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**PROJECT GRANT AGREEMENT:
MARKETS PROJECT**

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A.I.D. Project No. 492-0365

PROJECT
GRANT AGREEMENT
Between
THE REPUBLIC OF THE PHILIPPINES
and the
UNITED STATES OF AMERICA
for the
MARKETS PROJECT

Dated: August 31, 1982

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MARKETS PROJECT

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PROJECT GRANT AGREEMENT

Dated: August 31, 1982

Between

The Republic of the Philippines ("Grantee")

And

The United States of America, acting through the
Agency for International Development ("A.I.D.").

Article 1: The Agreement.

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Grantee of the Project described below, and with respect to the financing of the Project by the Parties.

Article 2: The Project.

Section 2.1. Definition of Project. The Project, which is further described in Annex I, will consist of the improvement of market operations and the construction/rehabilitation of market facilities throughout the Philippines. A.I.D. assistance to the Project will be in the form of direct funding of foreign exchange costs and periodic dollar transfers in exchange for and in support of the Philippines' additional efforts to carry out Project elements with its own local currency in amounts at least equivalent to the periodic dollar

transfers of the Grant. Annex I, attached, amplifies the above definition of the Project.

Within the limits of the above definition of the Project, elements of the amplified description stated in Annex I may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2, without formal amendment of this Agreement.

Section 2.2. Incremental Nature of Project.

A.I.D.'s contribution to the Project will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Agreement. Subsequent increments will be subject to availability of funds to A.I.D. for this purpose, and to the mutual agreement of the Parties, at the time of a subsequent increment, to proceed.

Article 3: Financing.

Section 3.1. The Grant. To assist the Grantee to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to grant the Grantee under the terms of this Agreement not to exceed Four Million United States ("U.S.") Dollars (\$4,000,000.00) ("Grant").

The Grant may be used to finance foreign exchange costs, as defined in Section 6.1, and to support local currency costs, as defined in Section 6.2, of goods and services required for the Project.

Section 3.2. Grantee Resources for the Project.

The Grantee agrees to provide or cause to be provided for the Project all funds, in addition to the Grant, and all other resources

required to carry out the Project effectively and in a timely manner.

Section 3.3. Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is September 30, 1988, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under or supported by the Grant will have been performed, all transfers of the Grant will have been performed, and all goods financed under or supported by the Grant will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Grant for or in support of services performed subsequent to the PACD, for transfers performed subsequent to the PACD, or for or in support of goods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, are to be received by A.I.D. or any bank described in Section 7.1 no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Grantee, may at any time or times reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4. Conditions Precedent to Disbursement.

Section 4.1. Disbursements in Support of Local Currency Activities. Prior to any disbursement under the Grant, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, in support of local currency activities, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D. evidence that the peso equivalent, at the date of transfer, to the dollar amount of the disbursement has been appropriated and allotted to the Ministry of Human Settlements account from which peso disbursements for local cost implementation for this Project will be made.

Section 4.2. First Disbursement in Support of the Credit Component. Prior to the first disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made, in support of the credit component, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) Evidence that the Grantee has established community review procedures, location criteria and construction design standards for the construction/rehabilitation of market facilities;

(b) A report on the first subproject to be financed by the Credit component containing evidence that the city or municipality is capable of administering the proposed subproject, an analysis of any present facility and its operation, recommendations for immediate

improvements and/or new construction, alternate solution studies, cost data, and an economic/financial/technical/engineering/locational/social/environmental feasibility study; and

(c) The agreement between the appropriate organizations dealing with the administration of subproject loans made to cities and municipalities.

Section 4.3. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 4.1, and 4.2 have been met, it will promptly notify the Grantee.

Section 4.4. Terminal Dates for Conditions Precedent.

There shall be no terminal dates for meeting the conditions specified in this Article. However, if in the sole opinion of A.I.D., it is apparent that any of the conditions will not be met within a reasonable time, A.I.D., at its option, may cancel the then undisbursed balance of the Grant allocated for such component of the Project, to the extent not irrevocably committed to third parties, and terminate this Agreement, or relevant portion thereof, by written notice to the Grantee.

Article 5. Special Covenants.

Section 5.1. Project Evaluation. The Parties agree to establish an evaluation program as part of the Project. Except as the Parties otherwise agree in writing, the program will include, during the implementation of the Project and at one or more points thereafter:

(a) Evaluation of progress toward attainment of the objectives of the Project;

(b) Identification and evaluation of problem areas or constraints which may inhibit such attainment;

(c) Assessment of how such information may be used to help overcome such problems; and

(d) Evaluation, to the degree feasible, of the overall development impact of the Project.

Section 5.2. Tax Exemptions. The Grantee covenants that, in reference to Section B.4(b) of Annex II, the Ministry of Human Settlements will be responsible for all appropriate arrangements necessary to ensure that funds other than those provided by the Grant are adequately budgeted so as to avoid any delay in project implementation due to the imposition of taxes, tariffs, duties or other such levies, if such levies are not exempted by the Grantee.

Section 5.3. Local Cost Activities. The Grantee agrees that the local cost activities supported by U.S. Dollar transfers are an integral part of the Project. Accordingly, it agrees: (a) to the A.I.D. review and approval procedures contained in Annex I and elsewhere in the Agreement; (b) to report on the local currency uses in quarterly management and financial reports in the format provided by Project Implementation Letter; and (c) to allow audit and other inspection of the completion and accomplishment of the agreed-upon Project elements financed under the Project and supported by the transfer of U.S. dollars. The Parties understand that the Grantee is also providing funds not directly supported by U.S. Dollar transfers which are not covered by this provision.

Section 5.4. Subproject Loans. The Parties agree that any changes in the approved financial terms, conditions and procedures for the handling of any subproject loans of the Project shall be approved by both Parties.

Section 5.5. Management Agreements. The Parties agree that any agreements entered into during the life of the Project between a city or municipal government and other government entities or private enterprises for the management or utilization of profits of markets funded by the Project shall have the written approval of the Management Advisory Committee Secretariat before being executed.

Section 5.6. Other Financing. The Parties agree that any agreements (debt or equity) entered into during the life of the Project between the city or municipality, and any other organization for financing markets included in the Project shall have the written approval of the Secretariat before being executed.

Section 5.7 Cost Accounting. The Parties agree that any agreements entered into during the life of the Project between a city or municipal government and the Management Advisory Committee Secretariat shall contain the following covenants: (a) the market(s) financed will be recognized as a separate cost center within the local government unit and (b) appropriate insurance, in the amount of the loan, will be obtained.

Section 5.8. Administration. The Grantee shall agree to adapt and use the manuals and agreements developed for the Municipal Development Fund Project in the implementation of this Project.

Section 5.9. Continued Use of Reports. Grantee agrees to use the same type of subproject analysis and feasibility report as approved by AID as a condition for initial release of the dollar transfer in support of the credit component as a basis for approving all other subprojects.

Article 6: Procurement Source.

Section 6.1. Foreign Exchange Costs. Disbursements pursuant to Section 7.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in the United States (Code 000 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services) ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Grant Standard Provisions Annex, Section C.1(b), with respect to marine insurance.

Section 6.2. Local Currency Costs. Disbursements pursuant to Section 7.2 will be transfers to the Treasury of the Grantee available as free foreign exchange. In exchange for such transfers, the Grantee agrees to use its own appropriated local currency to finance costs of goods and services required for the Project having their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of the Philippines ("Local Currency Costs").

Article 7: Disbursement.

Section 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Grantee may

obtain disbursements of funds under the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agreed upon:

(1) by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services in Grantee's behalf for the Project; or,

(2) by requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. 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, under Letters of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by the Grantee in connection with Letters of Commitment and Letters of Credit will be financed under the Grant unless the Grantee instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Grant.

Section 7.2. Disbursement in Support of Local Currency Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant in support of Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to A.I.D., with necessary supporting

documentation as prescribed in Project Implementation Letters, requests to support such components of the Project.

(b) A.I.D. shall annually (or more frequently, if requested) transfer U.S. Dollars to the Treasury of the Republic of the Philippines for its use as free foreign exchange, in an amount equivalent to the estimated local currency requirements necessary to carry out the Grantee-financed activities agreed upon for the ensuing year (or shorter period as mutually agreed-to). In exchange for this U.S. Dollar transfer, the Grantee agrees to promptly authorize the Ministry of Human Settlements to make available an equivalent amount of local currency for the purpose of financing the local cost activities to be carried out during the ensuing agreed-to period. Evidence that the local cost activities are not being financed, completed or accomplished as mutually agreed-upon may be used as a basis for not making subsequent U.S. Dollar transfers in the amount requested.

Section 7.3. Other Forms of Disbursement. Disbursements of the Grant may also be made through such other means as the Parties may agree to in writing.

Section 7.4. Rate of Exchange. Except as may be more specifically provided under Section 7.2, if funds provided under the Grant are introduced into the Republic of the Philippines by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder, the Grantee will make such arrangements as may be necessary so that such funds may be converted into currency of the Republic of the Philippines at the highest rate of exchange which, at

the time the conversion is made, is not unlawful in the Republic of the Philippines.

Article 8: Miscellaneous.

Section 8.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following addresses:

To the Grantee:

Mail Address: Ministry of Human Settlements
University of Life Complex
Pasig, Metro Manila

Alternate address for cables: Telex Nos. 2451/2452

To A.I.D.:

Mail Address: United States Agency for International
Development
c/o The American Embassy
Manila, Philippines

Alternate address for cables: USAID/AMEMB MANILA

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

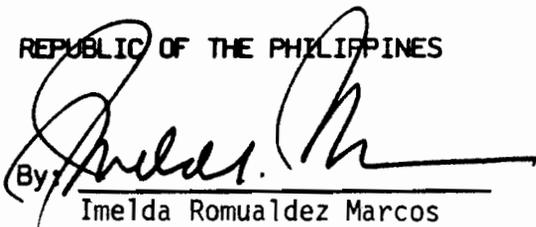
Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individuals holding or acting in the offices of the Minister or Deputy Minister of the Ministry of Human Settlements and A.I.D. will be represented by the

individual holding or acting in the office of the Director, United States A.I.D. Mission to the Philippines, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex I. The names of the representatives of the Grantee, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 8.3. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex II) is attached to and forms part of this Agreement.

IN WITNESS WHEREOF, the Grantee and the United States of America, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By: 
Imelda Romualdez Marcos

Title: Minister
Ministry of Human
Settlements

UNITED STATES OF AMERICA

By: 
Michael H. Armacost

Title: Ambassador
American Embassy

ANNEX I

PROJECT GRANT AGREEMENT MARKETS PROJECT

I. Purpose

The purpose of the Grant is to provide ESF funds resulting from the amended Military Bases Agreement of 1947 to assist the GOP to improve market operations and construct/rehabilitate such facilities throughout the Philippines.

The project will support market improvements in up to 72 cities and municipalities with populations of 40,000 or more. New facilities will be constructed and old markets will be renovated and/or enlarged. Approximately 110,000 square meters of new or improved market space will be provided. In addition, improved systems for market management and financial accounting will be introduced at each participating city or municipality (Local Government Unit (LGU)).

The three major project components are: (1) technical assistance, (2) credit, and (3) training. The combination of management assistance, training and infrastructure will reduce current poor market administration and the number of inadequate, unhealthy facilities, thereby contributing to a more efficient, competitive market system.

II. Description of Project Components

A. Technical Assistance

The Markets Project will provide technical assistance for GOP officials (LGUs and the Ministry of Human Settlements/Markets Infrastructure Development Program Secretariat (MHS/MIDPS) to improve their administrative skills in the operation, conceptualization, design, and management of markets. The technical assistance activities ranging from subproject identification through construction and, subsequently, the administration and operation of the market. The required assistance includes urban and regional planning, land economics, construction engineering, finance and accounting, environmental health, sanitary engineering, public administration, etc. This project component will have four elements: (1) overall project guidance and regional, urban and land use planning; (2) financial and economic analysis; (3) architectural and engineering design; and (4) management and accounting systems.

The identified needs of the national Markets Development Program and each participating LGU will be responded to by the MHS/MIDPS. Technical assistance will be provided to MHS/MIDPS for further extension to project proponents: (a) further preparation of a market section in the appropriate GOP development plans; (b) preparation of detailed feasibility studies and physical facility designs; (c) introduction of an effective and efficient cost accounting and management system; and (d) operations review and monitoring. The project, as a matter of policy will utilize Philippine private sector expertise and skills, although expatriate consultants may be utilized as necessary.

Two million dollars (\$2,000,000) will be budgeted for either payment of foreign exchange costs for technical assistance or support of technical assistance payments made by the GOP with its own pesos.

B. Credit

The Secretariat through the Philippine National Bank, will make available concessional loans (interest rate of 9% per annum) to qualified growth center LGUs for the purpose of financing the construction of new markets, and/or the upgrading or expanding of existing market facilities. This component especially addresses the problem of capital availability for LGUs requiring new markets due to undersized and inadequate facilities. Additionally, the project plan is to finance on a pilot basis 3-5 privately owned market. Criteria and procedures to be tested in the pilot activities will be agreed to by the GOP and AID prior to execution of private market pilot projects. Eighteen million dollars (\$18,000,000) will be budgeted for transfer in support of this credit component.

C. Training

This component, in conjunction with the technical assistance component, also responds to the need for technical and managerial upgrading at the MHS/MIDPS and LGU administrative levels. It consists of manpower training, information sharing, applied research and evaluation activities. Training will be provided by MHS/MIDPS and its consultants at the subproject site and through regional conferences, national forums and overseas tours. One million dollars (\$1,000,000) will be budgeted for either payment of foreign exchange costs for training or support of technical assistance payments made by the GOP with its own pesos.

III. Location and Other Construction Criteria

A. Selection of Centers

Several determinants will be used for selecting LGUs in need of new or rehabilitated market structures. The criteria follow:

(1) The municipality or city must be designated a growth center in approved GOP plans, thus having potential for fast growth and for attracting investments for that purpose.

(2) Existing market facilities are inadequate based on size, age, location, and/or other significant factor(s).

(3) The LGU must have a Net Borrowing Capacity (NBC) capable of servicing the loan. In addition, the subproject feasibility reports must show that the market is economically and financially feasible.

(4) The site generally must be in a central or highly travelled location. The existing pattern of market flows will be used to assess this factor. Centrality is dependent upon existing transportation networks, communication patterns, geographical barriers, and cultural boundaries.

(5) Interest must be demonstrated in a new, upgraded or rehabilitated market on the part of the local mayor, the LGU council (Sanggunian) and the local treasurer's office. The relevant officials will agree to undergo training on how to operate markets efficiently, and to keep accurate financial records.

(6) The population, especially the existing stallholders, must genuinely support the development of new, upgraded or rehabilitated facilities.

B. Selection of Locations Within Urban Areas

Somewhat different criteria are relevant for determining where to build new market facilities within an urban area. It will be important to recognize that large and expanding LGUs may need several markets, and that a convenient long-term arrangement may include one or two central markets, and several "satellite" markets located between half and three-quarters of the way from the jurisdiction's center to the urban periphery. In some cases, new markets will be located on the opposite side of the LGU center from the existing central market, which may be rehabilitated simultaneously. In this way the two markets are convenient for most users and congestion in the city can be reduced. The following considerations will be included in the review of each market:

(1) Relatively low cost for site development, including land, the installation of on site water, electrical and drainage systems, and off site road access and parking.

(2) Availability of publicly owned, suitably located land, or the potential for public acquisition of such land either through long term lease, purchase, or eminent domain.

(3) Adequate space for expansion to meet the community market needs of the next 27 years (a new market structure will have a financial life of 27 years).

(4) Ample parking for trucks and other vehicles used to bring goods and people to and from the market.

(5) A location which avoids traffic congestion but assures reasonable access to national roads, highways and the main arteries of the community.

(6) Easily accessible and convenient to consumers. In locating new market facilities, an attempt should be made to maximize the accessibility to a market of all people within the market area. This implies that new locations should be selected such that the system of markets (both new and old) best serves the population. Markets should be accessible to various forms of public transportation and have substantial residential concentrations within five to seven blocks walking distance.

(7) Compatible with adjoining land uses. This favors location in a commercial or mixed commercial/residential area rather than in an industrial zone or a strictly residential zone, or next to a hospital or some other activity, which might be disrupted by a market.

IV. Implementation Plan

Implementation of the Markets project will involve GOP entities traditionally responsible for market administration, finance and planning. At the subnational level, LGUs will continue to be responsible for design and construction, and for acceptance and payment of debt for markets. At the national level, the Secretariat and MHS/MIDPS will manage and implement this project in coordination with a task force of other GOP agencies. The specific organizations involved in project implementation are outlined below and their responsibilities are illustrated in Table 1, Markets Approval Process.

A. Management Advisory Committee (MAC)

The MAC provides general program and policy guidance to the ESF program. The MAC, composed of eight Cabinet Ministers, is chaired by the Minister of Human Settlements. The MAC has a Secretariat under MHS to administer ESF projects.

MAC approval will be required for all subprojects and all major contractors thereunder.

B. The Development Projects Fund Secretariat (The Secretariat)

The Secretariat was authorized by President Marcos under Letter of Instruction 1030 dated May 27, 1980 to oversee daily operations of the ESF program on behalf of the MAC.

From the existing Secretariat complement, a markets project staff will be charged with overall policy and management. This Secretariat markets staff will be augmented by short-term details from other GOP agencies forming the Inter-Agency Finance Committee (IAFC).

The approval decision will be based on the Secretariat's assessment of the MHS/MIDPS feasibility study for the subproject and on debt financing approval by the IAFC. The Secretariat, through PNB, is the formal lender to the LGU.

C. MHS Markets Infrastructure Development Program Secretariat (MHS/MIDPS)

The MHS/MIDPS will provide overall program and project guidance and will coordinate subproject development, design, implementation, monitoring, and evaluation. The MHS/MIDPS is responsible for the design, formation, implementation and administration of a nationwide Markets Infrastructure Development Program. It is specifically tasked with programming all GOP activities related to market construction and the preparation and evaluation of proposals for market distribution and/or upgrading.

The MHS/MIDPS will inform growth center LGUs potentially eligible for market assistance of the following: (1) the opening of a loan window administered by the MHS/MIDPS, PNB and the Secretariat and (2) the availability of technical assistance to LGUs from the MHS/MIDPS consultants, and training opportunities for LGU officials from MHS/MIDPS.

MHS/MIDPS staff and local and foreign consultants, under contract to the MHS/MIDPS, will then provide LGUs with specific engineering, economic, financial, management, accounting and other technical assistance to prepare feasibility studies, introduce cost accounting systems and manage/evaluate completed subprojects against design feasibility criteria. Approved feasibility studies will be endorsed to the MAC, through the Secretariat, for loan financing.

D. Inter-Agency Finance Committee (IAFC)

An IAFC, chaired by a Secretariat representative and composed of representatives from the MOF and MOB is responsible for assuring that the proposed subproject loan is within the capability of the LGU. The IAFC will evaluate and recommend, for Secretariat, and, as necessary, MAC and/or USAID approval, subprojects which are financially viable and are within the

financial capability of the LGU. The IAFC will evaluate the net borrowing capacity of the LGU proposing the market subproject to assure debt servicing capacity.

E. Philippine National Bank (PNB)

Basic banking (cashier) responsibilities will be undertaken by PNB. PNB will not be involved in subproject feasibility evaluation and performance monitoring. The MHS will enter into an agreement with PNB to perform only subproject disbursement and collection functions.

F. Local Government Units (LGUs)

LGUs, under the direction of the city/municipal mayor but primarily through their respective Treasurer, Planning and Development Staff and Engineering Office, will identify, design and implement market subprojects.

To assure demand for new market construction, upgrading or expansion, consultations will be conducted between LGU leaders and the MHS/MIDPS. The LGU will meet with the local population and market user groups as required to assure community acceptance. Subproject approval by other GOP agencies, where appropriate, is the responsibility of the LGU with the assistance of the MHS/MIDPS. LGUs are responsible for the repayment of the concessionary loan made available by the MHS through PNB. Also, appropriate LGU personnel will be trained in and expected to utilize modified accounting and management systems in the operation of markets, as implemented and prescribed by MHS/MIDPS.

LGU's will implement their respective subprojects in accordance with the terms and conditions of the Project Agreement and standard GOP procedures and regulations, where deemed appropriate.

G. Agency for International Development (A.I.D.)

AID will monitor the implementation of the Project. Monitoring will be focused on the institutions carrying out the subprojects in accordance with agreed upon criteria and procedures. In order to determine whether the institutions are properly implementing the project, USAID will monitor by exception. Feasibility studies will be reviewed on a random basis. Subprojects meeting the agreed upon criteria and implemented under agreed upon procurement procedures will be spot checked to ensure outputs are occurring as agreed. Subprojects and/or procurement procedures which are outside the pre-approved criteria will be fully reviewed and by USAID

before proceeding and will be more closely checked in implementation. The major implementation responsibility, will rest with LGUs and the MHS/MIDPS, the implementing agency.

Under the foreign exchange assistance to this project, regular AID procurement rules will be followed in off-shore procurement of goods or services, and obtaining overseas training.

V. Monitoring/Reporting

To keep track of project execution and respond effectively to problems or difficulties that will arise during implementation, extensive monitoring and reporting will be undertaken at the project and subproject levels.

At the project level, reports on the completed quarter's actual expenditures and on the next quarter's expected expenditures will be prepared by the Secretariat for submission to USAID. The reporting and monitoring of the physical progress of the project will be done at the subproject level. This will cover not only the subproject implementation phase, but also the conceptualization and the post-implementation phases of subprojects. Documents related to the development, execution and evaluation of the subproject, will be collected by the Secretariat and forwarded to USAID for encoding and input to its computerized project management system. All documents and reports will be returned to the Secretariat after they have been processed. AID dollar transfers to the Treasury will be based on certain documents provided by the Secretariat. (Please see Table 2, Project Management System - Impact Documents, for the list of documents and reports.) In addition, visits to project sites will be made randomly and at strategic stages of project execution by the USAID Project Officer, Engineer(s) and appropriate GOP officials.

VI. Procurement/Contract Approvals

The subproject identification, design and planning criteria established under the MDF Grant Project will be followed. Further, the procurement procedures established under the MDF will be followed. In this Project, before MAC approval, AID will approve all subprojects over ₱25.0 million (approximately \$3.0 million) and all subprojects which do not adhere to pre-approved selection procedures. AID will review contracting procedures on a random sample. The MHS and AID will approve all foreign procurement, and all contracts central to the overall implementation of the Project or whose scopes address more than a single subproject.

VII. Evaluation Plan

The first joint MHS-USAID evaluation will be scheduled for a time at which five (5) subprojects have been certified complete for at least two months. An optional second evaluation may be

conducted late in the life of the project if the first evaluation, monitoring reports, and project reviews indicate a strong need for additional evaluative information. A total of \$80,000 is budgeted for evaluation under the Training Component.

ANNEX II - PROJECT GRANT STANDARD
PROVISIONS ANNEX FOR ECONOMIC SUPPORT FUND PROJECTS

Definitions: As used in this Annex, the "Agreement" refers to the Project Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Article A: Project Implementation Letters.

To assist Grantee in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex I.

Article B: General Covenants.

Section B.1. Consultation. The Parties will cooperate to assure that the purpose of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on the progress of the Project, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged on the Project, and other matters relating to the Project.

Section B.2. Execution of Project. The Grantee will:

(a) Carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by A.I.D. pursuant to this Agreement; and

(b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

Section B.3. Utilization of Goods and Services.

(a) Any resources financed under the Grant will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

(b) Goods or services financed under the Grant, except as A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

Section B.4. Taxation.

(a) This Agreement and the Grant will be free from any taxation or fees imposed under laws in effect in the territory of the Grantee.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Grant, and any property or transactions relating to such contracts; and (2) any commodity procurement transaction financed under the Grant are not exempt from identifiable taxes, tariffs, duties, or other levies imposed under laws in effect in the territory of the Grantee, the Grantee, will, as and to the extent provided in and pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Grant.

Section B.5. Reports, Records, Inspections, Audit. The Grantee will:

(a) Furnish A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request;

(b) Maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Grant or supported by transfers of the Grant. Such books and records will be audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by A.I.D.; such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; and

(c) Afford authorized representatives of a Party the opportunity at all reasonable times to inspect the Project, the utilization of goods and services, financed by such Party or supported by transfers financed by such Party, and books, records, and other documents relating to the Project and the Grant.

Section B.6. Completeness of Information. The Grantee confirms:

(a) That the facts and circumstances of which it has informed A.I.D., or caused A.I.D. to be informed, in the course of reaching agreement with A.I.D. on the Grant, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement; and

(b) That it will inform A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

Section B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Grant, except fees, taxes, or similar payments legally established in the country of the Grantee.

Section B.8. Information and Marking. The Grantee will give appropriate publicity to the Grant and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by A.I.D., as described in Project Implementation Letters.

Article C: Procurement Provisions.

Section C.1. Special Rules.

(a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(b) Premiums for marine insurance placed in the territory of the Grantee will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7(a).

(c) Any motor vehicles financed under the Grant will be of United States manufacture, except as A.I.D. may otherwise agree in writing.

(d) Transportation by air, financed under the Grant, of property or persons, will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

Section C.2. Eligibility Date. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

Section C.3. Plans, Specifications and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to A.I.D. upon preparation:

(1) any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Grant, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished A.I.D. on preparation; and

(2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services, which, though not financed under the Grant, are deemed by A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this subsection (a)(2) will be identified in Project Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Grant will be approved by A.I.D. in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Grant for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Project Implementation Letters, will be approved by A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution; and

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

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the grant. Such items will be procured on a fair and, to the maximum extent practicable, on a competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Grant, the

Grantee will furnish A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Project Implementation Letters.

Section C.6. Shipping.

(a) Goods which are to be transported to the territory of the Grantee may not be financed under the Grant if transported either:

(1) on an ocean vessel or aircraft under the flag of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment; or

(2) on an ocean vessel which A.I.D., by written notice to the Grantee has designated as ineligible; or

(3) under an ocean or air charter which has not received prior A.I.D. approval.

(b) Costs of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Grant, if such goods or persons are carried:

(1) on an ocean vessel under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs," without prior written A.I.D. approval; or

(2) on an ocean vessel which A.I.D., by written notice to the Grantee, has designated as ineligible; or

(3) under an ocean vessel or air charter which has not received prior A.I.D. approval.

(c) Unless A.I.D. determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels:

(1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by A.I.D. which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and

(2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by A.I.D. and transported to the territory of the Grantee 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 (1) and (2) of this subsection must be achieved with respect to any cargo transported from U.S. ports and also any cargo transported from non-U.S. ports, computed separately.

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Section C.7. Insurance.

(a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided:

(1) such insurance is placed at the lowest available competitive rate; and

(2) claims thereunder are payable in the currency in which such goods were financed or in any freely convertible currency. If the Grantee (or government of Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by A.I.D. hereunder will be insured against marine risks and such insurance will 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.

(b) Except as A.I.D. may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Grant imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in A.I.D. Geographic Code 935 as in effect at the time of replacement, and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Grant may be used to finance the costs of obtaining such property for the Project.

Article D: Termination; Remedies.

Section D.1. Termination. Either Party may terminate this Agreement by giving the other Party 30 days written notice. Termination of this Agreement will terminate any obligations of the Parties to provide financial or other resources to the Project pursuant to this Agreement, except for payment which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the termination of this Agreement. In addition, upon such

termination A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Grantee's country, are in a deliverable state and have not been off-loaded in ports of entry of Grantee's country.

Section D.2. Refunds.

(a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, A.I.D., notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to A.I.D. within sixty (60) days after receipt of a request therefor.

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement, A.I.D. may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. Dollars to A.I.D. within sixty days after receipt of a request therefor.

(c) U.S. Dollar disbursements of the Grant which are related to the local cost component of the Project are transferred to the Grantee in exchange for certain promises, covenants and conditions of implementation which the Grantee has agreed to follow. Evidence of material violation of the terms of this Agreement or of the use of the Grantee's own resources supported by transfers of the Grant for activities or in ways not agreed to in this Agreement may, at the sole option of A.I.D., be the cause for a refund of all or any part of the amount of such disbursements in U.S. Dollars to A.I.D. within sixty (60) days after receipt of a request therefor.

(d) The right under subsection (a), (b) or (c) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(e) Any refunds under subsection (a), (b), or (c), or (2) any refund to A.I.D. from a contractor, suppliers, bank or other third party with respect to goods or services financed under the Grant, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Project, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(f) Any interest or other earnings on Grant funds disbursed by A.I.D. to the Grantee under this Agreement prior to the authorized use of such funds for the Project will be returned to A.I.D. in U.S. Dollars by the Grantee.

Section D.3. Nonwaiver of Remedies. No delay in exercising any right or remedy accruing to a party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section D.4. Assignment. The Grantee agrees, upon request, to execute an assignment to A.I.D. of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. Dollar contract which A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.