



MEDNARODNO RAZVOJNO
SODELOVANJE SLOVENIJE
SLOVENIA'S DEVELOPMENT
COOPERATION

ЦРНА ГОРА-ОПШТИНА ЖАБЛЈАК

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Примљено: 15. 11. 2019			
Ост. р.д.	Бр.:	Код:	Број:
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GRANT AGREEMENT 2018/3

between

Municipality of Žabljak as Recipient

and

CMSR
Centre for International Cooperation and Development

as Donor

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GRANT AGREEMENT between:

Municipality of Žabljak – having its registered office at Trg durmitorskih ratnika 1, 84 220 Žabljak, Montenegro (the "Recipient");

and

Centre for International Cooperation and Development (CMSR) — having its registered office at Kardeljeva ploščad 1, Ljubljana 1000, Slovenia (the "Donor");

(referred to jointly as the "Parties" and individually as a "Party")

entered into on November 15, 2019 (the "Effective Date").

WHEREAS:

- (A) The Donor is an independent non-profit research and advisory organisation in the field of international economic relations established by the Republic of Slovenia and SID Bank;
- (B) The Donor is implementing a part of bilateral official development assistance of the Republic of Slovenia in accordance with the International Development Cooperation and Humanitarian Assistance of the Republic of Slovenia Act, which is financed from the budget of the Republic of Slovenia;
- (C) The Recipient is a public sector organisation;
- (D) The Recipient has presented to the Donor the investment documentation attached to this agreement (the "Project Documentation") with a proposal for Official Development Assistance of the Republic of Slovenia in the form of grant to enable the implementation of the Project: "Modernisation and Reconstruction of Public Lightning System in the Municipality of Žabljak" (the "Project");
- (E) The Recipient has presented to the Donor a copy of the Procurement Contract concluded between the Recipient and the Contractor;
- (F) For the purpose of assisting the Recipient in the implementation of the Project in the total net value of 163.846 euro ("Project Value"), the Donor agrees to provide the Recipient with a donation in the form of a grant (the "Grant") in the amount of up to 50 % of the actual net value of the Project and in any way not more than 80.569 euro on the terms and conditions as set out in this Agreement;
- (G) The Recipient has secured sufficient own financial resources for the project implementation in the estimated net amount of 33.672 euro and in the amount of all the taxes and other duties related to the Project, increased by the donation from United Nations Development Programme in the amount of 49.605 euro. The Recipient will perform all needed preparatory works and supporting activities for the project implementation;

NOW IT IS HEREBY AGREED as follows:

1. GRANT

- 1.1 Amount: Subject to the terms and conditions of this Agreement, the Donor hereby undertakes to make available to the Recipient a donation in form of a grant in the

amount of up to 50 % of the actual net value of the Project and in any way not more than 80.569 euro (the "Grant"); final net value of the project is ascertained based on the invoices issued by the Contractor for goods and services provided, which are confirmed and paid by the Recipient; in case that certificate(s) of payment(s) are not yet available, such partial amount is taken into account by formal Recipient's statement(s) on the existence of liability to the Contractor for the goods and services provided.

- 1.2 Purpose: The Grant shall be used solely for the purpose of co-financing the Project, i.e. payments to the Contractor under the Procurement Contract, concluded between the Recipient and the Contractor.
- 1.3 Disbursement: The disbursements of the Grant will be effected partially as per 1.4. of this Agreement following the presentation of submitted invoice(s) by the Contractor under the Procurement Contract, which shall be confirmed by the Recipient and the presentation of certificate of payment of the entire amount of the submitted invoice(s) by the Recipient to the Contractor. The invoices shall be confirmed by the Recipient as a proof of services/works performed and/or equipment supplied in relation to the Project in accordance with the Contract and the Project documentation, i.e. demonstrating that the Project has been or is being implemented in accordance with the Contract and the Project documentation.
- 1.4 Financial transfer in respect of the Grant will be made by partial financial transfers (instalments) from the Donor to the Recipient, in the amount of up to 50 % of the net value of the confirmed and paid invoice of the Contractor by the Recipient. The payment of partial financial transfer of the Donor in the amount of up to 50 % of the net value of the confirmed and paid invoice of the Contractor will be made within thirty (30) days from the presentation and the delivery of the confirmed and paid invoice by the Recipient, unless the Donor asks, within that period, for the presentation of additional documentation as a proof demonstrating that the Project has been or is being implemented in accordance with the Contract and the Tender documentation. In such a case the payment of partial financial transfer of the Donor is made within thirty (30) days from the presentation and the delivery of adequate documentation by the Recipient. The sum of the partial financial transfers (instalments) from the Donor to the Recipient shall in no case exceed the Grant amount (i.e. up to 50 % of the actual net value of the Project and in any way not more than 80.569 euro).
- 1.5 Transfer and assignment: The Recipient irrevocably authorizes the Donor to effect the payments of Grant (partial financial transfers (instalments)) directly to the Contractor's bank account for the payment of the amounts to the Contractor in connection with the Project, and the Donor shall, promptly upon making payment to the Contractor, notify the Recipient thereon and provide it with the appropriate evidence of such payment; however, Donor's payments (partial financial transfers (instalments)) to the Contractor will only be made following payments of Recipient's share per each Contractors' invoice.
- 1.6 Taxes: The Parties agree that the Grant funds cannot be used to finance taxes and/or duties associated with the Project. The Recipient undertakes to assume any such present and/or future taxes and/or duties applicable to the Project.
- 1.7 Donor discretion: The Donor has the right to refuse the disbursement of the Grant or financial transfer in respect of the Grant or request the repayment of the financial transfer (Grant) in case of violation of terms and conditions of this Agreement or derogations from the Project Documentation, including the Procurement Contract or in case of other irregularities related to the performance of the Project and may, in such case, terminate this Agreement in writing without notice. The Donor may reduce the amount of the Grant, if there is a reduction of funds in the budget of the Republic of Slovenia for the purpose of the Project. The Recipient shall have no claims, nor shall it

be entitled to demand payment of any damage due to the refusal, reduction of Grant or termination of this Agreement under this point.

2. REPRESENTATIONS

Each Party represents to the other so long as either party has or may have any obligation under this Agreement:

- (a) Status. It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (b) Powers. It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement;
- (c) No Violation or Conflict. Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (d) Consents. All governmental and other consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such consents have been complied with;
- (e) Maintain Authorisations. It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement and will use all reasonable efforts to obtain any that may become necessary in the future;
- (f) Comply With Laws. It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement;
- (g) Project Cost Efficiency. It will use all reasonable efforts to maintain optimal Project execution within envisaged cost and time scopes;
- (h) Public Interest. It acknowledges public interest for the Project and will act accordingly; and
- (i) Competent Contractors. It will use all reasonable efforts to choose competent Contractors with proven track record and in good financial standing.

3. COVENANTS

3.1 The Recipient shall present to the Donor the following documentation:

- (a) Semi-annual and annual reports on the Project implementation by no later than 15 days after the expiry of each 6 months' period starting from the date of this agreement or more often on the request of the Donor, in order to fulfil the Donors' obligation of reporting for the purpose of co-financing the Project; the Semi-annual and annual report shall include:
 - description of actual outputs compared to planned outputs,
 - efficiency of the Project,
 - an explanation of major deviations from the plan,
 - an assessment of threats and risks that may affect the success of the Project,
 - presentation of disbursements (received / used funds);

- (b) Final report on the Project implementation in fifteen (15) days after the conclusion of the Project; the Final report shall include, besides the requirements set for the semi-annual and annual report, also;
- assessment of the effectiveness of the programme – achieved outcomes
 - assessment of impact, i.e. effects positive or negative
 - assessment of sustainability of the project, i.e. an assessment of the extent to which the positive effects of the project will still continue after the external assistance has been concluded;
- (c) Any information or documentation regarding the Project which the Donor may reasonably request from time to time.
- 3.2 The Recipient shall enable the Donor representative to check the accounting records, supporting evidences and other documents of the Project implementation at any time and to carry out the on-site verification. The Recipient shall facilitate at least one annual visit of the Donor representative to the Project site.
- 3.3 The Donor has the right to claim the repayment of and the Recipient is obliged to return the Grant together with the interest on late payments in case the Grant was not used according to the manner agreed and under the conditions set by this Agreement.
- 3.4 The Recipient shall respect principles of good governance and shall duly maintain the implemented project for two years after the takeover. The Recipient is obliged to report annually about the status of the Project two years after its completion.

4. VISIBILITY AND OTHER OBLIGATIONS

- 4.1 The Recipient shall take all necessary steps to publicise the fact that the Republic of Slovenia has co-financed the Project. Such measures shall include the display of the "International development cooperation of the Republic of Slovenia" logo wherever appropriate.
- 4.2 In particular, the Recipient shall mention the Slovenian financial contribution in information given in its internal and annual reports, and in any dealings with the media. Any notice or publication by the Recipient concerning the Project, including those given at a conference or seminar, must specify that the Project has received Slovenian co-funding.
- 4.3 The Recipient agrees to follow the following principles of Project visibility:
- (a) Inform the Donor in due time of all public events concerning the Project and, in every case, at least seven (7) days before any such the event;
 - (b) refrain from any activity that could damage reputation of the Republic of Slovenia or the Donor;
 - (c) should Recipient at any time determine that the circumstances in respect of the Project significantly changed or that there's a delay to planned activities and/or deadline regarding the Project, the Recipient is obliged notify the Donor by written notice immediately, but in any case, not later than in eight (8) days after such circumstances arise;
 - (d) immediately notify the Donor of any circumstances that could delay or impede the Project implementation;
 - (e) any published and/or electronic information regarding the Project must include a disclaimer that all such information represents an opinion of the author and are as such not an official statement of the Government of the Republic of Slovenia neither of the Donor;
 - (f) the Recipient shall carry out all declared Project activities in cooperation with the Donor and shall make the same public;

- (g) continuously promote international development cooperation with the Republic of Slovenia in all written and electronic documents related to the Project (including ongoing publication of Project activities and results) on the Recipient's website and social networks with an addition of a link to the relevant sub-pages on international development cooperation on the GOV.SI web portal; to all such documents the Recipient will further apply the logo of the international development cooperation of the Republic of Slovenia as the Donor;
 - (h) with each report and at the end of the Project submit at least two photographs in a format suitable for publication on websites or other media, transferring all copyrights related to visual and written documents to the Donor and the Republic of Slovenia to such an extent that the Donor and/or the Republic of Slovenia may publish and/or distribute such photographs and/or other material free of charge and without limitations to use;
 - (i) the Recipient shall report the effects of the implemented Project after three (3) years since its completion to the Donor in writing; the report should include information on the Project's long-term effects (target group, ownership, knowledge transfer, etc).
 - (j) Recipient shall inform the Donor about the major milestones regarding the Project (including inauguration) six (6), three (3) and one (1) month ahead in order to allow the Donor to align eventual official visits of representatives of the Government of the Republic of Slovenia; the date of the Project inauguration shall be mutually agreed between the Parties at least one (1) month prior to the event; the Recipient shall submit the draft inauguration programme to the Donor at least two weeks prior to the event.
- 4.4 The Recipient agrees to maintain the necessary records and store the supporting evidences, which enables the audit of the use of Grant for five (5) years after the takeover of the Project and agrees to hand them to the Donor together with the reports.

5. COMMUNICATIONS

- 5.1 Language: All notices and other communications in connection with this Agreement, as well as any documents to be provided from one party to another, shall be in English language or, as regards any document the original of which is made in another language, accompanied by a working translation into English language. Attachments, reports and explanations may be presented in local languages and translated in English upon request.
- 5.2 Notices and Communications: Except as otherwise provided herein, all communication, notices, declarations or invoices sent by one Party to the other shall be in writing and shall be delivered by letter (overnight mail or courier, postage prepaid) or e-mail as provided at the end of this Agreement, and marked for the attention, if any, from time to time designated by it to the other. Each Party may change its notice information by written notice to the other. Written notices, declarations and invoices shall be deemed received and effective:
- (a) if delivered by hand, on the Business Day delivered or on the first Business Day after the date of delivery if delivered on a day other than a Business Day;
 - (b) if sent by first class post, on the 2nd Business Day after the date of posting, or if sent from one country to another, on the 5th Business Day after the day of posting; or
 - (c) if sent by fax or e-mail and a valid transmission report confirming good receipt is generated, on the day of transmission.

Termination notice may only be sent via (a) or (b) hereinabove.

6. GENERAL PROVISIONS

- 6.1 The Recipient shall have sole responsibility for complying with any legal obligations incumbent on him. In particular the Recipient confirms that it respected all relevant legislation regarding the selection of the Contractor and the conclusion of the Procurement Contract thereof. In a case that the Procurement Contract does not comply with the legislation applicable in the country of the Recipient and that the Donor has already made any financial transfers to the Contractor, the Recipient is obliged to refund all such already paid amounts of grant funds.
- 6.2 The Donor shall not, in any circumstances or on any grounds, be held liable for any damage incurred by any person in connection with this Agreement, the Project or otherwise. Consequently, the Donor will not entertain any request for indemnity or reimbursement accompanying any such claim.
- 6.3 Except in cases of Force Majeure, the Recipient shall make good any damage sustained by the Donor as a result of the execution or faulty execution of the Project.
- 6.4 Force Majeure:
- (a) Definition of Force Majeure: For purposes of this Agreement "Force Majeure" means an occurrence beyond the reasonable control of the Party claiming Force Majeure (the "Claiming Party") which it could not reasonably have avoided or overcome and which makes it impossible for the Claiming Party to perform its obligations under this Agreement.
 - (b) Release from Obligations: If a Party is fully or partly prevented due to Force Majeure from performing of its obligations under this agreement, no breach or default on the part of the Claiming Party shall be deemed to have occurred and it shall be released (and not merely suspended) from those obligations but only for the period of time and to the extent that such Force Majeure prevents its performance.
 - (c) Notification and Mitigation of Force Majeure: The Claiming Party shall as soon as practicable after learning of the Force Majeure notify the other Party of the commencement of the Force Majeure and of the nature its performance obligations are affected thereby and, to the extent then available, provide to it a bona fide non-binding estimate of the extent and expected duration of its inability to perform. The Claiming Party shall use all commercially reasonable efforts to mitigate and overcome the effects of the Force Majeure and shall, during the continuation of the Force Majeure, provide the other Party with reasonable bona fide updates, when and if available, of the extent and expected duration of its inability to perform its obligations under this agreement.
 - (d) Effects of Force Majeure on Other Party: In the event, and to the extent, that the Claiming Party's obligations are released by Force Majeure, the Other Party's corresponding obligations shall also be released.
 - (e) Long Term Force Majeure Limit: Where in respect of this Agreement the obligations of the Claiming Party have been adversely affected by Force Majeure on each Day for a consecutive period of sixty (60) Days, then the Party which is not the Claiming Party shall have the right to terminate this Agreement forthwith by written notice to the Claiming Party. Such termination shall be without prejudice to the accrued rights and obligations of the Parties under this Agreement but neither Party shall have any liability whatsoever to the other in respect of the unperformed rights or obligations under this Agreement after the date of termination.

- 6.5 The Recipient shall bear sole liability vis-à-vis third parties, including damage of any kind sustained by them while the Project is being carried out.
- 6.6 The Recipient undertakes to take all the necessary measures to prevent any risk of conflicts of interests which could affect the impartial and objective performance of this Agreement. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional reasons, or any other shared interest. Any situation constituting or likely to lead to a conflict of interests during the performance of this Agreement must be brought to the attention of the Donor, in writing, without delay. The Recipient shall undertake to take whatever steps are necessary to rectify this situation at once. The Donor reserves the right to check that the measures taken are appropriate and may demand that the Recipient takes additional measures, if necessary, within a reasonable time.
- 6.7 The Parties undertake to preserve the confidentiality of any document, information or other material directly related to the subject of this agreement that is justifiably classified as confidential, should disclosure damage the other party. The parties shall remain bound by this obligation indefinite time.
- 6.8 Unless the Donor requests otherwise, any communication or publication by the Recipient about the Project, including but not limited to at a conference or seminar, shall indicate that the Project has received funding from the Republic of Slovenia with the Donor acting as the international development co-operation agent of the Republic of Slovenia.

Any communication or publication by the Recipient, in any form and medium, shall indicate that sole responsibility lies with the author of such communication or publication and that the Donor is not responsible for any use that may be made of the information contained therein.

- 6.9 The Donor may terminate this agreement in writing without notice, without any indemnity on its part, in the following circumstances:
- (a) in the event of a change of the Recipient's legal, financial, technical, organisational situation or condition which could significantly affect its capability to fulfil its obligations under this agreement or to call into question the decision to award the Grant in the first place;
 - (b) if the Recipient fails to fulfil a substantial obligation incumbent on him under the terms of this Agreement;
 - (c) in the event of Force Majeure or other circumstances preventing the successful implementation of the Project;
 - (d) if the Recipient is found guilty of an offence involving his professional conduct by a final judgment or if he is guilty of grave professional misconduct proven by any justified means;
 - (e) if the Recipient submits incorrect, incomplete, misleading or false information about the circumstances and facts relevant for the grant of funds, or of the circumstances and facts of the use of funds or submits incorrect, incomplete, misleading or false reports/invoices/other documentation or reports/invoices/other documentation inconsistent with the actual state of the Project to obtain the Grant;
 - (f) if the Recipient and/or the Contractor has intentionally or by negligence committed a substantial irregularity in performing this Agreement or in the event of fraud, corruption or any other illegal activity on the part of the Recipient to the detriment of the Donor. A substantial irregularity consists of any infringement of a provision of an agreement or regulation resulting from an act or an omission on the part of the Recipient and/or the Contractor which causes or might cause a loss to the Donor; or

- (g) if the Donor is required to reimburse the amounts received from the Republic of Slovenia to finance the Project.
- (h) if the Recipient does not ensure own share of financial resource to finance the Project;
- (i) if the Recipient does not acquire all permits necessary for Project implementation within six (6) months after signing of this agreement;
- (j) if the Procurement Contract between the Recipient and the Contractor terminates for whatever reason.
- (k) if the basis, conditions and/or purpose on which this Agreement was concluded are no longer met;
- (l) if the Recipient informs the Donor that the project is no longer needed; the Parties agree that it is also considered that this condition is met if the Recipient fails to provide information to the Donor as defined with this Agreement or fails to respond to the second written notice from Donor;
- (m) if the representations given herein are no longer true;
- (n) if the Grant was partly or entirely used to finance taxes and/or duties in the country of Recipient or contrary to the purpose for which they were granted;
- (o) if the bodies of the European Union request a refund because the financing of the project is not in accordance with European Union rules

In case of termination under this point, the Recipient has to refund all already paid amounts of grant funds together with the interest on late payments to the Donor within fifteen (15) days from the receipt of the termination notice.

- 6.10 Anti-corruption clause: Should any person in respect of this agreement promise, offer or give any undue advantage to an employee, representative or agent of a Party to this agreement on behalf or for the account of the other Party to this agreement for the purpose of:
- obtaining business;
 - concluding business under more favourable terms and conditions;
 - omitting due supervision over the implementation of obligations under this agreement; or
 - any other act or omission which causes a Party damage or by which the representative or the agent of such Party, the other Party or its employee, representative, agent or intermediary are put in a position to obtain an undue advantage,

this agreement shall be deemed null and void.

- 6.11 Amendments: any amendments or additions to this Agreement shall be made only in writing signed by both Parties.

7. GOVERNING LAW AND JURISDICTION

- 7.1 Governing law: This Agreement shall be governed by and construed in accordance with the laws of the Republic of Slovenia.

- 7.2 Courts: The Recipient agrees for the benefit of the Donor that any controversy, dispute, or claim arising out of or relating to this Agreement or the breach, termination or invalidity hereof shall be finally settled by the courts in Ljubljana, Slovenia. The

submission to the jurisdiction of the courts referred to in this Clause 7.2 shall not (and shall not be construed so as to) limit the right of the Donor to take proceedings against the Recipient in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

- 7.3 Arbitration: Notwithstanding the Clause 7.2 above, the Donor may, in its own discretion, notify the Recipient that arbitration clause shall apply. After giving such notice, any controversy, dispute or claim arising out of or relating to this Agreement (including a dispute regarding the existence, validity, interpretation, breach or termination of this agreement or the consequences of its nullity) shall be referred to and finally settled by a panel of three arbitrators appointed in accordance with the Rules of Arbitration of the Permanent Court of Arbitration attached to the Chamber of Commerce and Industry of Slovenia. The place of any arbitration proceedings commenced pursuant to this Clause 6.3 shall be Ljubljana, Slovenia and the language in which such arbitration shall be conducted shall be Slovenian.
- 7.4 Language: This Agreement is drawn up in the English language.

This Agreement is executed in four (4) originals, two (2) for each Party.

 <p>The Recipient: Municipality of Žabljak <i>Veselin Vukićević</i> Veselin Vukićević President of the municipality</p>	<p>The Donor: CMSR <i>Klemen Potisek</i> Mr Klemen Potisek Managing Director</p> 
<p>Address for communications: Municipality of Zabljak, Trg durmitorskih ratnika 1, 84 220 Žabljak, Montenegro</p>	<p>Address for communications: Center za mednarodno sodelovanje in razvoj Kardeljeva ploščad 1, 1000 Ljubljana, Slovenia</p>
<p>Attn: Vasilije Zoran Jakšić E-mail: sozabljak@t-com.me</p>	<p>Attn: Mojca Kopše, Head of Department International Development Cooperation E-mail: mojca.kopse@cmsr.si</p>