLECTION. All reasonable costs incurred by A.I.D., other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due A.I.D. by reason of the occurrence of any of the events specified in Section 8.02 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

Section 8.08. NON-WAIVER OF REMEDIES. No delay in exercising or omission to exercise any right, power or remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of any such rights, powers or remedies.

Article IX. GUARANTEE AND OTHER OBLIGATIONS OF GOVERNMENT

Section 9.01. GUARANTEE OF OBLIGATIONS OF BORROWER. Government hereby unconditionally and absolutely, jointly and severally as primary obligor with Borrower, guarantees to make to A.I.D., in accordance with the terms of this Agreement, due and punctual payments in dollars, whether by acceleration or otherwise, of the Principal of and the interest of this Loan.

Section 9.02. FURTHER DUTIES OF GOVERNMENT. Government shall furnish such information and take such steps relating to its guarantee as A.I.D. shall reasonably request.

Article X. MISCELLANEOUS

Section 10.01. COMMUNICATIONS. Any notice, request document or other communication given, made or sent by the Borrower, Government or A.I.D. pursuant to this Agreement shall be in writing or by telegram, cable or radiogram and shall be deemed to have been duly given, made, or sent to the party to which it is addressed when it shall be delivered to such party by hand or by mail, telegram, cable, or radiogram at the following addresses:

To Borrower:

Mail Address: IDAAN
P.O. Box 5234
Panamá City, R.P.
Cable Address: IDAAN, Panama

To Government:

Mail Address: Ministerio de Hacienda y Tesoro
Panamá City, R.P.
Cable Address: Hacienda, Panama

To A.I.D.:

Mail Address: Director
United States Agency for International Development
P.O. Box J
Balboa, C.Z.
Cable Address: USAID
Amembassy, Panama

All notices, requests, communications and documents submitted to A.I.D. hereunder shall be in English, except as A.I.D. may otherwise agree in writing.

Section 10.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of Executive Director, the Government will be represented by the individual holding or acting in the office of Minister of Finance and Treasury, and A.I.D. will be represented by the individual holding or acting in the office of Director, A.I.D., Panama. Such individuals shall have the authority to designate additional representatives by written notice. In the event of any replacement or other designation of a representative hereunder, the party making the change shall submit a statement to the others of the representative's name and specimen signature in form and substance satisfactory to others. Until receipt by the other parties of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower, Government or A.I.D., designated pursuant to this Section, the other parties may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any section effected by such instrument is duly authorized.

Section 10.03. IMPLEMENTATION LETTERS. After prior consultation with the Borrower, A.I.D. shall from time to time issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Agreement. Nothing in such letters shall alter the terms of the Agreement except as permitted by the Agreement.

Section 10.04. PROMISSORY NOTES. At such time or times as A.I.D. may request, the Borrower shall issue promissory notes or such other evidences of indebtedness with respect to the Loan, in such form, containing such terms and supported by such legal opinions as A.I.D. may reasonably request.

Section 10.05. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal and of any accrued interest, this Agreement and all obligations of the Borrower, Government and A.I.D. under this Loan Agreement shall terminate.

IN WITNESS WHEREOF, the Instituto de Acueductos y Alcantarillados Nacionales, the Republic of Panama and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

The Republic of Panama:

By: [Signed]

JOSÉ GUILLERMO AIZPÚ
Minister of Treasury and Finance

The United States of America:

By: [Signed]

DAVID LAZAR
Mission Director

Instituto de Acueductos
y Alcantarillados Nacionales:

By: [Signed]

ADAN A. ARJONA
Executive Director

ANNEX I

PROJECT DESCRIPTION

This Project consists of two elements: first, the design and construction of a new water supply system for Panamá City with a normal capacity of 56 million gallons daily (MGD); and second, studies to be conducted by qualified consultants of the water rates, organization, administration and operations of Borrower and implementation by Borrower of the recommendations contained therein.

The new water supply system is to be developed to provide additional potable water service to the City of Panamá necessary to supply increasing demands from growth and expansion. The new supply will draw from Madden Lake on the Chagres River about 15 miles north of the City, and will augment and partly replace existing service being provided by the Panama Canal Company water system from Miraflores Lake in the Canal. Only the intake facilities will be located in the Canal Zone. The new system will provide a firm average day supply of 56 MGD as the first stage of an ultimate 212 MGD system. This initial average day supply of 56 MGD is expected to meet the demand of Panamá City up to the year 1980 while the ultimate system is intended to meet the needs projected for the year 2020. After 1980, the Borrower may purchase an additional quantity of water up to approximately 23 MGD from the Panama Canal Company thus providing a 79 MGD average day supply to meet the projected demand through 1988 with the first stage facilities.

In the preparation of the final design of the distribution lines under this Project, consideration will be given to whatever information is available under the Urban Planning Study being undertaken by the Instituto de Vivienda y Urbanismo (IVU) and A.I.D., and to the information then available to IVU regarding future land use patterns for Panamá City. In any event, the distribution lines proposed to be financed under this Project are only those which are necessary to connect the Water System to the existing distribution system and to supply water in sufficient quantities to all parts of the system. Subsequent distribution lines will be designed in accordance with future needs indicated by the Comprehensive Plan for Panamá City which will be completed by that time.

Based on the projected timetable for loan implementation of sixty-three (63) months, it is estimated that IDAAN's contribution of \$8.0 million will be needed as follows:

Calendar year 1969	\$100,000
Calendar year 1970	350,000
Calendar year 1971	800,000
Calendar year 1972	3,300,000
Calendar year 1973	2,600,000
	850,000
	<hr/>
	\$8,000,000

AMENDATORY AGREEMENT NO. 1¹

A.I.D. Loan No. 525-L-028

AGREEMENT dated the 30th day of September, 1971, between the INSTITUTO DE ACUEDUCTOS Y ALCANTARILLADOS NACIONALES, an autonomous agency of the Government of the Republic of Panama ("Borrower"), the REPUBLIC OF PANAMA ("Government") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D."), amending the Loan Agreement ("Loan Agreement"), dated May 6, 1969,² between Borrower, the Government and A.I.D. as follows, to be effective as of the date of execution hereof:

1. In Section 1.01, which relates to the amount to be loaned, substitute "twenty million United States dollars (\$20,000,000)" for "fifteen million United States dollars (\$15,000,000)".

2. Section 2.01, which relates to interest, is deleted in its entirety and the following substituted therefor:

"*Section 2.01. INTEREST.* The Borrower shall pay to A.I.D. interest which shall accrue at the rate of three and one-half percent (3 ½ %) per annum on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement (as such date is defined in Section 7.04), and shall be computed on the basis of a 365-day year. Interest on disbursements not in excess of fifteen million dollars (\$15,000,000) shall be capitalized and added to Principal for a period of four and one-half (4 ½) years from the date of the first disbursement hereunder. Interest on disbursements in excess of fifteen million dollars (\$15,000,000) shall be payable semi-annually, the first such payment of interest being due and payable no later than six (6) months after the first disbursement in excess of fifteen million dollars (\$15,000,000) on a date to be specified by A.I.D. Interest on the total outstanding balance of Principal (including capitalized interest) shall be payable semi-annually commencing no later than five (5) years after the first disbursement hereunder, on a date to be specified by A.I.D."

3. Section 2.02 is deleted in its entirety and the following substituted therefor:

"*Section 2.02. REPAYMENT.* Except as otherwise provided in Section 2.03, Borrower shall repay to A.I.D. the Principal within thirty (30) years from the date of the first disbursement hereunder in fifty-one (51) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be due and payable on the same date on which the first interest payment is due and payable on disbursements not in excess of \$15,000,000, in accordance with Section 2.01. A.I.D. shall provide Borrower with an amortization schedule in accordance with this section after the final disbursement under the Loan".

4. Section 2.03, which relates to special payment procedure, is deleted in its entirety and the following section substituted therefor:

"*Section 2.03. SPECIAL PAYMENT PROCEDURE.* (a) If prior to the end of the five (5) year period commencing on the date of the first disbursement hereunder, or prior to the date the first interest payment is due with respect to any dis-

¹ Came into force on 30 September 1971 by signature.

² See p. 44 of this volume.

bursement in excess of fifteen million dollars (\$15,000,000), whichever occurs first, A.I.D. notifies Borrower in writing that the Government has so elected, Borrower, until A.I.D. gives notice otherwise, shall discharge its obligations to make payments pursuant to this article, and, if A.I.D. so directs, pursuant to Section 8.02, by making all such payments in accordance with the terms of this Agreement to Government in balboas (rather than to A.I.D. in dollars), the applicable exchange rate to be the lowest rate at which Borrower, on the date of payment in balboas to Government, could have lawfully purchased dollars to meet its obligation to pay interest and Principal to A.I.D. in dollars had it been discharging its obligation by direct payment to A.I.D.

(b) In the event of election of Special Payment Procedure under a Special Payment Agreement between the Government and A.I.D., the Government shall, subject to the terms of such Agreement, pay to A.I.D.: The equivalent in United States dollars, determined as of a time and in a manner calculated to obtain repayment of all dollars disbursed plus interest, of all amounts paid by Borrower to Government, as follows:

a. With respect to disbursements not in excess of \$15,000,000:

- (i) All interest immediately upon receipt from Borrower subject to Government's right to retain all such payments in excess of two percent (2%) per annum during a grace period of not to exceed ten (10) years from the first disbursement under the Loan Agreement ("Government Grace Period") and all payments in excess of two and one-half percent (2 ½ %) per annum thereafter;
- (ii) Principal within forty (40) years from the date of the first disbursement under the Loan Agreement in sixty-one (61) approximately equal semi-annual installments of Principal and interest, the first of which installments shall be payable five (5) years after the date on which the first interest payment with respect to disbursements not in excess of \$15,000,000 is due in accordance with Section 2.01;
- (iii) Interest in United States dollars of two percent (2%) per annum during the Government Grace Period, and two and one-half percent (2 ½ %) per annum thereafter on all amounts of outstanding principal paid by Borrower to Government from the respective dates of such payments of principal.

b. With respect to disbursements in excess of \$15,000,000:

- (i) All interest immediately upon receipt from Borrower subject to Government's right to retain all payments in excess of two percent (2%) per annum during a grace period of not to exceed ten (10) years from the first disbursement under the Loan Agreement ("Government Grace Period") and all payments in excess of three percent (3%) per annum thereafter;
- (ii) Principal within forty (40) years from the date of the first disbursement under the Loan Agreement in sixty-one (61) approximately equal semi-annual installments of principal and interest, the first of which installments shall be payable five (5) years after the date on which the first interest payment with respect to disbursements not in excess of \$15,000,000 is due in accordance with Section 2.01;

(iii) Interest in United States dollars of two percent (2%) per annum during the Government Grace Period, and three percent (3%) per annum thereafter on all amounts of outstanding principal paid by Borrower to Government from the respective dates of such payments of principal.

c. With respect to any disbursement under this loan:

(i) Receipt by Borrower of notice of election pursuant to this Section shall not terminate those payment obligations of Borrower to A.I.D. under this Agreement which have not been discharged in accordance with the terms of this Section nor the rights of A.I.D. with respect thereto nor any other rights of A.I.D. under this Agreement”.

5. Following Section 3.01, the following new section is added:

“*Section 3.01* A. CONDITIONS PRECEDENT TO DISBURSEMENT IN EXCESS OF FIFTEEN MILLION DOLLARS (\$15,000,000). Prior to any disbursement in excess of fifteen million dollars (\$15,000,000), the Borrower or the Government as appropriate shall furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(1) An opinion of the Attorney General of the Government stating that Borrower is empowered to enter into this Amendatory Agreement and undertake all actions contemplated hereunder, that Amendatory Agreement No. 1 has been duly authorized and executed in accordance with all necessary actions of Borrower and Government, and that it constitutes a valid and legally binding obligation of Borrower and Government in accordance with all of its terms;

(2) Evidence of a commitment that the full amount of Borrower’s additional local currency contribution to the Project, the equivalent of six hundred forty thousand United States dollars (\$640,000), which is in addition to the amounts to be provided by Borrower under Section 3.01(A)(5) will be made available on a timely basis in order to assure the execution of the Project”.

6. The following paragraph (4) is added to Section 3.04, which relates to terminal dates for fulfillment of conditions precedent:

“(4) If all of the conditions specified in Section 3.01A shall not have been met within one hundred twenty (120) days from the date of Amendatory Agreement No. 1, or such later date as Borrower and A.I.D. may agree to in writing, A.I.D., at its option, may cancel Amendatory Agreement No. 1 by giving written notice to the Borrower. Upon the giving of such notice, Amendatory Agreement No. 1 and all obligations of the parties thereunder shall terminate”.

7. Section 3.05 is deleted in its entirety and the following substituted therefor:

“*Section 3.05*. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement specified in Sections 3.01, 3.01A, 3.02 and 3.03, as the case may be, have been met”.

8. The following paragraph (5) is added to Section 5.01:

“(5) It will implement on a timely basis its operating, maintenance and staff training program, and provide qualified and experienced staff as may be necessary and appropriate”.

9. Article V is amended by adding the following Section 5.02:

“*Section 5.02. SPECIAL COVENANTS AND WARRANTIES OF GOVERNMENT.* Government covenants that it shall approve appropriate increases in Borrower’s water rates, or shall provide to Borrower a subsidy for necessary operating capital, in the event that Borrower’s operating revenues are insufficient to insure efficient operation of Borrower or are insufficient to meet requirements to carry out the Project”.

10. Section 6.01, which relates to procurement, is deleted in its entirety and the following substituted therefor:

“*Section 6.01. QUALIFIED WORLD-WIDE PROCUREMENT.* Except as Borrower and A.I.D. may otherwise agree in writing, and except as provided in subsection 6.09(c) with respect to marine insurance, disbursements made pursuant to Section 7.01 shall be used exclusively to finance the procurement for the Project of goods and services having their source and origin in countries included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed or contracts are entered into for such goods and services (“Qualified World-wide Goods and Services”). All ocean shipping financed under the Loan shall have both its source and origin in countries included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time of shipment, excluding Panama”.

11. Section 6.09, which relates to shipping and insurance, is deleted in its entirety and the following substituted therefor:

“*Section 6.09. SHIPPING AND INSURANCE.* (a) Qualified World-wide Goods financed under the Loan shall be transported to the Republic of Panama on flag carriers of any country included in Code 935 of the *A.I.D. Geographic Code Book* as in effect at the time of shipment.

(b) At least fifty percent (50%) of the gross tonnage of all Qualified World-wide Goods financed under the Loan (computed separately for dry bulk carriers, dry cargo liners and tankers) which shall be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels unless A.I.D. shall determine that such vessels are not available at fair and reasonable rates for United States-flag commercial vessels. No goods procured from outside Panama and financed under the Loan may be transported on any ocean vessel or aircraft (i) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods or (ii) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(c) Marine insurance on Qualified World-wide Goods may be financed under the Loan with disbursements made pursuant to Section 7.01, provided (i) such insurance is placed at the lowest available competitive rate in Panama or in a country included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time of placement, and (ii) claims thereunder are payable in freely convertible currency. If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, the Republic of Panama, by statute, decree, rule or regulation, favors any marine insurance company of any country over any marine insurance company authorized to do business in any state of the United States of America,

Qualified World-wide Goods financed under the Loan shall during the continuance of such discrimination be insured against marine risk in the United States of America with a company or companies authorized to do a marine insurance business in any state of the United States of America.

(d) The Borrower shall insure, or cause to be insured, all Qualified World-wide Goods financed under the Loan against risks incident to their transit to the point of their use in the Project. Such insurance shall be issued upon terms and conditions consistent with sound commercial practice, shall insure the full value of the goods and shall be payable in the currency in which such goods were financed or in any freely convertible currency. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or any loss of the goods insured or shall be used to reimburse the Borrower for the replacement or repair of such goods. Any such replacements shall have their source and origin in countries included in Code 941 of the *A.I.D. Geographic Code Book* as in effect at the time orders are placed or contracts are entered into for such replacements and shall be otherwise subject to the provisions of this Agreement”.

12. Section 7.02 is deleted in its entirety and the following substituted therefor:

“*Section 7.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS.* Upon satisfaction of conditions precedent, Borrower may, from time to time, request disbursement by A.I.D. of local currency for Local Currency Costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documentation as A.I.D. may prescribe in Implementation Letters. A.I.D. shall make such disbursements from local currency of Panama owned by the United States Government and that obtained by A.I.D. with United States dollars. The United States dollar equivalent of the local currency made available hereunder will be the amount of United States dollars required by A.I.D. to obtain the currency of Panama”.

13. Add to the Loan Agreement, as a supplemental attachment thereto, the document attached hereto entitled “Annex I—Amendment No. 1”.

14. All references in the Loan Agreement and this amendment to the words “Loan Agreement” or “this Agreement” shall be deemed to mean the Loan Agreement as hereby further amended.

15. Except as herein amended, all other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Instituto de Acueductos y Alcantarillados Nacionales, the Republic of Panama and the United States of America, each acting through its respective duly authorized representatives, have caused this Amendatory Agreement to be signed in their names and delivered as of the day and year first above written, in the English and Spanish languages,¹ recognizing the Spanish text as a translation of the English original.

The Republic of Panama:

By: [Signed]

Lic. DORA RELUZ
Acting Minister
Ministry of Finance

The United States of America:

By: [Signed]

ROBERT M. SAYRE
United States Ambassador
to the Republic of Panama

[Signed]

ALEXANDER FIRFER
Director
United States Agency
for International Development
Mission to Panama

Instituto de Acueductos
y Alcantarillados Nacionales

By: [Signed]

ADAN A. ARJONA CH.
Executive Director

ANNEX I—AMENDMENT NO. 1

PROJECT DESCRIPTION

In reference to the first element of this Project, as stated in Annex I of the Agreement, the water supply system for Panamá City can further be described as a system consisting of the following major items:

1. An intake work in Lake Madden to be hydraulically and structurally designed to supply maximum day flow projected for the year 2020;
2. A raw water pump room with layout and space for installations to meet maximum day flow projected for the year 2020. The initial equipment and piping installations will be capable of supplying 56 mgd;
3. A force main from the raw water pumps to the water treatment plant with a pipe diameter of 60 inches;
4. A water treatment plant hydraulically designed to pass a maximum average day flow at a rate of 90 mgd. The equipment, chemical storage and feed, and piping to be installed in this program will be capable of supplying 56 mgd;

¹ The Agreement was concluded in English only. (Information provided by the Government of the United States of America.)

5. A force main to convey treated water from the treatment plant to the balancing reservoir. The pipe diameter will be 66 inches to crest of Continental Divide, and 60 inches thence to reservoir. Three turnouts will be included to provide for subsequent water service to communities enroute;
6. A storage reservoir for balancing hourly demand variations of the system, with a capacity of 10 million gallons;
7. An interconnection from the reservoir to the existing distribution system to convey and balance maximum hourly flow and such additions to the trunk main system as may be required to facilitate any increase in service during the interim period before the new facilities are brought into production.

Based on the projected timetable for loan implementation and the updated cost estimate of the Project, loan disbursements and Borrower's contribution to the project are estimated as follows:

	<i>1971</i>	<i>1972</i>	<i>1973</i>	<i>1974</i>	<i>Total</i>
IDAAN	800,000	1,800,000	3,200,000	2,836,000	8,636,000
A.I.D.	472,000	7,100,000	9,700,000	2,692,000	19,964,000
	<hr/> 1,272,000	<hr/> 8,900,000	<hr/> 12,900,000	<hr/> 5,528,000	<hr/> 28,600,000

AMENDATORY AGREEMENT NO. 2¹ TO LOAN AGREEMENT BETWEEN THE REPUBLIC OF PANAMA INSTITUTO DE ACUEDUCTOS Y ALCANTARILLADOS NACIONALES AND THE UNITED STATES OF AMERICA FOR PANAMÁ CITY WATER SUPPLY SYSTEM²

Dated: June 2, 1976

A.I.D. Loan Number 525-L-028

AGREEMENT dated the 2nd day of June of 1976, among the INSTITUTO DE ACUEDUCTOS Y ALCANTARILLADOS NACIONALES, an autonomous agency of the Government of the Republic of Panama ("Borrower"), the REPUBLIC OF PANAMA ("Government") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("Lender"), further amending the Loan Agreement dated May 6, 1969, and amended on September 30, 1971² ("Loan Agreement"), among Borrower, the Government and Lender as follows, to be effective as of the date of execution hereof:

1. Section 2.03 (a), which relates to special payment procedure, is deleted in its entirety and the following section substituted therefor:

"Section 2.03. SPECIAL PAYMENT PROCEDURE. (a) If the Government so elects, and Borrower receives such notice of election in writing from Lender, Borrower shall fulfill its dollar obligation under the Loan, and if Lender so directs, pursuant to Section 8.02, by paying to Government in the currency of Panama the equivalent, determined as of a time and in a manner satisfactory to Lender, of the United States dollar amounts payable to Lender pursuant to Section 2.02, and in such event the Government shall pay to Lender:"

2. [In] Section 2.03 (b) the words, "In the event of election of Special Payment Procedure under a Special Payment Agreement between the Government and A.I.D., the Government shall, subject to the terms of such Agreement, pay to A.I.D.:" are deleted in their entirety.

3. The following new Section (b) is added at the end of Section 2.03:

"(b) Upon receipt by Lender in writing of the Government's election to utilize the Special Payment Procedure, said procedure will be effective for all payments due following the execution of this Amendment and notice of such election".

4. Except as herein amended, all other terms and conditions of the Agreement remain in full force and effect.

¹ Came into force on 2 June 1976 by signature.

² See pp. 44 and 60 of this volume.

IN WITNESS WHEREOF, the Instituto de Acueductos y Alcantarillados Nacionales, the Republic of Panama and the United States of America, each acting through its respective duly authorized representative, have caused this Amendatory Agreement to be signed in their names and delivered as of the day and year first above written, in the English and Spanish languages,¹ recognizing the Spanish text as a translation of the English original.

The Republic of Panama:

[Signed]

Lic. MIGUEL A. SANCHIZ
Minister of Treasury

The United States of America:

[Signed]

IRVING G. TRAGEN
Director
Agency for International Development
USAID Mission to Panama

Instituto de Acueductos
y Alcantarillados Nacionales:

[Signed]

Ing. MANUEL ALVARADO M.
Executive Director

¹ The Agreement was concluded in English only. (Information provided by the Government of the United States of America.)