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**THE COOPERATION PROGRAMME BETWEEN SWITZERLAND AND CROATIA**

**PROJECT PREPARATION FACILITY  
AGREEMENT**

**BETWEEN**

**THE STATE SECRETARIAT FOR ECONOMIC AFFAIRS**

**AND**

**THE MINISTRY OF REGIONAL DEVELOPMENT AND EU FUNDS  
AS THE NATIONAL COORDINATION UNIT**

**ON**

**THE GRANT FOR THE  
PROJECT PREPARATION FACILITY  
TO BE IMPLEMENTED DURING THE PERIOD  
14.02.2017. – 28.04.2017**

*The State Secretariat for Economic Affairs, hereinafter referred to as "SECO" and*

*The Ministry of Regional Development and EU Funds of the Republic of Croatia, hereinafter referred to as the "NCU",*

*Referring to the Framework Agreement between the Swiss Federal Council and the Government of the Republic of Croatia concerning the implementation of the Swiss-Croatian Cooperation Programme to reduce economic and social disparities within the enlarged European Union, concluded on 30<sup>th</sup> June 2015,*

*Considering the establishment of a Project Preparation Facility, in the favour of the Republic of Croatia in the context of the Swiss-Croatian Cooperation Programme,*

*have agreed as follows:*

## **Article 1**

### **Definitions**

In this Project Preparation Facility Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

- "Framework Agreement" means the Agreement between the Swiss Federal Council and the Government of the Republic of Croatia (hereafter referred to as "Croatia") concerning the implementation of the Swiss-Croatian Cooperation Programme to reduce economic and social disparities within the enlarged European Union (EU), concluded on 30<sup>th</sup> June 2015;
- "Contribution" means the non-reimbursable financial contribution granted by Switzerland under the Framework Agreement;
- "Project Preparation Facility Agreement" means the Agreement between the State Secretariat for Economic Affairs (SECO) and the Ministry of Regional Development and EU Funds acting as the National Coordination Unit (NCU) which lays down the rights and obligations between the Parties with respect to the Project Preparation Facility;
- "Grant" means the non-reimbursable financial contribution granted by Switzerland under this Project Preparation Facility Agreement;
- "National Coordination Unit" (NCU) means the Croatian Competent Authority in charge of the coordination of the Swiss-Croatian Cooperation Programme as defined in Art. 9 of the Framework Agreement;
- "Intermediate Body" (IB) is the Ministry of Agriculture which acts under the responsibility of the NCU, or which carries out duties on behalf of the NCU with regard to the Executing Agency implementing projects, or which is a legal public entity under whose legal framework the Executing Agency acts;
- "Executing Agency" is Croatian Waters – *Hrvatske vode* – mandated by the Government of the Republic of Croatia and acting in accordance with Annex 1 of the Framework Agreement

to implement preparatory activities for projects of the funding guideline "Environment and Infrastructure" financed under this Project Preparation Facility Agreement;

- "Paying Authority" means the Croatian Ministry of Finance ensuring appropriate financial control within the Swiss-Croatian Cooperation Programme as stipulated in Art. 5.4, Annex 2 of the Framework Agreement;
- "Parties" of the Project Preparation Facility Agreement means the NCU representing the Croatian side and SECO representing the Swiss side;
- "Audit Organisation" means an internal or external certified audit organisation, which carries out a financial audit at the end of the Project Preparation Facility on behalf of the NCU;
- "Final Project Proposal" means the project proposal submitted to SECO in view of the final approval of a project to be implemented in the framework of the Swiss-Croatian Cooperation Programme and identified in Annex 1 of the Framework Agreement related to Environment and Infrastructure.

## **Article 2**

### **Objective and Scope of the Project Preparation Facility**

2.1 In principle, the Project Preparation Facility (hereinafter referred to as the "PPF") aims at supporting the Executing Agency in its efforts to perform the preparatory activities required for the rehabilitation and construction of an integral, efficient and sustainable water supply and sanitary wastewater collection and treatment system in seven agglomerations of Gorski kotar. Specifically, the PPF shall ensure the efficient preparation of Final Project Proposals as defined in Annex 3, Chapter B of the Framework Agreement and in line with Annex 1 of the Framework Agreement, by contributing to the costs incurred for activities deemed relevant for the sound preparation of the project documentation and approved by the Parties.

2.2 The PPF shall be coordinated by the NCU and set up and implemented by the Executing Agency. It has to be implemented in accordance with the following documents, listed by order of legal applicability:

- the Framework Agreement and its Annexes;
- the PPF Agreement;
- Annex 1: (a) SECO Decision Letter, dated 16<sup>th</sup> April 2015; (b) SECO Decision Letter, dated 15<sup>th</sup> May 2015; (c) SECO Decision Letter, dated 22<sup>nd</sup> October 2015;
- Annex 2: Project Preparation Facility document.

### **Article 3 Amount and Utilization**

3.1 Switzerland shall provide to Croatia a Grant **amounting to maximum CHF 1'070'000.00 (one million seventy thousand Swiss Francs)** to be used exclusively to finance the eligible costs as defined in Art. 3.3 below.

3.2 The Grant shall cover a **maximum of 85%** of the total eligible costs of the PPF in Swiss Francs. This percentage shall never be exceeded during the implementation of the PPF. The NCU shall ensure the timely provision of the co-financing of a **minimum of 15%** of the total eligible costs of the PPF in Swiss Francs by domestic sources.

3.3 The following costs incurred by the Executing Agency are eligible for financing:

- a) Expenditures for mandates to competent external experts to support the preparation of up to seven comprehensive Final Project Proposals, as laid down in Art. 5 of Annex 1 of the Framework Agreement, fulfilling the requirements stipulated in the Framework Agreement, Annex 2, Art. 2.4 to be submitted to SECO for final approval;
- b) Expenditures for mandates to competent external experts for preparing studies, e.g. feasibility studies, environmental impact assessments, and/or any other document deemed appropriate to complement the individual Final Project Proposal in order to allow a thorough appraisal of the individual projects;
- c) External costs for the preparation of draft tender documents for goods and services to be used to implement activities for projects of the focus area "Environment and Infrastructure" (Annex 1 of the Framework Agreement, Art. 5). The draft tender documents have to be prepared in line with Annex 2, Art. 3.3 of the Framework Agreement. After the final approval of a project, draft tender documents with a budget above the threshold of CHF 500'000.00 shall undergo the procedure laid down in Annex 2, Art. 3.3 of the Framework Agreement;
- d) External legal expertise;
- e) External costs for translation of the relevant documents into English.

3.4 Costs incurred before the entry into force of the Framework Agreement and this PPF Agreement are eligible for financial support if they are in line with the provisions of Art. 3.3, and if SECO had approved the requested assistance in its decision on the Project Outlines as laid down in Art. 2 of Annex 3, Chapter B of the Framework Agreement.

3.5 The final date of eligibility of costs of the PPF is 28<sup>th</sup> April 2017.

3.6 Not eligible are:

- a) All kind of taxes, including custom duties and VAT, required for the activities laid down in Art. 3.3 not directly linked with services.
- b) VAT, which is recoverable, by whatever means, even if it is not actually recovered by the Executing Agency or the final recipient.

- c) Interest on debt, the purchase of real estate and staff costs of the Croatian Government for the management of the Swiss-Croatian Cooperation Programme, as laid down in Art. 5.5 of the Framework Agreement.

3.7 At the latest by 24<sup>th</sup> May 2017, unused balances of the PPF shall be reallocated to projects of the funding guideline "Environment and Infrastructure" that were finally approved by SECO according to the procedure laid down in Art. 2.3 of Annex 2 of the Framework Agreement. The unused balances are distributed according to the priorities laid down in the Framework Agreement, Annex 1, Art. 5, until the maximal Swiss co-financing rate of 85% of the project budget is reached or all unused balances have been reallocated. If deemed necessary and by mutual written agreement between the Parties, unused balances of the Grant can be transferred to the project "Demining and Social Integration".

3.8 Any portion of the Grant unutilized at the end of the commitment period of the Contribution and not reallocated according to Art. 3.7 shall not be available anymore for the Swiss-Croatian Cooperation Programme.

#### **Article 4**

##### **Procedures for a PPF application and award**

4.1 The procedure for a PPF application shall comply with the procedures of project financing requests defined in the Framework Agreement, Annex 2, Art. 2.

4.2 SECO assessed whether the requested assistance for project preparation is suitable for financial support under the PPF, and approved the activities on 16<sup>th</sup> April 2015 and 15<sup>th</sup> May 2015, respectively. SECO may request further explanations, make recommendations or request amendments for further preparatory activities, including the scope, content, methodology and budget, to be financed under the PPF. If required, the Executing Agency shall give further explanations, and take into account the recommendations or requests for amendments.

4.3 Upon signing of this PPF Agreement, the NCU shall inform the Executing Agency accordingly and make the necessary contractual arrangements with the Executing Agency for the provision and use of the awarded funds. The contractual arrangements between the NCU and the Executing Agency shall fully comply with this PPF Agreement.

#### **Article 5**

##### **Reimbursement Procedures**

5.1 The Grant shall be disbursed in accordance with Annex 2, Art. 4 of the Framework Agreement.

5.2 Disbursements shall be made by SECO based on Reimbursement Requests submitted by the Paying Authority as well as on Interim Reports pursuant to Art. 10, verified and certified by the IB and the Paying Authority and submitted to SECO by the NCU, in the form of reimbursements of up to 85% of the eligible costs incurred within the PPF. The eligible costs shall be pre-financed by the Executing Agency.

5.3 The first Reimbursement Request for all eligible costs occurred from the day of the commencement of the preparatory activities according to Art 3.3 until 31<sup>st</sup> January 2017 shall be prepared by the Paying Authority and submitted by the NCU to SECO until 17<sup>th</sup> February 2017. The second Reimbursement Request for all eligible costs occurred from 1<sup>st</sup> February 2017 until 28<sup>th</sup> April 2017 shall be prepared by the Paying Authority and submitted by the NCU to SECO until 15<sup>th</sup> May 2017.

5.4 The first disbursement by SECO shall be made upon approval of the first Interim Report and the first Reimbursement Request within a period of 25 calendar days from the date of approval. The second Reimbursement Request shall be made upon approval of the second Interim Report and the second Reimbursement Request within a period of 7 working days upon approval.

5.5 In case an external certified audit organisation performs the Final Financial Audit of the PPF pursuant to Art. 11, a Reimbursement Request for these costs shall be sent to SECO latest by 28<sup>th</sup> October 2017. After fulfilment of all contractual obligations of Croatia, after the submission and upon approval by SECO of the Project Completion Report (Art. 10.3) and the Final Financial Audit Report (Art. 11.1) including the comments of the NCU and the IB (Art. 11.5), Switzerland shall reimburse up to 85% of the eligible costs for the Final Financial Audit through the Swiss-Croatian Technical Assistance Fund.

5.6 The Reimbursement Requests sent to SECO by the NCU shall be in Swiss Francs, whereas the Paying Authority shall convert the local currency into Swiss Francs at the daily middle exchange rate of the Croatian National Bank prevailing at the last working day of the reporting period.

5.7 All disbursements related to this PPF Agreement shall be made in Swiss Francs by Switzerland to the single treasury bank account of Croatia.

## **Article 6 Procurement**

Procurement under the PPF is to be made in compliance with the respective national law and regulations, with the respective EU directives and with the Framework Agreement, Annex 2, Art. 3.3.

## **Article 7 Responsibilities of the NCU**

7.1 The NCU is responsible for the implementation, control, monitoring and review of the PPF in line with the Framework Agreement and this PPF Agreement. The NCU ensures the compliance of all actions of both the Executing Agency and the IB under the PPF with the PPF Agreement as well as with the Framework Agreement.

7.2 The main tasks of the NCU include:

- Supervision and steering of the general implementation of the PPF in accordance with this Agreement;

- Assurance of the efficient and correct use of the Grant;
- Assurance of the timely reporting to SECO on the implementation of the PPF according to Art. 10;
- Assurance of the timely submission of results and the proposed recommendations of the financial audit of the PPF to SECO according to Art. 11.5;
- Conclusion of contracting arrangements with the IB and the Executing Agency for the use of funds from the PPF that fully comply with this PPF Agreement;

7.3 The general public in Croatia will be informed adequately about the PPF and the support provided by Switzerland within the framework of the Swiss-Croatian Cooperation Programme to reduce economic and social disparities within the enlarged European Union.

7.4 All communication to SECO with regard to this PPF Agreement shall be directed to SECO. The Swiss Embassy in Zagreb shall always be copied to any correspondence.

### **Article 8 Responsibilities of the IB**

The main tasks of the IB include but are not limited to:

- Check of the legality and compliance of any procurement process with Art. 6 of this PPF Agreement;
- Check of the payment claims received from the Executing Agency, including the underlying invoices or the documents of equivalent value and verification of their authenticity, correctness and eligibility;
- Confirmation of the completeness and the eligibility of the submitted invoices and documents of equivalent value to the NCU and the Paying Authority;
- Supervision and steering of the implementation of the PPF in accordance with the PPF Agreement and the Implementation Agreement on daily basis and execution of the necessary controls;
- Submission of the verified payment claims to the Paying Authority;
- Assurance of the verification of the quality and completeness of the studies and documents prepared with the financial support under the PPF and confirmation of the quality and completeness to the Executing Agency and the NCU;
- Assurance of the timely provision to the PPF of the co-financing of a minimum of 15% of the total eligible costs from national domestic sources;
- Assurance that the appropriate provisions are included in the national budget in order to safeguard that the Executing Agency has the necessary funds available for the project implementation;



- Assurance of the financial control of the PPF, including full and adequate audit trails;
- Check that there is no double-financing of any part of the Grant by any other source of funds and reporting accordingly to the NCU;
- Supervision and assurance that the Executing Agency is reporting accordingly on the implementation process of the PPF;
- Reporting to the NCU on the progress of the PPF implementation on regular basis;
- Submission of Interim Reports and the Project Completion Report to Paying Authority and the NCU;
- Submission of all audit reports of the PPF, referred to in Art. 11, to the NCU;
- Verification of the implementation of proposed recommendations of SECO and report to the NCU on the status of the fulfilment;
- Performance of preliminary and ex-ante controls on the tendering procedures and on the respective documents;
- Verification if the VAT can be recovered by the Executing Agency and inform the Paying Authority and the NCU by the official form of declaration;
- Confirmation of the compliance of any actions with the state aid rules.
- Check for irregularities as referred to in Art. 15 and reporting to the NCU on a regular basis;
- Assurance of the archiving duties;
- Ensuring information and publicity on the progress and achievements of the PPF and the Swiss-Croatian Cooperation Programme.

#### **Article 9 Monitoring and Review**

The NCU and the IB shall ensure the establishment of a monitoring system that allows periodically assessing the status of achievement of the objective of the PPF Agreement (cf. Art. 2). The project reports under Art. 10 and the assessment of the PPF results shall be provided by the IB and shall be the base of the annual Programme report on the Swiss-Croatian Cooperation Programme as stipulated in Art. 8 of the Framework Agreement.

#### **Article 10 Reporting**

10.1 Reports shall meet the requirements mentioned in Art. 3.5 of Annex 2 of the Framework Agreement.

10.2 The first Interim Report shall cover for the period starting on the day of the commencement of the preparatory activities according to Art. 3.3 until 31<sup>st</sup> January 2017. It shall be submitted by the NCU to SECO until 17<sup>th</sup> February 2017. The second Interim Report shall cover the period of 1<sup>st</sup> February 2017 until 28<sup>th</sup> April 2017 and shall be submitted by the NCU to SECO until at the latest 15<sup>th</sup> May 2017. The Interim Reports support payment claims of the Executing Agency and have to be presented to SECO with the corresponding Reimbursement Request (c.f. Art. 5.2). Interim Reports include an overview of the contracts and their respective values and durations, a description of the performed tasks including budget, duration and a listing of all elaborated preparatory documents, as well as a financial overview of the expenses occurred compared to the planned ones.

10.3 The Project Completion Report, covering the period starting on the day of the commencement of the preparatory activities according to Art. 3.3. and ending on 28<sup>th</sup> April 2017, is due not later than 28<sup>th</sup> October 2017. The Project Completion Report shall contain a summary of the preparatory activities supported through the PPF, an overview of the contracts and their respective values and dates as well as an overall assessment on the PPF. Furthermore, it shall contain a financial part, which includes a summary of the financial data of the whole PPF and compares it with the planned expenditures.

10.4 The financial parts of the Interim Reports and of the Project Completion Report, based on invoices or documents of equivalent value, have to be presented in local currency.

## **Article 11**

### **Final Financial Audit**

11.1 On behalf of the NCU and the IB, an Audit Organisation shall perform a Final Financial Audit of the PPF for the period starting on the day of the commencement of preparatory activities according to Art. 3.3 and ending on 28<sup>th</sup> April 2017.

11.2 The conclusions and recommendations of the Final Financial Audit shall be transmitted by the NCU to SECO no later than 28<sup>th</sup> October 2017.

11.2 The NCU confirms that the selected Audit Organisation is a public institution or an external certified company with recognised professional reputation and in line with the International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants. The costs for an external certified audit organisation are eligible for reimbursement and shall be borne by the Swiss-Croatian Technical Assistance Fund (c.f. Art. 5.5).

11.3 The objective of the Final Financial Audit of the PPF is to enable the Audit Organisation to express an opinion whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework. Thus, financial statements need to be prepared in accordance with one, or a combination of the international accounting standards, the national accounting standards or another authoritative and comprehensive financial reporting framework, which has been designed for use in financial reporting and is identified in the financial statements. The Audit Organisation shall conduct the Final Financial Audit in accordance with ISA, issued by the International Auditing and Assurance Standards Board (IAASB) of the

International Federation of Accountants (IFAC), to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether due to fraud or error. The Audit Organisation shall take into account additional requirements that may be suggested by the NCU, the IB or by SECO.

11.4 In addition to the Audit Organisation's report on the financial statement, the Audit Organisation is expected to provide the Executing Agency with a management letter concerning any material weaknesses in accounting and internal control systems detected by the Audit Organisation and to formulate appropriate corrective measures. The copy of the management letter shall be presented to the NCU and the IB.

11.5 The IB and the NCU shall comment the results of the Final Financial Audit as well as any recommendations made by the Audit Organisation and, if the case, formulate appropriate correcting measures. Furthermore, the NCU shall transmit to SECO the results and the proposed recommendations of the Final Financial Audit together with the Final Financial Audit report.

11.6 SECO shall have the right to request additional external financial reviews. The costs of such financial reviews shall be borne by Switzerland.

## **Article 12**

### **Right of Examination**

SECO, as well as any third party appointed by it, shall have the right to conduct a comprehensive assessment or review of the activities implemented under the PPF, and shall be granted full access to all documents and information related to the PPF activities settled by this PPF Agreement, during its implementation and five years after its completion. The NCU shall, upon request, ensure that the above-mentioned authorized representatives are accompanied by the relevant personnel and are provided with the necessary assistance. SECO, or any third party appointed by it, shall submit an assessment or evaluation report to the NCU.

## **Article 13**

### **Liability**

Neither of the Parties of the PPF Agreement assumes any risk or responsibility whatsoever for any damages, injuries, or other possible adverse effects caused by the activities under the PPF.

## **Article 14**

### **Common Concern**

The Parties share a common concern in the fight against corruption, which jeopardises good governance and the proper use of resources needed for development, and, in addition, endangers fair and open competition based upon price and quality. They declare, therefore, their intention of combining their efforts to fight corruption and, in particular, declare that any offer, gift, payment, remuneration or benefit of any kind whatsoever, made to whomsoever, directly or indirectly, with a view to being awarded a mandate or contract within the framework of this PPF

Agreement, or during its execution, will be construed as an illegal act or corrupt practice. Any act of this kind constitutes sufficient grounds to justify termination of this PPF Agreement, the annulment of the procurement or resulting award, or for taking any other corrective measure laid down by Croatian law. The Parties shall promptly inform each other in case of any relating well-founded suspicion of an illegal act or corrupt practice.

## **Article 15**

### **Irregularities Clause**

15.1 Irregularity means any breach of the Croatian law, the Framework Agreement, this PPF Agreement and/or related contracts as a result of an act or omission, which has led or could lead to prejudicing the general budget of the Swiss-Croatian Cooperation Programme through unjustified expenditure. Irregularities are notably considered to be all actions or non-actions that are aimed at the illegitimate obtainment and/or usage of the Contribution - notably fraud, misappropriation, misrepresentation, breach of contractual duties, breach of duty of care and the like.

15.2 The NCU shall ensure efficient and prompt investigation of any suspected and actual cases of fraud and irregularity. The NCU shall immediately report to the Swiss authorities all suspected and actual cases of fraud and irregularity as well as all measures related thereto, taken by the competent national authorities.

15.3 If either Party suspects an irregularity regarding the execution of the PPF Agreement, it reserves the right to conduct an external, independent audit. Furthermore, Switzerland is entitled to stop disbursement related to the PPF immediately and/or instruct the NCU to stop payments related to the PPF from the Swiss Contribution.

15.4 In duly substantiated cases, based on the findings of the external, independent audit (c.f. Art. 15.3), Switzerland can ask repayment of illegitimately paid disbursement related to the PPF at any given stage of the PPF, giving the NCU written notice on the grounds.

15.5 In any case, prior to evoking a decision on Art. 15.3, SECO shall enter into dialogue with the NCU to ensure that the decision is based on accurate and correct facts.

15.6 SECO shall immediately and in written form communicate the reasons for its respective instructions to the NCU and the other actors involved.

15.7 When proper corrective measures have been accepted by SECO, the cooperation in the frame of the PPF Agreement shall return to normality.

## **Article 16**

### **Language**

All correspondence with SECO, including operational, financial and audit reports as well as any other documents related to the PPF, shall be in English.

**Article 17**  
**Competent Authorities**

17.1 National Coordination Unit, with full contact:

Ministry of Regional Development and EU Funds  
Račkoga 6  
10000 Zagreb  
Croatia

17.2. Intermediate Body

Ministry of Environment and Energy  
Ulica grada Vukovara 78  
10000 Zagreb  
Croatia

17.3 For the Swiss Government:

State Secretariat for Economic Affairs (SECO)  
Holzikofenweg 36  
3003 Bern  
Switzerland

Embassy of Switzerland  
Augusta Cesarca 10  
10000 Zagreb  
Croatia

**Article 18**  
**Settlement of Disputes**

If any dispute from the application of this PPF Agreement arises, Art.11.2 of the Framework Agreement shall be applied.

**Article 19**  
**Modifications and Amendments to the PPF Agreement**

19.1 Any modification and/or amendment to this PPF Agreement shall be made in writing with the mutual agreement of the Parties and according to their respective procedures.

19.2 Any changes within the activities declared eligible in Art. 3.3 and Annex 2 of this PPF Agreement, as well as any strategic changes or conceptual adjustments to the PPF shall be discussed with and approved by SECO.

**Article 20**  
**Termination, Suspension**

20.1 This PPF Agreement can be terminated at any time by one of the Parties upon a six-month prior written notice containing its justification. Prior to making such a decision, the Parties shall enter into a dialogue to ensure that it is based on accurate and correct facts. In case of such a termination, the Parties shall decide by mutual agreement on any consequences of the termination.

20.2 If either Party considers that the aims of the PPF Agreement can no longer be achieved or that the other Party is not meeting its obligations, it shall have the right to suspend immediately the application of this PPF Agreement by giving the other Party a written notice on the grounds.

**Article 21**  
**Entry into Force, Duration**

21.1 This PPF Agreement shall enter into force on the date of its signing by the Parties and shall remain in force until all obligations under it have been fulfilled.

21.2 The PPF shall be operational from the date of the signing of this PPF Agreement until 28<sup>th</sup> April 2017.

Done in Zagreb, Croatia on 14 February 2017, in two authentic copies in the English.

ON BEHALF OF THE STATE SECRETARIAT  
FOR ECONOMIC AFFAIRS

THE AMBASSADOR OF EMBASSY OF  
SWITZERLAND IN CROATIA

Stefan Estermann



ON BEHALF OF THE NATIONAL  
COORDINATION UNIT

MINISTER OF MINISTRY OF REGIONAL  
DEVELOPMENT AND EU FUNDS

Gabriela Žalac, dipl. oec.

