Project Agreement

(Madhya Pradesh Water Sector Restructuring Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

STATE OF MADHYA PRADESH

Dated November 30, 2004
PROJECT AGREEMENT

AGREEMENT, dated November 30, 2004, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and STATE OF MADHYA PRADESH (Madhya Pradesh).

WHEREAS (A) by the Loan Agreement of even date herewith between India (the Borrower) and the Bank, the Bank has agreed to make a loan to the Borrower in the amount of three hundred and ninety four million and twenty thousand Dollars ($394,020,000), on the terms and conditions set forth in the Loan Agreement, but on condition that Madhya Pradesh agree to undertake such obligations toward the Bank as are set forth in this Agreement; and

WHEREAS Madhya Pradesh, in consideration of the Bank’s entering into the Loan Agreement with the Borrower, 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 Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) Madhya Pradesh declares its commitment to the objective of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out the Project through WRD, with due diligence and efficiency and in conformity with appropriate administrative, financial, technical and engineering practices, and with due regard to social and environmental considerations, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Bank and Madhya Pradesh shall otherwise agree, Madhya Pradesh shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement, the SEMF and SMPs.
Section 2.02. (a) 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 Loan shall be governed by the provisions of Schedule 1 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) Madhya Pradesh shall update the Procurement Plan in accordance with guidelines acceptable to the Bank, and furnish such update to the Bank not later than twelve (12) months after the date of the preceding Procurement Plan, for the Bank’s approval.

Section 2.03. (a) Madhya Pradesh shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, Madhya Pradesh 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 Madhya Pradesh, a plan designed to ensure the continued achievement of the Project’s objective; and

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

Section 2.04. (a) Madhya Pradesh shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of its obligations under this Agreement, and other matters relating to the purposes of the Loan.

(b) Madhya Pradesh shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the objective of the Loan, or the performance by Madhya Pradesh of its obligations under this Agreement.

Section 2.05. Madhya Pradesh shall make available to PICU in a timely manner the proceeds of the Loan made available to Madhya Pradesh by the Borrower for the purposes of the Project, as well as additional funds as required from Madhya Pradesh’s own resources to cover Madhya Pradesh’s share of the cost of the Project.
ARTICLE III

Financial Covenants

Section 3.01. (a) Madhya Pradesh shall cause PICU and other Project Implementing Entities to 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) Madhya Pradesh shall cause PICU and other PIEs to:

(i) have the financial statements referred to in paragraph (a) of this Section for each Fiscal Year (or other period agreed to by the Bank) audited, 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 months after the end of each such Fiscal 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 Fiscal 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, accounts and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 3.02. (a) Madhya Pradesh shall cause PICU to 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 Loan, 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 Financial Monitoring Report 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 Financial Monitoring Report shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar quarter, and shall cover the period not covered by the previous Financial Monitoring Report until the end of such calendar quarter.

ARTICLE IV

Effective Date; Termination; Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 4.02. This Agreement and all obligations of the Bank and of Madhya Pradesh thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Madhya Pradesh thereof.

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 address 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:
For the Bank:

International Bank for Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable address: INTBAFRAD
Telex: 248423 (MCI) or 6391
Facsimile: (202) 477-64145 (MCI)

For Madhya Pradesh

Chief Secretary
Government of Madhya Pradesh
Bhopal
Madhya Pradesh, India

Facsimile: 917552441521

Section 5.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of Madhya Pradesh, or by Madhya Pradesh on behalf of the Borrower under the Loan Agreement, may be taken or executed by the Chief Secretary of Madhya Pradesh or such other person or persons as the Chief Secretary shall designate in writing, and the Chief Secretary 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 New Delhi, India, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Michael F. Carter
Country Director, India

STATE OF MADHYA PRADESH

By /s/ Subroto Banerji
Authorized Representative
SCHEDULE 1

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 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 Borrower and works to be carried out by domestic contractors.

B. Other Procurement Procedures

1. National Competitive Bidding. Goods estimated to cost less than $500,000 equivalent per contract, and works, may be procured under contracts awarded on the basis of National Competitive Bidding.

2. Shopping. Goods and works estimated to cost less than $30,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping.

3. Direct Contracting. Goods and works which the Bank agrees meet the requirements for Direct Contracting may be procured in accordance with the provisions of said procurement method.
4. **Force Account.** Works which the Bank agrees meet the requirements for Force Account may be carried out in accordance with the provisions of said procurement method.

5. **Community Participation.** Goods, works and related services required for the rehabilitation of small canals to be undertaken by WUAs under Part C.1 of the Project may be procured on the basis of community participation in accordance with procedures acceptable to the Bank and reflected in the Procurement Plan.

**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. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than $500,000 equivalent per contract may comprise entirely national consultants.

B. **Other Procedures**

1. **Quality-based Selection.** Services for assignments which the Bank agrees meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines may be procured under contracts awarded on the basis of Quality-based Selection in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. **Selection Under a Fixed Budget.** Services for assignments which the Bank agrees meet the requirements of paragraph 3.5 of the Consultant Guidelines may be procured under contracts awarded on the basis of a Fixed Budget in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

3. **Least-cost Selection.** Services for assignments which the Bank agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines 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.

4. **Selection Based on Consultants’ Qualifications.** Services estimated to cost less than $200,000 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.

5. **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.

6. **Individual Consultants.** Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines 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. 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 subject to prior approval of the Bank.

Section IV. Review by the Bank of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Bank’s Prior Review. If the Procurement Plan provides for prior review of contracts for the employment of individual consultants, the record of justification for such contracts, referred to in paragraph 5 of Appendix 1 to the Consultant Guidelines, shall be subject to Prior Review by the Bank. All other contracts shall be subject to Post Review by the Bank.
SCHEDULE 2

Implementation Program


1. Madhya Pradesh shall establish:

   (a) a Project Steering Committee, whose mandate, terms of reference and composition shall be acceptable to the Bank, to review the progress of the Project, provide strategic directions and policy guidance, and resolve conflicts, if any, among departments and agencies involved in the implementation of the Project; and

   (b) an Empowered Committee, whose mandate, terms of reference and composition shall be acceptable to the Bank, to expedite decisions on all procurement, administrative and financial aspects of the Project.

2. Madhya Pradesh shall ensure that:

   (a) the Project Implementation Coordination Unit (PICU) of WRD, to be headed by a Project Director, shall be responsible for the day-to-day management of the Project, including management of procurement and disbursement activities, consolidation of annual work programs and budgets, preparation and production of annual progress reports and financial statements, and monitoring and evaluation of the Project;

   (b) PICU shall comprise a finance wing, to be headed by a Financial Management Expert, who shall be assisted by a Finance Manager, a Divisional Accounts Officer and other support staff, to be responsible for the establishment of the financial management system, timely release of financial reports, smooth and timely flow of funds, and provision of appropriate guidance on financial management issues, including monitoring of expenditures, internal controls and audit;

   (c) the Project Director shall be supported by the staff of the financial wing of PICU, and other suitably qualified and experienced technical, administrative and financial staff in adequate numbers; and

   (d) the positions of Project Director, Financial Management Expert, Finance Manager and Divisional Accounts Officer shall be kept filled at all times by suitably qualified and experienced persons.

3. For purposes of Part A of the Project, Madhya Pradesh shall:

   (a) not later than December 31, 2005, establish and thereafter maintain a State Water Resources Agency (SWaRA), to be headed by a suitably qualified and experienced person, to be the state-wide focal agency for environmentally and socially
sustainable inter-sectoral water allocation with optimal water resources management in a river basin context;

(b) not later than December 31, 2005, establish and thereafter maintain a State Water Resources Data and Analysis Center (SWaRDAC) to be the focal point to collate, verify, analyze and disseminate information needed for integrated water resources management and basin planning;

(c) not later than December 31, 2005, prepare and submit for consideration for adoption appropriate draft enabling legislation for the establishment of an autonomous State Water Tariff Regulatory Commission (SwaTReC) to review and monitor water sector costs and revenues, and for rationalized setting of bulk user fees to enable water sector operations to be financially viable; and

(d) not later than December 31, 2005, establish and thereafter maintain on a pilot basis the Sind Basin Development and Management Board (SBDMB) and Tons Basin Development and Management Board (TBDMB) to operationalize the concept of integrated water resources management in a basin framework with decentralized basin development and management.

4. For purposes of Part B of the Project, Madhya Pradesh shall cause WRD to have the installation and testing of computer systems and communication infrastructure (WAN/LAN) for both data and voice completed in its offices, not later than December 31, 2005, according to technical specifications acceptable to the Bank.

5. For purposes of Part C of the Project, Madhya Pradesh shall ensure that:

(a) in each of the Selected River Basins, a Chief Engineer, who shall be assisted by a multi-disciplinary team of experts, shall provide guidance on the implementation, and monitoring and evaluation, of Schemes included in the respective Selected River Basin; and

(b) at the field level, a Scheme Productivity Improvement Group, to be headed by an Executive Engineer, and comprising existing WRD staff, deputed staff of other line departments and agencies, and NGOs, shall be designated to facilitate the implementation of individual Schemes included in the respective Executive Engineer’s sphere of responsibility.

6. Madhya Pradesh shall ensure that:

(a) its Commissioner/Director, Treasuries and Accounts, shall be responsible under terms and conditions acceptable to the Bank for internal audits under the Project, including review of internal control mechanisms, and formulation of proposals as necessary or appropriate to address issues arising in connection therewith, systemic or otherwise; and
(b) the first internal audit report covering the initial implementation period ending on March 31, 2005, shall be transmitted to the Bank, not later than June 30, 2005.

7. Madhya Pradesh shall:

(a) not later than six months after the Effective Date, recruit consultants, whose qualifications and experience shall be acceptable to the Bank, to design and develop a computerized integrated management information system, including a financial management module, acceptable to the Bank, for the purposes of the Project; and

(b) ensure that, not later than two years after the Effective Date, such a system shall have been fully implemented and shall remain fully operational thereafter for the rest of the implementation period of the Project.

Project Implementation, Progress Reports and Reviews

8. Madhya Pradesh shall:

(a) not later than January 31 in each year, beginning on January 31, 2005, furnish to the Bank for its review and comments a proposed annual work program and budget for the next following Fiscal Year, giving details of its proposed work program activities and budget estimates for the Project for the forthcoming Fiscal Year; and

(b) proceed thereafter to implement the annual work program and budget, taking into account such comments as may have been made thereon by the Bank.

9. Madhya Pradesh shall implement the Project in accordance with the Project Implementation Plan and, except as the Bank shall otherwise agree, Madhya Pradesh shall not amend or waive any provision thereof if, in the opinion of the Bank, such amendment or waiver may materially and adversely affect the implementation of the Project.

10. Not later than forty five (45) days after the end of each calendar quarter, beginning not later than forty five (45) days after the end of the first calendar quarter after the Effective Date, Madhya Pradesh shall cause WRD to submit to the Bank consolidated quarterly reports on the progress of the Project, according to a format acceptable to the Bank and set forth in the Project Implementation Plan.

11. Madhya Pradesh shall:
(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Bank, the carrying out of the Project and the achievement of the objective thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank not later than March 31, 2006, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in carrying out 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 objective thereof during the period following such date; and

(c) review with the Bank by June 30, 2006, or such later date as the Bank shall request, the reports 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 objective thereof, based on the conclusions and recommendations of the said reports and the Bank’s views on the matter.

Social and Environmental Safeguard Provisions

12. For purposes of Part C.1 of the Project, Madhya Pradesh shall, prior to the approval of any Scheme to be supported under the Project, prepare and submit to the Bank, a Scheme Modernization Plan (SMP), acceptable to the Bank, governing the Scheme, including one or more Action Plans, as the case may be, and proceed thereafter to implement such SMP.

13. Without limitation upon the provisions of paragraph 8 of this Schedule, Madhya Pradesh shall submit to the Bank quarterly progress reports on compliance with social and environmental safeguard measures under the Project, giving details of measures taken in furtherance of the SEMF and SMPs, conditions, if any, which interfere or threaten to interfere with the smooth implementation of the SEMF and any SMP, and remedial measures taken or required to be taken to address such conditions.