



OFID The OPEC Fund for International Development

LOAN NO. 1146P

LAKE AMATITLAN WATERSHED
SUSTAINABLE MANAGEMENT PROJECT

LOAN AGREEMENT

BETWEEN

THE REPUBLIC OF GUATEMALA

AND

THE OPEC FUND FOR
INTERNATIONAL DEVELOPMENT

DATED

SEPTEMBER 6, 2007

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AGREEMENT dated September 6, 2007 between the Republic of Guatemala (hereinafter called the Borrower) and the OPEC Fund for International Development (hereinafter called OFID).

Whereas OPEC Member States, being conscious of the need for solidarity among all developing countries and aware of the importance of financial cooperation between them and other developing countries, have established OFID to provide financial support to the latter countries on concessional terms, in addition to the existing bilateral and multilateral channels through which OPEC Member States extend financial assistance to other developing countries;

And whereas the Borrower has requested assistance from OFID in the financing of the Project described in Schedule 1 to this Agreement;

And whereas the Borrower has inter alia also requested the Inter-American Development Bank (IADB) to assist in the financing of the Project by extending a loan thereto;

And whereas the Governing Board of OFID has approved the extension of a loan to the Borrower in the amount of Five Million US Dollars (US\$ 5,000,000) upon the terms and conditions set forth hereinafter, and has further approved that the IADB be entrusted with the task of the administration of the loan provided under this Agreement;

Now, therefore, the parties hereto hereby agree as follows:

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Article 1 DEFINITIONS

1.01 Wherever used in this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

(a) "Closing Date" means the date, as provided in Section 2.10 of this Agreement, on which the Borrower's right to make withdrawals from the Loan shall terminate.

(b) "Dollar" or the sign "\$" means the lawful currency of the United States of America.

(c) "Effective Date" means the date, as provided in Section 7.01 of this Agreement, on which this Agreement shall come into force and effect.

(d) "Executing Agency" means the Authority for the Sustainable Management of the Lake Amatitlan Watershed (AMSA), or such other agency as may hereafter be agreed upon between the Borrower and OFID Management.

(e) "Goods" means equipment, supplies and services required for the Project. Reference to the cost of goods shall be deemed to include also the cost of importing such goods in the territories of the Borrower.

(f) "Loan" means the loan provided by virtue of this Agreement.

(g) "Loan Administrator" means the IADB or such other agency as the Borrower and OFID Management may agree upon.

(h) "OFID" means the OPEC Fund for International Development established by the Member States of the Organization of the Petroleum Exporting Countries (OPEC) by virtue of the Agreement signed in Paris on January 28, 1976, as amended.

(i) "OFID Management" means the Director-General of OFID or his authorized representative.

(j) "Project" means the project for which the Loan is granted as described in Schedule 1 to this Agreement and as the description thereof may be amended from time to time by agreement between the Borrower and OFID Management.

* * *

Article 2 THE LOAN

2.01 A loan in the amount of Five Million Dollars (\$ 5,000,000) is hereby extended by OFID to the Borrower on the terms and conditions set forth in this Agreement.

2.02 The Borrower shall pay interest at the rate of two and one half per cent (2.5%) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

2.03 The Borrower shall pay from time to time a service charge at the rate of one per cent (1 %) per annum on the principal amount of the Loan withdrawn and outstanding, to meet the expenses of administering the Loan.

2.04 Interest and service charges shall be paid in Dollars semi-annually on March 15 and September 15 in each year into an account of OFID designated for this purpose by OFID Management.

2.05 After this Agreement has been declared effective pursuant to Section 7.01, and unless the Borrower and OFID shall otherwise agree, the proceeds of the Loan may be withdrawn from time to time to meet expenditures made after March 27, 2001, or to be made on later dates in respect of the reasonable cost of goods required for the Project which are to be financed out of the Loan proceeds as outlined in Schedule 2 to this Agreement and in the amendments of such a Schedule duly approved by OFID Management.

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2.06 Except as OFID Management shall otherwise agree, withdrawals from the Loan may be made in the currencies in which the expenditures referred to in Section 2.05 have been paid or are payable. In case payment shall be requested in a currency other than Dollars, such payment shall be effected on the basis of the actual Dollar cost incurred by OFID in meeting the request. OFID Management shall act in the purchase of currencies as the Borrower's agent. Withdrawals in respect of expenditures in the currency of the Borrower, if any, shall be made in Dollars according to the official rate of exchange at the time of withdrawal, and in the absence of such a rate, according to a reasonable rate as OFID Management shall, from time to time, decide upon.

2.07 Applications for withdrawal shall be prepared in two original conformed copies in compliance with "The OPEC Fund for International Development Disbursement Procedures" as approved in May 1983, a copy of which has been furnished to the Borrower. A copy of each such withdrawal application shall thereafter be submitted, respectively to OFID and the Loan Administrator by the representative of the Borrower designated in, or in accordance with, Section 8.02. Every application so submitted shall be accompanied with such documents and other evidence sufficient in form and substance to satisfy OFID and the Loan Administrator that the Borrower is entitled to withdraw from the Loan the amount applied for and that the amount to be withdrawn will be used exclusively for the purposes specified in this Agreement.

2.08 The Borrower shall repay the principal of the Loan in Dollars, or in any other freely convertible currency acceptable to OFID Management in an amount equivalent to the Dollar amount due, according to the market exchange rate prevailing at the time and place of repayment. Repayment shall be effected in thirty semi-annual instalments commencing on September 15, 2012, after a grace period running up to that date, and thereafter in accordance with the Amortization Schedule to this Agreement. Each instalment shall be in the amount of One Hundred Sixty Six Thousand Six Hundred and Sixty Dollars (\$ 166,660) except for the last and thirtieth instalment which shall be in the amount of One Hundred Sixty Six Thousand Eight Hundred and Sixty Dollars (\$ 166,860). All such instalments shall be transferred on the date of repayment to the OFID's Account as requested by OFID Management.

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2.09 The Borrower undertakes to ensure that no other external debt shall have priority over this Loan in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of the Borrower.

2.10 The Borrower's right to make withdrawals from the Loan proceeds shall terminate on December 31, 2009, or such later date as shall be established by OFID Management. OFID Management shall promptly inform the Borrower of such later date.

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Article 3 EXECUTION OF THE PROJECT

3.01 The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial and engineering practices, and shall provide, promptly as needed, the funds, facilities, services and other resources, in addition to the proceeds of the Loan, required for the purpose.

3.02 The proceeds of the Loan shall be made available to the Executing Agency on a grant basis in accordance with such arrangements as may be concluded between the Borrower and the Executing Agency and on such terms and conditions as may be acceptable to OFID Management.

3.03 The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project are conducted and coordinated in accordance with sound administrative policies and procedures.

3.04 (a) The Borrower undertakes to insure, or make adequate provision for the insurance of, the imported goods to be financed out of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely useable by the Borrower to replace or repair such goods.

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- (b) Except as OFID shall otherwise agree, all the goods and services financed out of the proceeds of the Loan shall be used exclusively for the Project.
- (c) The procurement of goods under this Agreement shall generally be in conformity with the provisions of the "Procurement Guidelines under Loans Extended by the OPEC Fund for International Development" as approved on November 2, 1982, a copy of which has been furnished to the Borrower, or in conformity with such other procedures, not inconsistent therewith, as may be acceptable to OFID Management and, in particular, the Procurement Guidelines or other instrument of like effect issued by the Loan Administrator.
- 3.05 (a) The Borrower shall furnish to OFID and the Loan Administrator, promptly upon their preparation, the plans, specifications, contract documents and construction and procurement schedules for the Project and any material modifications thereof or additions thereto, in such detail as OFID or the Loan Administrator shall reasonably request.
- (b) The Borrower:
- (i) shall maintain records and procedures adequate to record and monitor the progress of the Project (including its cost and the benefits to be derived from it), to identify the goods and services financed out of the proceeds of the Loan, and to disclose their use in the Project;
 - (ii) shall enable the representatives of OFID and the Loan Administrator to visit the facilities and construction sites included in the Project and to examine the goods and works financed out of the proceeds of the Loan and any relevant records and documents; and
 - (iii) shall, at regular intervals, furnish to OFID and the Loan Administrator all such information as OFID or the Loan Administrator shall reasonably request concerning the Project, its cost and, where appropriate, the benefits to be derived from it, the expenditures of the proceeds of the Loan and the goods, works and services financed out of such proceeds as well as a quarterly report on the progress in the implementation of the Project.

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(c) Promptly after completion of the Project, but in any event not later than six months after the Closing Date, or such later date as may be agreed for this purpose after consultation between the Borrower, the Loan Administrator and OFID, the Borrower shall prepare and furnish to OFID and the Loan Administrator a report, of such scope and in such detail as OFID Management shall reasonably request, on the execution and initial operation of the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and OFID of their respective obligations under this Agreement and the accomplishment of the purposes of the Loan.

3.06 The Borrower shall maintain or cause to be maintained records adequate to reflect in accordance with consistently maintained accounting practices, the operations, resources and expenditures, in respect of the Project, of the departments or agencies of the Borrower responsible for carrying out of the Project and any part thereof and shall make such records available to both OFID and the Loan Administrator upon request of either party.

3.07 In so far as is consistent with this Agreement, the Borrower shall abide vis-à-vis OFID by all such conditions related to the execution and administration of the Project as the Borrower accepts in its loan agreement signed or to be signed with the IADB for the partial financing of the Project, references to the IADB in such agreement being deemed for the purposes of this clause to be references to OFID.

3.08 Subject as provided in Section 3.07, the Borrower shall consult OFID before agreeing with the IADB on amendments of the conditions related to the execution or administration of the Project. No such amendments shall be deemed to be incorporated in this Agreement without the prior approval of OFID.

3.09 In full recognition of the role of the Loan Administrator in the supervision of the implementation of the Project, including the review and approval of the Project contracts and the approval of procurements and of withdrawal applications, the Borrower shall cooperate fully with the Loan Administrator to ensure that the purposes of the Loan will be accomplished. In the context of the foregoing, the Borrower shall, from time to time:

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- (a) exchange views with OFID and the Loan Administrator with regard to the progress of the Project, the benefits derived therefrom and the performance of the Borrower's obligations under this Agreement, as well as other matters relating to the purposes of the Loan;
- (b) promptly inform OFID and the Loan Administrator of any condition which interferes with, or threatens to interfere with, the progress of the Project or the performance by the Borrower of its obligations under this Agreement.

3.10 All references to the Borrower in this Article shall, mutatis mutandis, be construed as including references to the Executing Agency.

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Article 4 EXEMPTIONS

4.01 This Agreement and any supplementary agreement between the parties to it shall be free from any taxes, levies or duties levied by, or in the territory of, the Borrower on or in connection with the execution, delivery or registration thereof.

4.02 The principal of, the interest and the service charges on, the Loan shall be paid without deduction for, and free from, any charges and restrictions of any kind imposed by or in the territory of the Borrower.

4.03 All OFID documents, records, correspondence and similar material shall be considered as confidential by the Borrower, unless otherwise agreed by OFID.

4.04 OFID and its assets shall not be subject to any measures of expropriation, nationalization, sequestration, custody or seizure in the territory of the Borrower.

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Article 5
ACCELERATION OF MATURITY; SUSPENSION AND
CANCELLATION

5.01 If any of the following events shall occur and shall continue for the period specified below, then at any subsequent time during the continuance of any such event, OFID Management may by notice to the Borrower declare the principal of the Loan then outstanding to be due and payable immediately together with the interest and service charges thereon and in that case the principal, together with the interest and all charges, shall become due and payable immediately:

(a) A default shall occur and continue for a period of thirty days in the payment of any instalment of the principal or the interest or of the service charges under this Agreement or under any other agreement by virtue of which the Borrower has or shall have received a loan from OFID;

(b) A default shall occur in the performance of any other obligation on the part of the Borrower under this Agreement and such default shall continue for a period of sixty days after notice thereof shall have been given by OFID to the Borrower.

5.02 The Borrower may by notice to OFID cancel any amount of the Loan which the Borrower shall not have withdrawn prior to the giving of such notice. OFID may by notice to the Borrower suspend or terminate the Borrower's right to make withdrawals from the Loan if any of the events mentioned in Section 5.01(a) and (b) shall occur or if the Borrower's right to make withdrawals under the IADB loan referred to in the Preamble to this Agreement shall have been suspended or cancelled or if any other extraordinary situation shall have arisen which shall make it improbable for the Project to be successfully carried out or for the Borrower to be able to perform its obligations under this Agreement.

5.03 Notwithstanding the acceleration of maturity of the Loan pursuant to Section 5.01 or its suspension or cancellation pursuant to Section 5.02, all the provisions of this Agreement shall continue in full force and effect except as specifically provided in this Article.

5.04 Unless otherwise agreed upon between the Borrower and OFID Management, any cancellation shall be applied pro rata to the several maturities of the principal amount of the Loan which shall mature after the date of such cancellation.

* * *

Article 6

ENFORCEABILITY, TERMINATION OF OFID, ARBITRATION

6.01 The rights and obligations of the parties to this Agreement shall be valid and enforceable in accordance with their terms notwithstanding any local law to the contrary. No party to this Agreement shall be entitled under any circumstances to assert any claim that any provision of this Agreement is invalid or unenforceable for any reason.

6.02 OFID Management shall promptly inform the Borrower whenever any decision is taken for the dissolution of OFID in accordance with the Agreement Establishing the OPEC Fund for International Development. In the event of such dissolution, this Loan Agreement shall remain in force and OFID Management shall advise the Borrower of any substitute arrangements for the repayment of the Loan as may be devised by the appropriate authority of OFID on such occasion.

6.03 The parties to this Agreement shall endeavour to settle amicably all disputes or differences between them, arising out of this Agreement or in connection therewith. If the dispute or difference cannot be amicably settled, it shall be submitted to arbitration by the Arbitral Tribunal as hereinafter provided:

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(a) Arbitration proceedings may be instituted by the Borrower against OFID or vice versa. In all cases, arbitration proceedings shall be instituted by a notice given by the complainant party to the respondent party.

(b) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one by the claimant party, a second by the respondent party and the third (hereinafter called the Umpire) by agreement of the two arbitrators. If within thirty days after notice of the institution of arbitration proceedings the respondent party fails to appoint an arbitrator, such arbitrator shall be appointed by the President of the International Court of Justice upon the request of the party instituting the proceedings. If the two arbitrators fail to agree on the Umpire within sixty days after the date of the appointment of the second arbitrator, such Umpire shall be appointed by the President of the International Court of Justice.

(c) The Arbitral Tribunal shall convene at the time and place fixed by the Umpire. Thereafter, it shall determine where and when it shall sit. The Arbitral Tribunal shall determine all questions of procedure and questions relating to its competence.

(d) All decisions of the Arbitral Tribunal shall be reached by majority vote. The award of the Tribunal, which may be rendered even if one party defaults, shall be final and binding on both parties to the arbitration proceedings.

(e) Service of any notice or process in connection with any proceedings under this Section or in connection with any proceedings to enforce any award rendered pursuant to this Section shall be made in the manner provided in Section 8.01.

(f) The Arbitral Tribunal shall decide on the manner in which the cost of arbitration shall be borne by either or both parties to the dispute.

* * *

Article 7

EFFECTIVE DATE; TERMINATION OF THIS AGREEMENT

7.01 This Agreement shall become effective on the date upon which OFID dispatches to the Borrower notice of its acceptance of the evidence required by Sections 7.02 and 7.03.

7.02 The Borrower shall furnish OFID with satisfactory evidence that:

(a) the execution and delivery of this Agreement on behalf of the Borrower have been duly authorized and ratified according to the constitutional requirements of the Borrower;

(b) the loan agreement in respect of the IADB loan referred to in the Preamble to this Agreement has been declared effective or will be declared effective concurrently with this Agreement; and

(c) the proceeds of the Loan have been or shall be made available to the Executing Agency as provided for in Section 3.02 of this Agreement.

7.03 In keeping with Section 7.02, the Borrower shall also furnish OFID with a certificate issued by the Minister of Justice, or the Attorney General, or the Government's competent legal department showing that this Agreement has been duly authorized and ratified by the Borrower and constitutes a valid and binding obligation of the Borrower in accordance with its terms.

7.04 If this Agreement shall not have come into force and effect by December 31, 2007 this Agreement and all obligations of the parties hereunder shall terminate, unless OFID, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section.

7.05 When the entire principal amount of the Loan shall have been repaid and the interest and all charges which shall have accrued on the Loan shall have been paid, this Agreement and all obligations of the parties thereunder shall forthwith terminate.

* * *

Article 8

NOTICE; REPRESENTATION, MODIFICATION

8.01 Any notice or request required or permitted to be given or made under this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand, mail or telefax to the party to which it is required to be given or made, at the party's address specified below or at any other address as the party shall have specified in writing to the party giving the notice or making the request.

8.02 Any action required or permitted to be taken, and any documents required or permitted to be executed under this Agreement on behalf of the Borrower shall be taken or executed by the Minister of Public Finance of the Borrower or another officer authorized by him in writing.

8.03 Any modification of the provisions of this Agreement may be agreed to on behalf of the Borrower by written instrument executed by the representative of the Borrower designated by, or pursuant to, Section 8.02; provided that in the opinion of such representative the modification is reasonable in the circumstances and will not substantially increase the obligations of the Borrower under this Agreement.

8.04 Any document delivered pursuant to this Agreement shall be in the English language. Documents in any other language shall be accompanied by an English translation thereof certified as being an approved translation and such approved translation shall be conclusive between the parties hereto.

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LOAN NO. 1146 P

IN WITNESS whereof the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed and delivered at Vienna in two copies in the English language, each considered an original and both to the same and one effect as of the day and year first above written.

FOR THE BORROWER:



Name: H.E. Sandra Noriega Urizar
Minister Counsellor of the Embassy of Guatemala
to the Republic of Austria

Address: Ministry of Public Finance
Guatemala City
Republic of Guatemala

Telefax: 00 502 22485084

FOR THE OPEC FUND FOR INTERNATIONAL DEVELOPMENT:



Name: H.E. Jamal Nasser Lootah
Chairman of the Governing Board

Address: The OPEC Fund for International Development
P.O. Box 995
A-1011 Vienna
Austria



Telefax: 5139238

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SCHEDULES

Schedule 1: Description of the Project

Schedule 2: Loan Allocation

Schedule 3: Amortization Schedule

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THE REPUBLIC OF GUATEMALA
LAKE AMATITLAN WATERSHED
SUSTAINABLE MANAGEMENT PROJECT

SCHEDULE 1
DESCRIPTION OF THE PROJECT

The Project aims at improving the environmental condition of the Lake Amatitlan watershed through the establishment of a multi-purpose program for the institutional strengthening of the Executing Agency as well as investments in natural resources and sanitation improvement. The Project consists of the following components:

- (a) Institutional strengthening, consisting of the strengthening of the Executing Agency through technical training of staff and acquisition of equipment and vehicles, in support of its environmental planning activities relating to water pollution and sediment transport and effective coordination between all agencies involved; improving the enforcement and monitoring capacity of the Executing Agency by enhancing its laboratories and network of meteorological and hydrological stations; supporting small pilot projects in the areas of solid waste collection, water pollution control, environmental education of the public by the environmental education division of the Executing Agency; strengthening the administrative capacity of municipalities through provision of technical assistance for that purpose;

- (b) Natural resources management and sanitation, encompassing the stabilization of the Villalobos River longitudinal profile, the improvement of the forest cover and the management and administration of protected areas, as well as sanitation improvement, extending to the closing of the dump at km22 with all temporary and preparatory works related thereto, such as completion of a network of drains to capture the leakage, construction of a pond to store the leakage, pumps to channel the leakage back to the treatment facility and infrastructure to deal with the gas inside the landfill, together with the development of new sanitary landfill of a capacity of approximately 4 million cubic metres, including the final design studies, environmental impact assessment and construction works of both the landfill and a refuse recycling plant; and

- (c) Administration and supervision, comprising the hiring of consultancy services for the preparation and design of the works, the preparation of bidding documents, coordination and evaluation of project activities, as well as project financial and administrative management, including the augmentation of the technical and administrative personnel of the Executing Agency and coverage of the cost of auditing the works, provision of equipment and vehicles.

THE REPUBLIC OF GUATEMALA
LAKE AMATITLAN WATERSHED
SUSTAINABLE MANAGEMENT PROJECT

SCHEDULE 2
LOAN ALLOCATION

1. Unless otherwise agreed between the Borrower and OFID Management, the table below sets forth the components and sub-components to be financed out of the proceeds of the Loan, the allocation of amounts of the Loan to each component or sub-component and the percentage of total expenditures for items so to be financed in respect of each component or sub-component:

Component	Amount of the Loan Allocated (Expressed in US Dollars)	Percentage of Total Expenditures to be Financed
a) Institutional Strengthening	---	---
b) Natural Resources Management & Sanitation:		
(i) Natural Resources Management:	---	---
(1) Villalobos River Stabilization	3,910,000	59.48
(2) Forest Cover Improvement	---	---
(3) Management Protected Areas	---	---
(ii) Sanitation Improvement:	---	---
(1) Closing of Dump at Km 22	1,090,000	87.90
(2) New Sanitary Landfill	---	---
c) Administration Supervision:		
(i) Consultancy Services	---	---
(ii) Coordination and Supervision	---	---
(iii) Auditing	---	---
Total:	<u>5,000,000</u>	

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2. Notwithstanding the allocation of an amount of the Loan or the disbursement percentages set forth in the table in paragraph 1 above, if OFID Management has reasonably estimated that the amount of the Loan then allocated to any component or sub-component will be insufficient to finance the agreed percentage of all expenditures in that component or sub-component, OFID Management may, by notice to the Borrower: (i) reallocate to such component or sub-component, to the extent required to meet the estimated shortfall, proceeds of the Loan which are then allocated to another component or sub-component and which in the opinion of OFID Management are not needed to meet other expenditures; and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the disbursement percentage then applicable to such expenditures in order that further withdrawals in respect of such component or sub-component may continue until all expenditures thereunder shall have been made.

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LAKE AMATITLAN WATERSHED
SUSTAINABLE MANAGEMENT PROJECT

SCHEDULE 3
AMORTIZATION SCHEDULE

	<u>Date of Repayment</u>	<u>Amount Due</u> (Expressed in US Dollars)
1	September 15, 2012	166,660
2	March 15, 2013	166,660
3	September 15, 2013	166,660
4	March 15, 2014	166,660
5	September 15, 2014	166,660
6	March 15, 2015	166,660
7	September 15, 2015	166,660
8	March 15, 2016	166,660
9	September 15, 2016	166,660
10	March 15, 2017	166,660
11	September 15, 2017	166,660
12	March 15, 2018	166,660
13	September 15, 2018	166,660
14	March 15, 2019	166,660
15	September 15, 2019	166,660
16	March 15, 2020	166,660
17	September 15, 2020	166,660
18	March 15, 2021	166,660
19	September 15, 2021	166,660
20	March 15, 2022	166,660
21	September 15, 2022	166,660
22	March 15, 2023	166,660
23	September 15, 2023	166,660
24	March 15, 2024	166,660
25	September 15, 2024	166,660
26	March 15, 2025	166,660
27	September 15, 2025	166,660
28	March 15, 2026	166,660
29	September 15, 2026	166,660
30	March 15, 2027	<u>166,860</u>
	Total:	<u>5,000,000</u>