

No. 17242

**UNITED STATES OF AMERICA
and
PANAMA**

**Loan Agreement for rural municipal development (with
annex). Signed at Panama on 28 November 1975**

Authentic texts: English and Spanish.

Registered by the United States of America on 24 November 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
PANAMA**

**Accord de prêt relatif au développement municipal rural
(avec annexe). Signé à Panama le 28 novembre 1975**

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 24 novembre 1978.

LOAN AGREEMENT¹ BETWEEN THE REPUBLIC OF PANAMA AND THE UNITED STATES OF AMERICA FOR RURAL MUNICIPAL DEVELOPMENT

Dated: November 28, 1975

A.I.D. Loan No. 525-T-044

LOAN AGREEMENT dated November 28, 1975, between the REPUBLIC OF PANAMA (“Borrower”) acting through the NATIONAL BANK OF PANAMA and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (“Lender”).

Article I. THE LOAN

Section 1.01. THE LOAN. Lender agrees to lend to the Borrower pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed four million United States dollars (\$4,000,000) (“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 offshore costs of goods and services required for the Project (“Offshore Costs”) and local costs of goods and services required for the Project (“Local Costs”). The aggregate amount of disbursements under the Loan is hereinafter referred to as “Principal”.

Section 1.02. THE PROJECT. The Project shall assist the Municipal Development Division of the National Bank of Panama (“the Fund”) to finance training, technical assistance and subloans to rural *municipios* or associations of *municipios* for food, rural development and nutrition subprojects (“the Project”).

The Project is more fully described in annex I, attached hereto, which annex may be modified in writing. The goods and services to be financed under the Loan shall be listed in the implementation letters referred to in section 9.03 (“Implementation Letters”).

Article II. LOAN TERMS

Section 2.01. INTEREST. The Borrower shall pay to Lender interest which shall accrue at the rate of two percent (2%) per annum for ten years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter 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 shall be payable semiannually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by Lender.

Section 2.02. REPAYMENT. The Borrower shall repay to Lender the Principal within forty (40) years from the date of the first disbursement hereunder in sixty-one (61) approximately equal semiannual installments of Principal and interest. The first installment of Principal shall be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with section 2.01. Lender shall provide the Borrower with an amortization schedule in accordance with this section after the final disbursement under the Loan.

¹ Came into force on 28 November 1975 by signature.

Section 2.03. 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 Lender may otherwise specify in writing, all such payments shall be made to the Controller, Agency for International Development, Washington, D.C., U.S.A., and shall be deemed made when received by the Office of the Controller.

Section 2.04. 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 installment[s] of Principal in the inverse order of their maturity.

Section 2.05. RENEGOTIATION OF THE TERMS OF THE LOAN. The Borrower agrees to negotiate with Lender, at such time or times as Lender 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 Republic of Panama.

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 Letter of Commitment under the Loan, the Borrower shall, except as Lender may otherwise agree in writing, furnish to Lender in form and substance satisfactory to Lender:

- (a) An opinion of the Procurador General of Panama that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms;
- (b) A statement of the names of the persons holding or acting in the office of the Borrower specified in section 9.02 and a specimen signature of each person specified in such statement.

Section 3.02. CONDITION PRECEDENT TO INITIAL DISBURSEMENT FOR TECHNICAL ASSISTANCE. Prior to the first disbursement or to the issuance of the first Letter of Commitment for technical assistance under the Loan, the Borrower shall, except as Lender may otherwise agree in writing, furnish to Lender in form and substance satisfactory to Lender, a time-phased plan satisfactory to Lender for the provision of technical assistance to the Fund.

Section 3.03. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT FOR OTHER THAN TECHNICAL ASSISTANCE. Prior to the first disbursement or to the issuance of the first Letter of Commitment for other than technical assistance under the Loan, the Borrower shall, except as Lender may otherwise agree in writing, furnish to Lender in form and substance satisfactory to Lender:

- (a) Evidence of the establishment of the Fund and the adoption of regulations governing subloans to be financed under the Project, including but not limited to, credit policy, loan approval procedure and procurement regulations;
- (b) Evidence of the promulgation of the decree law which (i) creates the advisory council to the Fund and the technical coordinating committee and delineates their powers and responsibilities and (ii) authorizes the National Bank of Panama to make loans to *municipios* without receiving prior government approval of each subloan;
- (c) Evidence of arrangements to provide appropriate technical assistance to the *municipios* in support of the Project from agencies of the Borrower other than the National Bank of Panama;

- (d) Evidence of arrangements between the Fund and participating agencies to carry out the training program for *municipio* and Fund personnel, including availability of adequate funds and training personnel.

Section 3.04. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. If all of the conditions specified in section 3.01 shall not have been met within 120 days from the date of this Agreement, or such later date as Lender may agree to in writing, Lender, 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.

If all of the conditions specified in section 3.01 have not been met as provided above, and there have been disbursements made, Lender, 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. Lender shall notify the Borrower upon determination by Lender that the conditions precedent to disbursement specified in section 3.01 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROJECT. The Borrower agrees the Project shall be carried out with due diligence and efficiency, and in conformity with sound engineering, construction, financial, administrative, and management practices and in conformity with the material approved under section 3.03. In this connection, the Borrower agrees at all times suitably qualified and experienced consultants shall be employed to be professionally responsible for the design and execution of the Project.

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

In this respect, unless Lender shall otherwise agree in writing, Borrower shall in addition cause to be contributed not less than three million United States dollars (\$3,000,000) to the Project of which not less than two million United States dollars (\$2,000,000) shall go to subloans within the Project.

Section 4.03. CONTINUING CONSULTATION. (a) The Borrower and Lender shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower and Lender 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 of its obligations under this Agreement, the performance of the consultants engaged on the Project, and other matters relating to the Project such as modification by mutual agreement of the material approved under sections 3.02 and 3.03.

(b) In this respect, during the disbursement of the Loan, Borrower shall conduct jointly with Lender and the Fund an annual review and evaluation of the progress of the Project.

(c) During disbursement of the Loan, Lender will be provided with a copy of each subloan application being considered for financing within the Project and Lender may consult with the Fund thereon.

Section 4.04. TAXATION. (a) 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, or any political subdivision thereof except municipalities.

(b) In the event of any municipal taxation or fees being imposed with respect to this Agreement, the Loan or any evidence of indebtedness issued in connection herewith, Borrower warrants that it will pay said taxation or fees from resources other than the Loan and other than the funds which Borrower is otherwise obligated to contribute to the Project.

(c) To the extent that any contractor, including any consulting firm, any personnel of such contractor financed hereunder, any property or transactions relating to such contractors financed hereunder are not exempt from identifiable taxes, tariffs, duties, and other levies imposed under laws in effect in Panama, or any political subdivision thereof, Borrower agrees, as and to the extent prescribed in and pursuant to Implementation Letters, to pay or reimburse the same under section 4.02 of this Agreement with funds other than those provided under the Loan.

Section 4.05. UTILIZATION OF GOODS AND SERVICES. (a) Goods and services financed under the Loan shall be used exclusively for the Project, except as Lender may otherwise agree in writing. Upon completion of the Project, or at such time as goods financed under the Loan can no longer usefully be employed for the Project, the Borrower may use or dispose of such goods in such manner as Lender may agree to in writing prior to such use or disposition.

(b) Except as Lender 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 4.06. 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 Lender in the course of obtaining the Loan are accurate and complete, and that it has disclosed to Lender, accurately and completely, all facts and circumstances that might materially affect the Project and the discharge of obligations under this Agreement. The Borrower shall promptly inform Lender 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 obligations under this Agreement.

Section 4.07. COMMISSIONS, FEES AND OTHER PAYMENTS. (a) The signatories warrant and covenant that in connection with obtaining the Loan, or taking any action under or with respect to this Agreement, neither has paid, nor will pay or agree to pay, nor to the best of either signatory's 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 for bona fide professional, technical or comparable services. The signatories shall promptly report to each other any payment or agreement to pay for such bona fide professional, technical, or comparable services to which either 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, the same shall be adjusted in a satisfactory manner.

(b) The signatories warrant and covenant that no payments have been or will be received by either Party, or any official of either Party, in connection with the procurement of goods and services financed hereunder, except fees, taxes, or similar payments legally established in the Republic of Panama or in the United States of America.

Section 4.08. MAINTENANCE OF RECORDS; INSPECTIONS; REPORTS. (a) Borrower shall cause to be maintained books and records in accordance with sound accounting

principles and practices adequate to identify subloans to show the activities, goods or services financed by subloans; to show the eligibility of borrowers receiving subloans; to show the financial viability of the subprojects; to indicate the progress of the Project including technical assistance and training; and to show the financial condition of the Fund.

(b) Such books and records shall be regularly audited, in accordance with sound auditing standards, at such intervals as may be agreed between Borrower and Lender (at least annually). Such books and records shall be maintained for five years after the date of the last disbursement by Lender or until all sums due Lender under this Agreement have been paid, whichever date shall first occur.

Section 4.09. REPORTS. The Borrower shall furnish to Lender such information and reports relating to the Loan, subloans, subprojects and other aspects of the Project as Lender may reasonably request.

Section 4.10. INSPECTIONS. The authorized representatives of Lender shall have the right, with prior notification to the Borrower, at all reasonable times to inspect the Project, the use of proceeds of subloans and the operations of the subprojects, and the books, records, and other documents relating to the subloans, the subprojects, the Project and the Loan. The Borrower shall cooperate with Lender to facilitate such inspections and shall permit representatives of Lender to visit any part of the country of the Borrower for any purpose relating to the Loan.

Article V. SPECIAL COVENANTS AND WARRANTIES

Section 5.01. CONDUCT OF THE PROJECT. (a) The Project shall be carried out in conformity with sound banking practices and the regulations, law and arrangements approved under section 3.03. All subloan agreements shall contain a covenant to the effect that structures and equipment financed by subloans shall be adequately maintained.

(b) Subprojects located in Panama City and the city of Colón may not be included in the Project.

(c) Repayments of subloans to the Fund as well as commissions and interest thereon will be serviced from the Borrower's other revenues.

(d) No subloan shall be made unless supported by a technically and financially adequate application.

(e) Project subloans shall be made only to finance training, technical assistance and subprojects in rural *municipios* for food, rural development and nutrition.

Article VI. PROCUREMENT

Section 6.01. PROCUREMENT FROM A.I.D. GEOGRAPHIC CODE 941 COUNTRIES. Except as Lender may otherwise agree in writing, and except as provided in subsection 6.08(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.

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.

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 Lender 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 consistent with Panamanian law.

Section 6.06. CONSULTANTS. Consultants to the Fund for the Project, the scope of their services and such of their personnel assigned to the Project as Lender may specify shall be acceptable to Borrower and Lender.

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. SHIPPING AND INSURANCE. (a) Code 941 goods financed under the Loan shall be transported to the country of the Borrower only on flag carriers of a country included in code 935 of the A.I.D. Geographic Code Book as in effect at the time of shipment. No such goods may be transported on any ocean vessel (or aircraft) (i) which Lender, 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 Lender.

(b) Unless Borrower and Lender shall determine that privately owned United States-flag commercial vessels are not available at fair and reasonable rates for such vessels, (i) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed under the Loan which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels and (ii) at least fifty percent (50%) of the gross freight revenue generated by shipments financed under the Loan and transported to the Republic of Panama on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (i) and (ii) above must be achieved with respect to both cargo transported from U.S. ports and cargo transported from non-U.S. ports, computed separately.

(c) Marine insurance on code 941 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 the Republic of 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 the currency in which such goods were financed or in any freely convertible currency. If the Government of the Republic of Panama, by statute, decree, rule, regulation, or practices, discriminates with respect to Lender-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the cooperating country financed under the Loan shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do a marine insurance business in a State of the United States.

(d) The Borrower shall insure, or cause to be insured, all code 941 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 and shall insure the full value of the goods. 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 the Republic of Panama or 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.

Section 6.09. 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 Lender such information with regard thereto, and at such times, as Lender may request in Implementation Letters.

Section 6.10. UNITED STATES GOVERNMENT-OWNED EXCESS PROPERTY. The Borrower shall cause to be utilized, with respect to goods financed under the Loan 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 transfer title to the sub-borrower. The Borrower shall seek assistance from Lender and Lender will assist the Borrower in ascertaining the availability of and in obtaining such excess property. Lender 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 Lender assistance, the Borrower shall indicate to Lender 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 6.11. INFORMATION AND MARKING. Borrower agrees to give publicity to the Loan and the Project as a program utilizing both United States and Panamanian resources in furtherance of mutual objectives, identify the Project sites and mark goods financed under the Loan, as prescribed in Implementation Letters.

Article VII. DISBURSEMENTS

Section 7.01. DISBURSEMENT FOR OFFSHORE COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANKS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request Lender to issue Letters of Commitment for specified amounts to one or more United States banks, satisfactory to Lender, committing Lender 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 offshore 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 Lender 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 COSTS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request disbursement by Lender for local costs of goods and services procured for the Project in accordance with the terms and conditions of this Agreement by submitting to Lender such supporting documentation

as Lender may prescribe in Implementation Letters. Funds utilized under the Loan to finance local costs shall be made available pursuant to procedures satisfactory to Lender.

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

Section 7.04. DATE OF DISBURSEMENT. Disbursements by Lender shall be deemed to occur (a) in the case of disbursements pursuant to section 7.01, on the date on which Lender 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 Lender disburses to the Borrower or its designee.

Section 7.05. TERMINAL DATE FOR DISBURSEMENT. Except as Borrower and Lender may otherwise agree in writing, no Letter of Commitment, or other commitment document which may be called for by another form of disbursement under section 7.03, or amendment thereto, shall be issued in response to request received by Lender after September 30, 1978, and no disbursement shall be made against documentation received by Lender or any bank described in section 7.01 after March 31, 1979. Lender, at its option, may at any time or times after September 30, 1978, 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 MUTUAL AGREEMENT. The Borrower and Lender may mutually agree in writing to cancel any part of the Loan (i) which, prior to the date of such agreement Lender has not disbursed or committed itself to disburse, or (ii) which has not then 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:

- (a) The Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement,
- (b) 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,
- (c) The Borrower 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 any of its agencies and Lender, or any of its predecessor agencies,

then Lender may, at its option, give to the Borrower 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 disbursement 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:

- (a) An event of default has occurred,
- (b) An event occurs that Borrower or Lender determines 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,

- (c) Any disbursement by Lender would be in violation of the United States legislation governing foreign assistance,
- (d) The Borrower 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 any of its agencies and the Government of the United States or any of its agencies;

then Lender may, at 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 Lender 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 Lender's expense, direct that title to goods financed under the Loan shall be transferred to Lender if the goods are from a source outside the country of the Borrower, are in a deliverable state and have not been offloaded in ports of entry of the country of the Borrower; 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 LENDER. 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, Lender 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 provisions 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. (a) 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, Lender, 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 Lender 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, Lender'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.

(b) In the event that Lender 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, Lender 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 Lender, other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due Lender by reason of the occurrence of any of the events specified in section 8.02 may be charged to the Borrower and reimbursed to Lender in such manner as Lender may specify.

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

Article IX. MISCELLANEOUS

Section 9.01. COMMUNICATIONS. Any notice, request, document, or other communication given, made, or sent by the Borrower or Lender 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:

Ministerio de Planificación y Política Económica
Apartado 2694
Panamá 3, República de Panamá

Cable address:

Ministerio de Planificación y Política Económica
Panamá

To Fund:

Mail address:

Banco Nacional de Panamá
Apartado 5220
Panamá 5, República de Panamá

Cable address:

BANCONAL
Panamá

To Lender:

Mail address:

United States Agency for International Development
Apartado 1099
Panamá 5, República de Panamá

Cable Address:

USAID
American Embassy
Panama

Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications, and documents submitted to Lender hereunder may be in Spanish except as Lender may request in writing.

Section 9.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of the General Manager, National Bank of Panama, and Lender will be represented by the individual holding or acting in the office of Director, United States Agency for International Development Mission to 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, Borrower shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to Lender. Until receipt by Lender of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower designated pursuant to this section, it may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 9.03. IMPLEMENTATION LETTERS. Lender 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 this Agreement.

Section 9.04. PROMISSORY NOTES. At such time or times as Lender 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 Lender may reasonably request.

Section 9.05. APPROVALS. Documents or reports submitted by Borrower to Lender in connection with this Agreement, which must be in form and substance satisfactory to Lender, are deemed to be in form and substance satisfactory to Borrower who is submitting them.

Section 9.06. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal and of any accrued interest, this Agreement and all obligations of the Borrower under this Loan Agreement shall terminate.

IN WITNESS WHEREOF, Borrower and Lender, 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 in the English and Spanish languages of which the Spanish text is to be recognized as a translation from the English.

Republic of Panama:

By: [Signed]

MIGUEL A. SÁNCHEZ

Minister of Finance

By: [Signed]

RICARDO DE LA ESPRIELLA

General Manager

National Bank of Panama

By: [Signed]

NICOLÁS ARDITO BARLETTA

Minister of Planning
and Economic Policy

United States of America:

By: [Signed]

RAYMOND E. GONZÁLEZ

Chargé d'affaires a.i.

By: [Signed]

GEORGE RUBLEE

Acting Director

Agency for International
Development

Mission to Panama

ANNEX I

THE PROJECT

The Municipal Development Fund

A Municipal Development Fund (the Fund) will be created within the National Bank of Panama (BNP) for the purpose of extending credit, technical assistance and training to *municipios*, thereby

enabling these local government units to play a more significant role in providing municipal public services and developing productive enterprises in response to local need. Financial resources available to the Fund over the period 1976-1978 will amount to \$7.5 million with \$4.0 million from the A.I.D. Loan and \$3.5 from the Government of Panama (GOP) and the BNP. The *municipios* will contribute an additional \$1.0 million as counterpart for subloans for total resources of \$8.5 million. A special administrative unit of the BNP, the Municipal Development Division, will manage the Fund.

The Project

Within the Fund, the Project will strengthen the institutional capacity of the National Bank of Panama to provide technical and financial assistance on a systematic, continuing basis to *municipios*, focusing exclusively on rural *municipio* subprojects of benefit to the rural population. The Project consists of (a) technical assistance and training for the staff of the Municipal Development Division of the BNP; (b) technical assistance and training to strengthen *municipio* administrative capacity; and (c) medium- and long-term credit for food nutrition and rural development subprojects. Project resources amount to \$7.0 million which represent the major portion of the Fund's activities.

The subblending activities to be financed by the Project will be specifically designed to increase the productivity and income of the rural poor through such means as stimulation of small enterprises in rural towns, and the creation and strengthening of systems to provide other municipal public services and supplies needed by the rural poor.

Subloans will be made to *municipios* or to associations of *municipios* and may be executed directly by these entities, or by *juntas comunales*, municipal enterprises, mixed municipal/private enterprises or by other types of organizations recognized by law.

Sublending strategy

The GOP regional development strategy calls for the concentration of its development efforts and resources in the Central and Western regions of the country in which about 70% of the rural population is located. In these regions the GOP has identified several potential growth and service centers. Within the strategy these centers have been selected for priority developmental attention because of the wide impact they can have on their hinterlands. The GOP intends to place particular emphasis on the development of these centers by emphasizing programs and projects which effectively link them economically and socially with the surrounding agricultural areas. This is to be accomplished by emphasizing agricultural production and the necessary related infrastructure and social services. The strategy is based on the belief that a given level of investment for these purposes concentrated in the more densely populated rural areas will have a greater impact on more rural poor than by dispersing an equal investment throughout the entire country.

The Project will support this strategy by strengthening the administrative and financial capabilities of the *municipios* involved in these programs and by providing financial resources for food, rural development and nutrition subprojects. Those subprojects will, as their ultimate objective, contribute towards increasing the productivity and income of the rural poor.

An illustrative subproject list follows:

1. Wholesale and retail markets;
2. Slaughterhouses;
3. Agro-industries;
4. Artisan and small industries;
5. Transportation facilities;
6. Construction and maintenance of feeder roads, bridges, culverts; provision of water supplies; and the generation and distribution of electric power when complementary to a subproject.

Sublending terms

Subproject financing under the Project will be subject to the following sublending terms:

(a) Interest on subloans shall be a minimum 8% per annum, computed on the basis of a 365-day year, all charges, fees, commissions, and the like included, except during the grace period in which an interest rate of a maximum of 4% per annum on subloans will be charged.

(b) Grace periods up to five years may be granted. The average will be two years. The Fund will consider the following factors in the granting of grace periods (i) repayment periods; (ii) period of completion of the subproject; (iii) the degree to which the subproject is self-financing; and (iv) the repayment capacity of the *municipio*.

(c) Subloans shall not be made for terms of more than 20 years.

(d) The Fund will be so managed as to have an average contribution of 85 percent of the cost of the subproject. However, in any event the maximum subloan will not exceed 95 percent of the cost of the subproject.

Financial plan

The Project. The sources and uses of the Project's financial resources are set forth in the following table 1.

TABLE 1.

Sources	Total		Subloans	T.A. to the Fund	Operating Costs ⁽¹⁾
	Amount	%			
A.I.D.....	4,000	57	3,736	264	—
GOP/BNP.....	2,400	34	1,400	—	1,000
<i>Municipios</i>	600	9	600	—	—
TOTAL	7,000	100	5,736	264	1,000

⁽¹⁾ Includes technical assistance (T.A.) and training costs for *municipios* on a non-reimbursable basis.

The Fund. The *municipios* have indicated an interest in facilities other than those which are encompassed within the Project. The GOP/BNP and the *municipios* are therefore contributing over and above the \$3.0 million contribution to the Project an additional \$1.5 million to the Fund so it may have flexibility to respond to requests, deemed priority by the rural *municipios* and the Provincial Coordinating Councils, for financing for other types of subprojects.

The total level of Fund operations in the Loan disbursement period is to be \$8.5 million of which Project activities will amount to \$7.0 million. The proposed financial plan, in thousands of dollars is as follows:

TABLE 2. FUND OPERATIONS

	Total		1975	1976	1977	1978
	Amount	%				
A.I.D.....	4,000	47	48	1,127	2,089	736
GOP.....	2,500	29	—	324	894	782
BNP.....	1,000	12	119	268	278	435
<i>Municipios</i>	1,000	12	—	322	400	278
TOTAL	8,500	100	167	2,041	3,661	2,631

Of the total \$3.5 million GOP/BNP input, \$2.5 million will be used for sublending to the *municipios* and \$1.0 million will be used to pay for training and operating costs of the Municipal Development Division of the Bank. The \$1.0 million *municipio* input represents their participation in the subprojects within their respective areas. This participation will be established on a subproject by subproject basis during the subloan feasibility review by the Municipal Development Division.

The A.I.D. Loan will provide \$3,736,000 for sublending to the *municipios* and \$264,000 for financing technical assistance to the Municipal Development Division.

The Borrower agrees to contribute the Loan proceeds on a non-repayable basis to the National Bank of Panama for utilization in accordance with this Agreement. The Borrower further agrees to provide at least an additional \$3.0 million over the period 1979-1982 to ensure a minimum level available for new subloan activity of \$1.5 million during this period.

The projected cash flow of the Fund through 1984 is shown in table 3 in thousands of dollars

Project execution

The National Bank of Panama shall be responsible for the Project's execution in accordance with its charter. The Bank's Board of Directors shall establish a Municipal Development Division within the Bank to permit the timely and effective implementation of the Project. This Division shall consist of the following organizational elements:

- (1) Manager of the Fund, responsible for directing and coordinating the subloan activities of the Municipal Development Fund;
- (2) Operations Section, charged with the accounting and financial duties of the Fund;
- (3) Office of Technical Assistance to the Fund, an advisory organ consisting of short- and long-term consultants providing training and technical advice to the Division's personnel and through the Division's personnel, to the *municipios*;
- (4) Department of development, programs and administers the Fund's technical assistance and training programs for municipal governments engaged in subprojects financed under the Fund;
- (5) Credit Department, responsible for (a) evaluating the financial, economic, and technical feasibility of *municipio* subloan proposals; (b) preparing the subloan documentation; and (c) monitoring subloan execution; and
- (6) Evaluation and Research Section, which will be formed during the execution of the Project to be responsible for designing and implementing a continuing information/evaluation system for the Fund; the Loan Committee, composed of the Bank's top executives, Fund Manager, and legal counsel, will approve subloans from \$10,000 to \$250,000 and establish credit policies and procedures in accordance with this Loan Agreement; subloans less than \$10,000 will be approved by the Fund Manager; subloans exceeding \$250,000 will be approved by the BNP's Board of Directors.

The Municipal Development Division will conduct annual evaluation reviews of the Project with the Lender and representatives of the Loan Committee, Advisory Council, and Technical Coordinating Committee. The evaluation review, to be held in September of each year, will evaluate the Project's progress and continuing appropriateness of targets, sublending criteria, and procedures.

TABLE NO. 3. FONDO DE DESARROLLO MUNICIPAL¹
Cash flow statement for the year ending Dec. 31 —
(000)

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Cash available at beginning of year.....	—	—	39	140	235	487	957	1,321	1,591	1,864
Source of cash										
Commissions ⁽¹⁾		13	29	22	15	15	15	15	16	18
Subloan interest receipts.....		26	111	213	337	498	603	664	708	742
Capital contributions										
GOP.....		324	894	782	1,265	1,013	543	179		
AID.....	48	1,127	2,089	736						
BNP.....	119	268	278	835	345	370	395	417	416	438
Subloan principal repayments.....					135	444	703	912	1,140	1,386
Total sources	167	1,758	3,440	2,728	2,332	2,827	3,216	3,508	3,871	4,448
Cash disbursements										
Assets ⁽²⁾	41	17	3	5	—	9	16	20	—	2
Subloans disbursed.....		1,324	2,933	2,158	1,500	1,500	1,500	1,500	1,591	1,864
Operating expenses										
Credit department ⁽³⁾		32	96	112	147	153	161	168	176	184
Administrative department ⁽⁴⁾		21	61	67	70	73	77	81	85	89
Technical assistance, Fund.....		53	139	103	11	12	13	13	14	15
Technical assistance, <i>Municipios</i>		20	82	88	105	110	115	121	127	133
Total Disbursements	167	1,719	3,300	2,493	1,845	1,870	1,895	1,917	2,007	2,302
Cash available end of year	0	39	140	235	487	957	1,321	1,591	1,864	2,146

⁽¹⁾ 1% charge on face value of each subloan.

⁽²⁾ Vehicles, furniture and equipment.

⁽³⁾ Feasibility studies and loan supervision.

⁽⁴⁾ Fund manager, legal advisor, evaluation, and other admin. costs.

¹ Municipal Development Fund.