Federation Project Agreement

(Water Quality Protection Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

acting as an Implementing Agency of the Global Environment Facility

and

FEDERATION OF BOSNIA AND HERZEGOVINA

Dated July 12, 2005
GEF TRUST FUND GRANT NUMBER TF055265

PROJECT AGREEMENT

AGREEMENT, dated July 12, 2005, between the FEDERATION OF BOSNIA and HERZEGOVINA (the Federation) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF.

WHEREAS (A) by the Global Environment Facility Trust Fund Grant Agreement of even date herewith between Bosnia and Herzegovina (the Recipient) and the Bank, acting as an implementing agency of the GEF, the Bank has agreed to make available a grant in an amount of eight million nine hundred thousand dollars ($8,900,000) (the GEF Trust Fund Grant) to assist in financing part of the Project on the terms and conditions set forth in the GEF Trust Fund Grant Agreement (as the same may be amended from time to time, the GEF Trust Fund Grant Agreement, and such term includes all schedules to the GEF Trust Fund Grant Agreement), but only on condition that the Federation agrees to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary grant agreement to be entered into between the Recipient and the Federation (the Subsidiary Grant Agreement), the Recipient will make available to the Federation the proceeds of the GEF Trust Fund Grant provided for under the GEF Trust Fund Grant Agreement on terms and conditions set forth in said Subsidiary Grant Agreement; and

WHEREAS the Federation, in consideration of the Bank’s entering into the GEF Trust Fund Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the GEF Trust Fund Grant Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.
ARTICLE II

Execution of the Project

Section 2.01. (a) The Federation declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement, and, to this end, shall carry out the Project through the PMT with due diligence and efficiency and in conformity with appropriate administrative, financial, technical and environmental practices, and with due regard to ecological and environmental factors, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) For the purposes of carrying out the Project, the Federation shall on-grant a portion of the proceeds of the GEF Trust Fund Grant received by it from the Recipient under the Subsidiary Grant Agreement to each Participating Utility under a Sub-Grant Agreement with such Participating Utility, under terms and conditions that will have been approved by the Bank. Notwithstanding the foregoing provisions of this paragraph (b), the Federation shall not enter into a Sub-Grant Agreement with the Zivinice Participating Utility unless and until local or external funding, in addition to the GEF Trust Fund Grant hereunder, has been secured and which the Recipient and the Bank shall have agreed would be sufficient to carry out the Zivinice Sub-Project.

(c) Without limitation upon the provisions of paragraphs (a) and (b) of this Section and except as the Bank and the Federation shall otherwise agree, the Federation shall carry out the Project in accordance with the Implementation Program set forth in Schedule 1 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants’ services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 2 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

Section 2.03. The Federation shall duly perform all its obligations under the Subsidiary Grant Agreement. Except as the Bank shall otherwise agree, the Federation shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Grant Agreement or any provision thereof.

Section 2.04. The Federation shall exercise its rights under the Sub-Grant Agreements in such manner as to protect the interests of the Federation and the Bank and to accomplish the purposes of the GEF Trust Fund Grant, and except as the Bank shall otherwise agree, shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving any of the Sub-Grant Agreements or any provision thereof.
Section 2.05. (a) The Federation shall, at the request of the Bank, exchange views with the Bank with regard to the progress of the Project, the performance of its obligations under this Agreement, under the Subsidiary Grant Agreement, under the Sub-Grant Agreements, and other matters relating to the purposes of the GEF Trust Fund Grant.

(b) The Federation shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the GEF Trust Fund Grant, or the performance by the Federation of its obligations under this Agreement, under the Subsidiary Grant Agreement and under any of the Sub-Grant Agreements.

Section 2.06. (a) The Federation shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition) in respect of the Project.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Federation shall:

   (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and the Federation, a plan for the future operation of the Project; and

   (ii) afford the Bank a reasonable opportunity to exchange views with the Federation on said plan.

ARTICLE III

Financial Covenants

Section 3.01. (a) The Federation, through the PMT, shall maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.
(b) The Federation, through the PMT, shall:

(i) have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year (or other period agreed to by the Bank) audited, starting with the fiscal year ending December 31, 2005, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank, as soon as available, but in any case not later than six (6) months after the end of each such year (or such other period agreed to by the Bank): (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or such other period agreed to by the Bank), as so audited; and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and

(iii) furnish to the Bank such other information concerning such records and accounts and audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 3.02. (a) Without limitation upon the Federation’s reporting obligations set out in paragraph 5 of Schedule 1 to this Agreement, the Federation shall, through the PMT, prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

(i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the GEF Trust Fund Grant, and explains variances between the actual and planned uses of such funds;

(ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and

(iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank not later than forty-five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the
end of such first calendar quarter; thereafter, each FMR shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

Section 3.03. Except as the Bank shall otherwise agree, the Federation, through the PMT, shall cause each Participating Utility to submit to the Bank for the Bank’s approval:

(i) by July 31 each year, an annual business plan, together with a budget for the relevant Sub-project which it shall carry out or is then carrying out; and

(ii) by March 31 and September 30 of each year, starting with March 31, 2006, a progress report on such Sub-project.

Section 3.04. The Federation, through the PMT, shall cause each Participating Utility to establish, not later than by September 30, 2005, and thereafter maintain, a financial management system, including records and accounts, and prepare financial statements to produce sufficient information for appropriate management, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect its operations and financial conditions and to register separately the operations, resources and expenditures related to the Project.

Section 3.05. The Federation, through the PMT, shall ensure that the records, accounts and financial statements of each of the Participating Utilities are audited starting with the 2007 fiscal year and continuing thereafter, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank and the Recipient, and furnish to the Bank, the Recipient and the PMT not later than six (6) months after the end of such year certified copies of the financial statements for such year so audited and the report of such audit by the auditors of such scope and such detail as the Recipient and the Bank shall have reasonably requested.

Section 3.06. The Federation, through the PMT, shall cause each Participating Utility, until the actions stipulated in Section 3.05 shall have been implemented, to have its annual financial statements audited in accordance with consistently applied locally applicable audit standards by independent auditors and furnish to the Bank, the Recipient and the PMT not later than six (6) months after the end of such year certified copies of the financial statements for such year so audited and the report of such audit by the auditors.
ARTICLE IV

Effective Date; Termination;
Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the later of:

(i) the date upon which the GEF Trust Fund Grant Agreement becomes effective; and

(ii) the date when this Agreement has been signed by the parties hereto.

Section 4.02. (a) This Agreement and all obligations of the Bank and of the Federation thereunder shall terminate on the earlier of the two following dates:

(i) the date on which the GEF Trust Fund Grant Agreement shall terminate in accordance with its terms; or

(ii) the date twenty (20) years after the date of this Agreement.

(b) If the GEF Trust Fund Grant Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Bank shall promptly notify the Federation of this event.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE V

Miscellaneous Provisions

Section 5.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telex or facsimile to the party to which it is required or permitted to be given or made at such party’s address hereinafter specified or at such other addresses as such party shall have designated by notice to the party giving such notice or making such request. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:
Section 5.02. Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement on behalf of the Federation or by the Federation on behalf of the Recipient under the GEF Trust Fund Grant Agreement, may be taken or executed by its Minister of Finance, or by such other person or persons as the Federation shall designate in writing, and the Federation shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 5.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the City of Sarajevo, as of the day and year first above written.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
as an Implementing Agency of the Global Environment Facility

By /s/ Dirk Reinermann
Authorized Representative

FEDERATION OF BOSNIA AND HERZEGOVINA

By /s/ Niko Lozancic
Authorized Representative
SCHEDULE 1

Implementation Program

1. The Project shall be carried out by the Federation under the overall responsibility of the MOA. The PMT shall be responsible for overall implementation of the Project, including responsibility for procurement, financial management, monitoring, reporting, and evaluation. The PITs shall be responsible for the day-to-day implementation of individual Sub-projects which each of them shall carry out, as well as the preparation of regular progress and financial reports concerning such Sub-projects, for delivery to the PMT. The MOA, the PMT, the PCWM, and the PITs shall each fulfill their respective responsibilities and obligations under the Project in accordance with the Operational Manual.

2. The Federation shall maintain the PMT, the PCWM, and the PITs until the completion of the Project, each with adequate staff, funds, facilities and other resources required for this purpose in a manner satisfactory to the Bank.

3. The Federation shall adopt and thereafter maintain the Operational Manual, and shall also maintain the Subsidiary Grant Agreement, in form and content satisfactory to the Bank, and shall duly perform all its obligations under the Operational Manual, the Subsidiary Grant Agreement and the Sub-Grant Agreements, and shall not take or concur in any action which would have the effect of amending, assigning, abrogating or waiving the Operational Manual, the Subsidiary Grant Agreement or any of the Sub-Grant Agreements without obtaining the prior approval of the Bank.

4. The Federation shall take, or cause to be taken, all measures necessary to ensure that:

   (a) the PITs shall discharge their obligations and responsibilities under the Project under the overall coordination, monitoring, and supervision of the PMT established within the MOA, which PMT shall be responsible for, among other matters, the clearance, management and supervision of Project procurement activities;

   (b) the PITs shall follow the operational and administrative procedures for the implementation of the Project set forth in the Operational Manual; and

   (c) the Sub-projects are implemented by the PITs in a timely manner in full compliance with the Environmental Management Plans and the Environmental Framework Policy, as the case may be.
5. The Federation, through the PMT, shall:

   (a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators agreed upon between the Recipient and the Bank, the carrying out of the Project and the achievement of the objectives thereof;

   (b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about February 15, 2008, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section 3, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

   (c) review with the Bank, by May 15, 2008, or such later date as the Bank shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Bank’s views on the matter.
SCHEDULE 2

Procurement

Section I. General

A. All goods, works and services (other than consultants’ services) shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants’ services shall be procured in accordance with Sections I and IV of the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Bank of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or the Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants’ Services)

A. International Competitive Bidding

Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Recipient. Standard documents of the Bank for International Competitive Bidding will be used.

B. Other Procurement Procedures

1. National Competitive Bidding

Works estimated to cost less than $500,000 equivalent per contract may be procured under contracts awarded on the basis of National Competitive Bidding and the following additional provisions:
(a) **Registration**

(i) Bidding shall not be restricted to pre-registered firms;

(ii) Where registration is required, bidders (1) shall be allowed a reasonable time to complete the registration process, and (2) shall not be denied registration for reasons unrelated to their capability and resources to successfully perform the contract, which shall be verified through post-qualification; and

(iii) Foreign bidders shall not be precluded from bidding. If a registration process is required, a foreign bidder declared the lowest evaluated bidder shall be given a reasonable opportunity to register.

(b) **Advertising**

Invitations to bid shall be advertised in at least one widely circulated national daily newspaper allowing a minimum of 30 days for the preparation and submission of bids.

(c) **Pre-qualification**

When pre-qualification shall be required for large or complex works, invitations to pre-qualify for bidding shall be advertised in at least one widely circulated national daily newspaper a minimum of 30 days prior to the deadline for the submission of pre-qualification applications. Minimum experience, and technical and financial requirements, shall be explicitly stated in the pre-qualification documents.

(d) **Participation by Government-owned enterprises**

Government-owned enterprises in Bosnia and Herzegovina, including those in the Federation and Republika Srpska, shall be eligible to participate in bidding only if they can establish that they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the contracting authority. Furthermore, they will be subject to the same bid and performance security requirements as other bidders.
(e) **Bidding Documents**

Procuring entities shall use the appropriate standard bidding documents for the procurement of goods, works or services, acceptable to the Association.

(f) **Bid Opening and Bid Evaluation**

(i) Bids shall be opened in public, immediately after the deadline for submission of bids;

(ii) Evaluation of bids shall be made in strict adherence to the monetarily quantifiable criteria declared in the bidding documents; and

(iii) Contracts shall be awarded to the qualified bidder having submitted the lowest-evaluated, substantially responsive bid and no negotiation shall take place.

(g) **Price Adjustment**

Civil works contracts of long duration (more than 18 months) shall contain an appropriate price adjustment clause.

(h) **Rejection of Bids**

(i) All bids shall not be rejected and new bids solicited without the Association’s prior concurrence.

(ii) When the number of bids received is less than three, re-bidding shall not be carried out without the Association’s prior concurrence.

ECA Regional Sample Bidding Documents, modified as acceptable to the Bank, shall be used.

2. **Shopping**

Contracts for goods which cannot be grouped into larger bidding packages and estimated to cost less than $100,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping, based on a model request for quotations satisfactory to the Bank. In case of direct invitation (not publicly advertised) the list of firms to be invited should be determined by a committee or commission.
Minor works estimated to cost less than $100,000 equivalent per contract may also be procured under contracts awarded on the basis of Shopping and lump-sum, fixed-price contracts awarded on the basis of quotations obtained from at least three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Bank, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to complete the contract successfully. In case of direct invitation (not publicly advertised) the list of firms to be invited should be determined by a committee or commission.

3. **Direct Contracting**

Direct contracting of works and goods will be allowed only with the previous approval of the Bank and only under the circumstances described in paragraph 3.6 of the Procurement Guidelines.

**Section III. Particular Methods of Procurement of Consultants’ Services**

A. **Quality- and Cost-based Selection**

Except as otherwise provided in Part B of this Section, consultants’ services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

B. **Other Procedures**

1. **Least-cost Selection**

Services for assignments which the Bank agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines and estimated to cost less than $100,000 equivalent per contract may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. **Selection Based on Consultants’ Qualifications**

Services estimated to cost less than $100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.
3. **Single Source Selection**

Services for tasks in circumstances which meet the requirements of paragraph 3.10 of the Consultant Guidelines for Single Source Selection, may, with the Bank’s prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.

4. **Individual Consultants**

Specialized advisory services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines and selected by comparison of qualifications of three (3) candidates may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. In case of direct invitation (not publicly advertised) the list of individuals to be invited to submit curriculum vitae should be determined by a committee or commission. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

5. **Incremental Operating Costs**

Reasonable and necessary incremental expenditures, as approved by the Bank on the basis of budgets acceptable to the Bank, incurred by the PMT and the PITs on account of Project implementation, management and monitoring, including the cost of salaries of PITs’ staff, office equipment and supplies, office equipment maintenance and repair, vehicle operation (including fuel) and repair, local and international travel, communication, translation and interpretation, bank charges, and other miscellaneous costs, as may be agreed with the Bank, would be financed by the project on a declining basis and would be procured using the relevant entity’s administrative procedures which were reviewed and found acceptable to the Bank.

6. **Short List**

For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than $100,000 equivalent per contract may comprise entirely national consultants, with the prior agreement of the Bank and provided that sufficient participation and competition is ensured.

**Section IV. Review by the Bank of Procurement Decisions**

Except as the Bank shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Bank: (a) each contract for goods estimated to cost $100,000 equivalent per contract or more, and works procured on the basis of International Competitive Bidding estimated to cost $500,000 equivalent per contract or more, and all direct contracting; (b) each contract for consultants’ services
estimated to cost $100,000 equivalent per contract or more, or on a sole-source basis for consultants’ services provided by firms; and (c) the first contract for works procured under National Competitive Bidding and the first contract procured under Shopping in each implementation year. All other contracts shall be subject to Post Review by the Bank.