

PB-AYA-038

AID LOAN NUMBER 611-K-008

PROJECT NUMBER 690-0209-02

PROJECT
LOAN AGREEMENT
BETWEEN
the
REPUBLIC OF ZAMBIA
and the
UNITED STATES OF AMERICA
for the
KAFUE-CHIRUNDU ROAD REHABILITATION PROJECT-PHASE II

DATED: September 30, 1981

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PROJECT LOAN AGREEMENT

Dated September 30, 1981.

BETWEEN

The Republic of Zambia ("Borrower")

AND

The United States of America, acting through the
Agency for International Development ("AID")

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 Borrower 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 1, will consist of the rehabilitation of approximately fifty-two (52) kilometers of the Kafue-Chirundu Road. Annex 1, 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 1 may be changed by written agreement of the authorized representatives of the Parties named in SECTION 9.2, without formal amendment of this Agreement.

SECTION 2.2 Incremental Nature of the Project.

(a) AID's funding for 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 the availability of funds to AID for this purposes, and to the mutual agreement of the Parties, at the time of a subsequent increment, to proceed.

(b) Subject to the provisions in subsection (a) above, it is anticipated that AID's total funding for the Project will be US\$13,100,000 in Loan funds.

Article 3: Financing

SECTION 3.1 The Loan. To assist the Borrower to meet the costs of carrying out the Project, AID, pursuant to the Foreign Assistance Act of 1961, as amended, agrees to lend the Borrower under the terms of this Agreement not to exceed Ten Million Five Hundred Ten Thousand United States ("US") Dollars (US\$10,510,000) ("Loan"). The aggregate amount of disbursements under the loan is referred to as "Principal."

The Loan may be used to finance foreign exchange costs, as defined in SECTION 7.1, and local currency costs, as defined in SECTION 7.2, of goods and services required for the Project.

SECTION 3.2 Borrower Resources for the Project.

(a) The resources provided by Borrower for the Project will be not less than the equivalent of US\$4,600,000, including costs borne on an "in-kind" basis.

(b) The Borrower agrees to provide or cause to be provided for the Project all funds, in addition to the Loan, and all other resources required to carry out the Project effectively and in a timely manner. However, the Parties agree that in the case where costs unexpectedly exceed the total planned cost for the Project of US\$17,700,000 they will work together to reach a satisfactory solution.

SECTION 3.3 Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is September 30, 1984, 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 the Loan will have been performed and all goods financed under the Loan will have been furnished for the Project as contemplated in this Agreement.

(b) Except as AID may otherwise agree in writing, AID will not issue or approve documentation which would authorize disbursement of the Loan for services performed subsequent to the PACD or for 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 AID or any bank described in SECTION 8.1 no later than nine (9) months following the PACD, or such other period as AID agrees in writing. After such period, AID, giving notice in writing to the Borrower, may at any time or times reduce the amount of the Loan 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: Loan Terms

SECTION 4.1 Interest. The Borrower will pay to AID interest which will accrue at the rate of two percent (2%) per annum for ten (10) 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 will accrue from the date (as defined in SECTION 8.5) of each respective disbursement, and will be payable semiannually. The first payment of interest will be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by AID.

SECTION 4.2 Repayment. The Borrower will repay to AID the Principal within forty (40) years from the date of the first disbursement of the Loan in sixty-one (61) approximately equal semi-annual installments of Principal and interest. The first installment of Principal will be payable nine and one-half (9-1/2) years after the date on which the first interest payment is due in accordance with SECTION 4.1. AID will provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

SECTION 4.3 Application, Currency, and Place of Payment. All payments of interest and Principal hereunder will be made in US Dollars and will be applied first to the payment of interest due and then to the repayment of Principal. Except as AID may otherwise specify in writing, payments will be made to the Controller, Office of Financial Management, Agency for International Development, Washington, DC 20523, USA, and will be deemed made when received by the Office of Financial Management.

SECTION 4.4 Prepayment. Upon payment of all interest and any refunds then due, the Borrower may prepay, without penalty, all or any part of the Principal. Unless AID otherwise agrees in writing, any such prepayment will be applied to the installments of Principal in the inverse order of their maturity.

SECTION 4.5 Renegotiation of Terms.

(a) The Borrower and AID agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of Zambia, which enable the Borrower to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made pursuant to SECTION 9.1, and will give the name and

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address of the person or persons who will represent the requesting Party in such negotiations.

(c) Within thirty (30) days after delivery of a request to negotiate, the requested Party will communicate to the other, pursuant to SECTION 9.1, the name and address of the person or persons who will represent the requested Party in such negotiations.

(d) The representatives of the Parties will meet to carry on negotiations no later than thirty (30) days after delivery of the requested Party's communication under subsection (c). The negotiations will take place at a location mutually agreed upon by the representatives of the Parties, provided that, in the absence of mutual agreement, the negotiations will take place at the office of Borrower's Minister of Finance in Zambia.

SECTION 4.6 Termination of Full Payment. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Borrower and AID under it will cease.

Article 5: Conditions Precedent to Disbursement

SECTION 5.1 First Disbursement. Prior to the first disbursement under the Loan, or to the issuance by AID of documentation pursuant to which disbursement will be made, the Borrower will, except as the Parties may otherwise agree in writing, furnish to AID in form and substance satisfactory to AID:

(a) An opinion of counsel acceptable to AID 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 name of the person holding or acting in the office of the Borrower specified in SECTION 9.2, and of any additional representatives, together with a specimen signature of each person specified in such statement;

(c) Evidence that the Borrower will finance all costs necessary to reseal and/or rehabilitate all sections of the road identified for resealing under Phase I which are not resealed under Phase I as planned, to a standard acceptable to the Borrower and AID, and that such rehabilitation will be completed by December 31, 1982.

SECTION 5.2 Additional Disbursement. Prior to disbursement under the Loan, or to the issuance by AID of documentation pursuant to which disbursement will be made, for the construction activity, the Borrower will, except as the Parties may otherwise agree in

writing, furnish to AID in form and substance satisfactory to AID:

(a) Final plans and specifications, tender documents, cost estimates, and time schedules for carrying out the activity;

(b) A detailed plan as to the timing and manner in which the Borrower's contribution will be made available for the construction activity;

(c) A description of the arrangements made for providing construction services for such activity; including an executed contract for construction services with a firm acceptable to AID;

(d) A description of the arrangements made for providing engineering supervisory services for such construction activity; including an executed contract with a firm satisfactory to AID, unless such services are being provided by agencies of the Borrower;

(e) A plan for the maintenance to be performed on the Kafue-Chirundu Road, including both routine and periodic maintenance, as well as a designation of the operating entity within Zambia that will be assigned responsibility for such maintenance and evidence of an intent to provide funds sufficient to maintain the road in future.

SECTION 5.3 Notification. When AID has determined that the conditions precedent specified in SECTIONS 5.1 and 5.2 have been met, it will promptly notify the Borrower.

SECTION 5.4 Terminal Dates for Conditions Precedent.

(a) If all of the conditions specified in SECTION 5.1 have not been met within ninety (90) days from the date of this Agreement, or such later date as AID may agree in writing, AID, at its option may terminate this Agreement by written notice to Borrower.

(b) If all of the conditions specified in SECTION 5.2 have not been met by dates to be set by AID in Project Implementation Letters, AID, at its option, may cancel the then undisbursed balance of the loan, to the extent not irrevocably committed to third parties, and may terminate this Agreement by written notice to the Borrower. In the event of such termination, the Borrower will repay immediately the Principal then outstanding and any accrued interest; on receipt of such payments in full, this Agreement and all obligations of the Parties hereunder will terminate.

Article 6: Special Covenants

SECTION 6.1 Project Evaluation. The Parties agree to establish an evaluation program as part of the Project to the extent such a program is appropriate. 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;

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

SECTION 6.2 Maintenance. The Borrower covenants that upon completion and acceptance of each section of the Road, it will establish and carry out a regular maintenance program for that section.

SECTION 6.3 Project Management. The Borrower covenants that it will provide, on a timely basis, a Project Manager for this Project.

SECTION 6.4 Vehicles. The Borrower covenants that the two trucks provided for maintenance will be used solely on the Kafue-Chirundu Road and will be adequately maintained and utilized for the purpose of such road maintenance.

Article 7: Procurement Source

SECTION 7.1 Foreign Exchange Costs. Except as AID may otherwise agree in writing, disbursements pursuant to SECTION 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in countries included in Code 941 of the AID Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods and services ("Foreign Exchange Costs"), except as provided in the Project Loan Standard Provisions Annex, Section C.1.(b) with respect to Marine Insurance, and except as provided below:

(a) Two trucks and spare parts at an approximate cost of \$117,000 may have their source and origin in countries included in Code 935 of the AID Geographic Code Book as in effect at the time orders are placed or contracts entered into for such trucks.

(b) Approximately \$383,000 of construction equipment and commodities may have their source and origin in countries included in Code 935 of the AID Geographic Code Book as in effect at the time orders are placed or contracts entered into for such equipment and commodities.

SECTION 7.2 Local Currency Costs. Disbursements pursuant to SECTION 8.2 will be used exclusively to finance the cost of goods and services required for the Project having their source and, except as AID may otherwise agree in writing, origin in Zambia ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency Costs" may also include the provision of local currency resources required for the Project.

Article 8: Disbursements.

SECTION 8.1 Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Borrower may obtain disbursements of funds under the Loan 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 AID, with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or (B) requests for AID to procure commodities or services on Borrower's behalf for the Project; or

(2) by requesting AID to issue Letters of Commitment for specified amounts, (A) to one or more US banks, satisfactory to AID, committing AID to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letter of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing AID to pay such contractors or suppliers for such goods or services.

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

SECTION 8.2 Disbursement for Local Currency Costs.

(a) After satisfaction of conditions precedent, the Borrower may obtain disbursements of funds under the Loan for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to AID, with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursement hereunder may be obtained:

(1) by acquisition by AID with US dollars by purchase; or

(2) by AID (A) requesting the Borrower to make available the local currency for such costs, and (B) thereafter making available to the Borrower through the opening or amendment by AID of Special Letters of Credit in favor of the Borrower or its designee, an amount of US dollars equivalent to the amount of local currency made available by the Borrower, which dollars will be utilized for procurement from the United States under appropriate procedures described in Project Implementation Letters.

The US dollar equivalent of the local currency made available hereunder will be, in the case of subsection (b)(1) above, the amount of US dollars required by AID to obtain the local currency, and in the case of subsection (b)(2) above, an amount calculated at the rate of exchange specified in the applicable Special Letter of Credit Implementation Memorandum hereunder as of the date of the opening or amendment of the applicable Special Letter of Credit.

SECTION 8.3 Other Forms of Disbursement. Disbursements of the Loan may also be made through such other means as the Parties may agree to in writing.

SECTION 8.4 Rate of Exchange. Except as may be more specifically provided under SECTION 8.2, if funds provided under the Loan are introduced into Zambia by AID or any public or private agency for purposes of carrying out obligations of AID hereunder, the Borrower will make such arrangements as may be necessary so that such funds may be converted into currency of Zambia at the highest rate of exchange which, at the time the conversion is made, is not unlawful in Zambia.

SECTION 8.5 Date of Disbursement. Disbursements by AID will be deemed to occur:

(a) on the date on which AID makes a disbursement to the Borrower or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment, contract, or purchase order;

(b) on the date on which AID disburses to the Borrower or its designee local currency acquired in accordance with SECTION 8.2(b)(1); or

(c) if local currency is obtained in accordance with SECTION 8.2(b)(2), on the date on which AID opens or amends the Special Letter of Credit there referred to.

Article 9: Miscellaneous

SECTION 9.1 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 address:

SECTION 9.1 Continued.

To the Borrower: Permanent Secretary
Ministry of Finance

Mail Address: P O Box RW 50062
Finance Building
Ridgeway
Lusaka, Zambia

Alternate address for telegrams: Finance
Ridgeway, Lusaka
ZA 42221 (Telex)

With copies to: Permanent Secretary
Ministry of Works and Supply

P O Box RW 50236
Block 28
Independence Avenue
Lusaka, Zambia

Alternate address for telegrams: ZA 40220 (Telex)

To AID: John A Patterson
AID Representative

Mail Address: Agency for International Development
P O Box 34281
Lusaka, Zambia

Alternate address for telegrams: ZA 41970 (Telex)

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 9.2 Representatives. For all purposes relevant to this Agreement, the Borrower will be represented by the individual holding or acting in the office of the Permanent Secretary, Ministry of Finance and AID will be represented by the individual holding or acting in the office of the AID Representative, 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 1. The names of the representatives of the Borrower, with specimen signatures, will be provided to AID, 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 9.3. Standard Provisions Annex. A "Project Loan Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

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

REPUBLIC OF ZAMBIA

By:

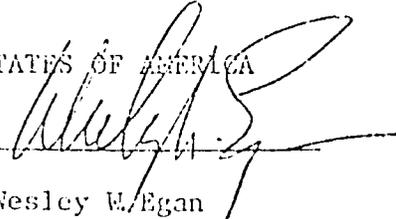


M. S. Samaluno
Ag. Permanent Secretary

Title: Ministry of Finance

UNITED STATES OF AMERICA

By:



Wesley W. Egan

Title: Deputy Chief of Mission



ANNEX 1

AMPLIFIED PROJECT DESCRIPTION

Except as specifically provided herein, and within the limits of the definition of the Project set forth in SECTION 2.1, elements of this Amplified Project Description may be changed by written agreement of the authorized representatives of the Parties named in SECTION 9.2, without formal amendment of this Agreement.

Article I. General Project Description

This Project consists of strengthening approximately thirteen (13) kilometers of pavement and reconstructing approximately thirty-nine (39) kilometers of the Kafue-Chirundu Road. The work will commence in mid-1982 and be completed in 1983.

Article II. Contributions of the Parties

In order to achieve the purpose and objectives of the Project the Parties will make inputs to the Project as described below.

A. AID

This section describes AID's anticipated inputs to the Project. Funding indicated in excess of that actually obligated under this Agreement will be provided under future increments, subject to the conditions set forth in SECTION 2.2 of this Agreement.

1. Construction Services (\$9,601,000)

This portion of the funding will be used for the construction services, and includes procurement, by the Contractor, of two trucks at an approximate cost of \$117,000 and laboratory equipment at an approximate cost of \$60,000.

2. Engineering Supervision (\$1,347,000)

3. Contingency (\$2,152,000)

B. Borrower

In addition to its general obligation under SECTION 3.2 of this Agreement to provide funds and resources needed for the Project,

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the Borrower will make the following inputs into the Project:

1. Construction Services (\$3,635,000)

These funds will be used to finance local currency costs of the construction contract.

2. Design, Soils Testing and Administration (\$175,000)

This item includes salaries of Ministry personnel, engineering, operating costs, administrative expenses and soils testing.

3. Contingency (\$790,000)

Article III. Implementation

A. Administration

1. Borrower

The Roads Department of the Ministry of Works and Supply will have the prime implementation responsibility for the work to be done under this Project. Certain tasks will be accomplished with in-house personnel - soils testing and preparation of design, specifications and tender documents. The Roads Department will contract with an Engineering Consultant firm to supervise the construction.

With regard to specific implementation tasks the Roads Department will do the following:

- (a) Perform the design work;
- (b) Prepare all drawings including location maps, cross sections, drainage structures and other necessary details;
- (c) Provide plans, specifications and the bid documents for the work;
- (d) Perform field testing of "in-place" materials needed to confirm design assumptions;
- (e) Test and identify sources for new materials;
- (f) Provide estimated quantities of the work to be completed and an estimated cost of construction for these items;

- (g) Sign contracts for construction and engineering work;
- (h) Perform all testing during construction at the request of the supervising engineer;
- (i) Monitor construction progress and process contractor payments.

2. AID

USAID/Lusaka will provide appropriate backstopping and project management for this Project. An AID engineer will be the Project Manager and will monitor actions of the GRZ, the engineering consultant and the construction contractor. He will have assistance as needed from the Regional Economic Development Services Office/East Africa (REDSO/EA), the East Africa Accounting Center (EAAC), and the Regional Legal Advisor (RLA).

Part of the USAID/Lusaka's monitoring responsibilities will include approval of the short listed firms for the construction and engineering contracts, approval of the IFB/RFP documents and approval of the final contracts.

3. Engineering Consultant

The engineering consultant shall be responsible for supervision of the construction. It is anticipated that the consultancy staff will consist of a resident engineer, two assistant engineers and three field inspectors. The assistants will carry out field materials surveillance and surveying inputs; sampling and laboratory testing support will be provided by the Roads Department. The consultant engineer will either provide his own surveying equipment, transportation, and housing or they will be provided by the construction contractor as part of the construction contract.

4. Construction Contractor

The construction contractor shall be responsible for the construction of the road in accordance with the terms of the contract. In addition, he shall provide two - three cubic meter type trucks for maintenance of the road, as well as necessary laboratory equipment for the soils and pavement tests. In addition, he may provide the logistical support for the Engineering Consultant.

B. Procurement

1. Engineering Consultant

The engineering consultant shall be selected under the Borrower's contracting procedures from countries included in AID Geographic Code 941 and Zambia. The scope of work and request for proposals will be developed by the Roads Department with

assistance from AID as necessary. Contracting will be in accordance with the Borrower's standard competitive procedures and the requirements of AID's Handbook 11. AID will approve all documents before issuance and approve the final contract.

2. Construction Contractor

The construction contractor will be selected under the Borrower's contracting procedures from countries included in AID Geographic Code 941 and Zambia. The tender documents will be prepared by the Roads Department following its standard format and the requirements of AID Handbook 11.

Contractor selection and award of contract will be made through the Central Supply and Tender Board. AID written approval is required on the pre-qualified contractor selection, bid documents before issuance, bid abstract, bid award recommendation, and the final contract.

C. Implementation Plan

Following is a timetable of implementation actions, divided into four principle action streams. The Parties acknowledge that this is a very tightly planned schedule and agree to work together to follow this schedule as closely as possible.

Timetable of Implementation Actions

1. General

<u>Date</u>	<u>Action</u>	<u>Action Party(s)</u>
<u>1981</u>		
8/10	PP Completed	USAID/RLA/REDSO
9/16	PP Reviewed/Authorized	AID/W
9/30	Project Agreement Negotiated/ Signed	USAID/RLA
12/30	Conditions Precedent Satisfied	USAID/GRZ/RLA

2. Engineering Supervision Consultant

<u>1981</u>		
10/10	Draft Ad for Prequalification	GRZ/USAID
10/15	Central Tender Board Review and Publication	GRZ
10/20	Publication in Commerce Business Daily	AID/W

<u>Date</u>	<u>Action</u>	<u>Action Party(s)</u>
11/1	Draft Scope of Work/RFP	GRZ/USAID/RLA/EAAC
11/30	Receipt of Prequalification Data	GRZ/CTB/AID/W
12/15	Review/Recommend Shortlist	USAID/GRZ/REDSO
12/31	Approval of Shortlist, Issuance of RFP	USAID/REDSO/CTB
<u>1982</u>		
2/15	Receipt of Proposals	GRZ/CTB
3/15	Recommendation for Award and Approval	GRZ/CTB
4/15	Negotiate and Execute Contract	GRZ/USAID/RLA/REDSO
4/15	AID Approval Provided	USAID/RLA
5/1	Payment Arrangements Established	GRZ/USAID/EAAC/AID/W
6/1	Initial Personnel In Place	CONSULTANT
<u>1983</u>		
12/31	Complete Supervision	CONSULTANT
<u>1984</u>		
2/29	Submit Final Report	CONSULTANT
<u>3. Prequalification of Construction Contractor</u>		
<u>1981</u>		
10/10	Draft Ad for Prequalification	GRZ/USAID
10/20	Central Tender Board Review and Publication	GRZ
11/1	Publication in Commerce Business Daily	AID/W
11/30	Receipt of Data	GRZ/AID/W
12/13	Review/Recommend Shortlist	USAID/GRZ

<u>Date</u>	<u>Action</u>	<u>Action Party(s)</u>
12/31	Approval of Shortlist	USAID/GRZ
4. <u>Construction Contractor Selection</u>		
<u>1981</u>		
11/1	Soil Testing Completed	GRZ
11/15	Design Work Completed	GRZ
12/1	Tender Documents Prepared	GRZ
<u>1982</u>		
1/1	IFB Approval/Issuance	GRZ/USAID/RLA/EAAC
2/1	Site Visit	GRZ/USAID
3/1	Bids Received	GRZ/CTB
3/15	Evaluate/Recommend Contractor Award	GRZ/CTB
3/20	Review and Approval of Selection	USAID/REDSO
5/1	Negotiate and Execute Contract	GRZ/CTB
5/1	AID Approval	USAID/RLA
5/15	Funding Arrangements Established	GRZ/EAAC/USAID/AID/W
6/15	Mobilize/Start Work	Contractor
<u>1983</u>		
12/31	Complete Construction	Contractor

Article IV. Illustrative Financial Plan

Tables 1 and 2 below set forth the planned contribution and projected expenditures of the Parties. These may be changed by written agreement of the representatives of the Parties identified in SECTION 9.2 without formal amendment of the Agreement, provided such changes do not cause; (1) AID's Loan contribution to exceed the amount set forth under SECTION 3.1; or (2) the Borrower's contri-

bution to be less than the amount set forth under SECTION 3.2.

TABLE I
PLANNED CONTRIBUTIONS

Application of Funds	(US\$ 000)		GRZ L/C	TOTAL
	AID FX	L/C		
1. Services				
(a) Construction	5,215	4,386	3,635	13,236
(b) Engineering Supervision	690	657	--	1,347
(c) Design Soils Testing	--	--	175	175
2. Contingency	<u>1,176</u>	<u>976</u>	<u>790</u>	<u>2,942</u>
Totals	7,081	6,019	4,600	17,700

TABLE 2
PROJECTED EXPENDITURES BY FISCAL YEAR

Fiscal Year	<u>AID</u>	<u>GRZ</u>	<u>TOTAL</u>
1982	3,462	1,375	4,837
1983	8,985	2,994	11,979
1984	<u>653</u>	<u>231</u>	<u>884</u>
Total	13,100	4,600	17,700

PROJECT LOAN STANDARD PROVISIONS

Definitions: As used in this Annex, the "Agreement" refers to the Project Loan 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 Borrower in the implementation of the Project, AID, 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 1.

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 Borrower 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 AID 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 a 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 Loan will, unless otherwise agreed in writing by AID, 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 Loan, except as AID 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 AID Geographic Code Book as in effect at the time of such use. (See Handbook 18, Appendix D.)

SECTION B.4. Taxation.

(a) This Agreement and the Loan will be free from, and the Principal and interest will be paid free from, any taxation or fees imposed under laws in effect in the territory of the Borrower.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Loan, and any property or transactions relating to such contracts and (2) any commodity procurement transaction financed under the Loan are not exempt from identifiable taxes, tariffs, duties, or other levies imposed under laws in effect in the territory of the Borrower, the Borrower will, 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 Loan.

SECTION B.5. Reports, Records, Inspections, Audit.

The Borrower will:

(a) furnish AID such information and reports relating to the Project and to this Agreement as AID 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 Loan. 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 AID; 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 AID the opportunity at all times as agreed upon by the Parties to inspect the Project, the utilization of goods and services financed by AID, and books, records, and other documents relating to the

Project and the Loan.

SECTION B.6. Completeness of Information. The Borrower confirms:

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

(b) that it will inform AID 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. Borrower affirms that all payments in connection with the procurement of goods or services financed under the Loan will be made to those persons authorized to receive such payments under the laws of the Borrower.

SECTION B.8. Information and Marking. The Borrower will give appropriate publicity to the Loan and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by AID.

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 Borrower will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7(a).

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

SECTION C.2. Eligibility Date. 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, 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 Borrower will furnish to AID upon preparation:

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

(2) such documentation will also be furnished to AID, upon preparation, relating to any goods or services which, though not financed under the Loan, are deemed by AID to be of major importance to the Project. Aspects of the Project involving matters under this sub-section (a) (2) will be identified in Project Implementation Letters;

(b) Documents relating to the prequalifications of contractors, and to the solicitation of bids or proposals for goods and services financed under the Loan will be approved by AID in writing prior to their issuance, and will be in accordance with the Borrower's Central Supply and Tender Board procedures.

(c) Contracts and contractors financed under the Loan 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 AID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by AID prior to execution.

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 Loan. 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 Loan, the Borrower will furnish AID such information with regard thereto, and at such times, as AID may request in Project Implementation Letters.

SECTION C.6. Shipping.

(a) Goods which are to be transported to the territory of the Borrower may not be financed under the Loan if transported

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either:

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

(2) on an ocean vessel which AID, by written notice to the Borrower has designated as ineligible; or

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

(b) Cost of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Loan, 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 AID approval; or

(2) on an ocean vessel which AID, by written notice to the Borrower, has designated as ineligible; or

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

(c) Unless AID 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 AID 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 AID and transported to the territory of the Borrower 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 US ports and also any cargo transported from non-US ports, computed separately.

SECTION C.7. Insurance.

(a) Marine insurance on goods financed by AID which are to be transported to the territory of the Borrower 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 Borrower by statute, decree, rule, regulation, or practice discriminates with respect to AID-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 Borrower financed by AID 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 AID may otherwise agree in writing, the Borrower will insure, or cause to be insured, goods financed under the Loan 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 Borrower 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 Borrower for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in AID 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. US Government-Owned Excess Property. The Borrower agrees that wherever practicable United States Government-owned excess property, in lieu of new items financed under the Loan, should be utilized. Funds under the Loan may be used to finance the costs of obtaining such property for the Project.

Article D: Termination; Remedies.

SECTION D.1. Cancellation by Borrower. The Borrower may, by giving AID 30 days written notice, cancel all of the Loan which has not been disbursed or committed for disbursement to third parties or any part thereof.

SECTION D.2. Events of Default; Acceleration. It will be an "Event of Default" if Borrower shall have failed:

- (a) to pay when due any interest or installment of Principal required under this Agreement, or
- (b) to comply with any other provision of this Agreement, or
- (c) to pay when due any interest or installment of Principal or other payment required under any other loan, guaranty or other agreement between the Borrower or any of its agencies and AID

or any of its predecessor agencies. If an Event of Default shall have occurred, then AID may give the Borrower notice that all or any part of the unrepaid Principal will be due and payable sixty (60) days thereafter, and, unless such Event of Default is cured within that time:

(1) such unrepaid Principal and accrued interest hereunder will be due and payable immediately, and

(2) the amount of any further disbursements made pursuant to then outstanding commitments to third parties or otherwise will become due and payable as soon as made.

SECTION D.3. Suspension. If at any time:

(a) An Event of Default has occurred; or

(b) An event occurs that AID 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; or

(c) Any disbursement by AID would be in violation of the legislation governing AID; or

(d) The Borrower shall have failed to pay when due any interest, installment of principal or other payment required under any other loan, guaranty, or other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies;

Then AID, after consultation with the Borrower and with appropriate notice to the Borrower may:

(1) suspend or cancel outstanding commitment documents to the extent they have not been utilized through irrevocable commitments to third parties or otherwise, giving prompt notice thereof to the Borrower;

(2) decline to issue additional commitment documents or to make disbursements other than under existing ones; and

(3) at AID's expense, direct that title to goods financed under the Loan be transferred to AID, if the goods are from a source outside Borrower's country, are in a deliverable state and have not been offloaded in ports of entry of Borrower's country. Any disbursement made under the Loan with respect to such transferred goods will be deducted from Principal.

SECTION D.4. Cancellation by AID. If within sixty (60) days from the date of any suspension of disbursements pursuant to Section D.3, the cause or causes thereof have not been corrected, AID may cancel any part of the Loan that is not then disbursed or irrevocably committed to third parties.

SECTION D.5. Continued Effectiveness of Agreement. Notwithstanding any cancellation, suspension of disbursements, or acceleration of repayment, the provisions of this Agreement will continue in effect until the payment in full of all Principal and accrued interest hereunder.

SECTION D.6. 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, AID, notwithstanding the availability or exercise of any other remedies provided for under this Agreement, may require the Borrower to refund the amount of such disbursement in United States Dollars to AID within sixty (60) days after receipt of a request therefor. The right to require such a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three (3) years from the date of the last disbursement under this Agreement.

(b)

(1) Any refund under the preceding subsection, or

(2) any refund to AID from a contractor, supplier, bank, or third party with respect to goods or services financed under the Loan, 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 cost of goods and services required for the Project, to the extent justified, and

B. the remainder, if any, will be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan reduced by the amount of such remainder.

SECTION D.7. 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.