Amended and Restated Project Agreement

(The Pacific Islands Regional Oceanscape Program Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

MARSHALL ISLANDS MARINE RESOURCES AUTHORITY

Dated 30 November, 2018
AMENDED AND RESTATED
PROJECT AGREEMENT

Agreement dated 30 November, 2018, entered into between
INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") and MARSHALL ISLANDS MARINE RESOURCES AUTHORITY (variously, "MIMRA" and "Project Implementing Entity").

WHEREAS: (A) pursuant to a Financing Agreement dated June 26, 2015 between the Republic of the Marshall Islands ("Recipient") and the Association ("Original Financing Agreement"), the Association extended to the Recipient a grant in an amount equivalent to four million six hundred thousand Special Drawing Rights (SDR 4,600,000) ("Financing"), to assist in financing the project described in Schedule I to said Agreement ("Original Project"), on the terms and conditions set out in said agreement and in a Project Agreement of same date between the Association and MIMRA ("Original IDA Project Agreement");

(B) pursuant to a Global Environment Facility ("GEF") Grant Agreement of same date between the Recipient and the International Bank for Reconstruction and Development ("World Bank"), acting as an Implementing Agency of the GEF ("GEF Grant Agreement"), the World Bank extended to the Recipient a grant (GEF Grant Number TP018606) in an amount equal to one million eight hundred thirty thousand Dollars ($1,830,000) ("GEF Grant") to assist in financing the Original Project, on the terms and conditions set out in said agreement and in a Project Agreement of same date between the World Bank and MIMRA ("GEF Project Agreement"); and

(C) the Recipient and MIMRA have requested the Association and the World Bank to agree to restructure the Original Project so as to: (i) incorporate a stronger focus on the Recipient's outer islands, coastal habitat health and coastal and marine pollution management; and (ii) address implementation challenges under the Original Project; all in order to facilitate the achievement of the Original Project's objective; and

WHEREAS the Association and the World Bank are willing, on the basis, inter alia, of the foregoing, to proceed with said restructuring on terms and conditions to be agreed with the Recipient and MIMRA, by amending, respectively: (1) the Original Financing Agreement (said agreement as so amended, referred to as the "Amended and Restated Financing Agreement") and the Original IDA Project Agreement; and (2) the GEF Grant Agreement and GEF Project Agreement.

NOW THEREFORE the Association and MIMRA hereby agree to amend and restate the Original IDA Project Agreement, to read as one consolidated text as follows (variously, "Agreement" and "Amended and Restated IDA Project Agreement"): 

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Amended and Restated Financing Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Preamble to this Agreement, or the Amended and Restated Financing Agreement or the General Conditions.

ARTICLE II — PROJECT

2.01. The Project Implementing Entity declares its commitment to the objectives of the Project and the Pacific Islands Regional Oceanscape Program. To this end, the Project Implementing Entity shall carry out the Project in accordance with the provisions of Article IV of the General Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for the Project.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Association and the Project Implementing Entity shall otherwise agree, the Project Implementing Entity shall carry out the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III — EFFECTIVE DATE OF THE AMENDED AND RESTATED IDA PROJECT AGREEMENT; TERMINATION

3.01. This Amended and Restated Project Agreement shall come into force and effect on the date upon which the Amended and Restated Financing Agreement becomes effective ("Amendment Effective Date").

3.02. This Agreement and all obligations of the Association and of the Project Implementing Entity thereunder shall terminate on the date on which the Amended and Restated Financing Agreement terminates in accordance with its terms.

ARTICLE IV — REPRESENTATIVE; ADDRESSES

4.01. The Project Implementing Entity’s Representative is its Director.

4.02. The Association’s Address is:

International Development Association
1818 H Street, NW
Washington, DC 20433
United States of America

Cable: INDEVAS
Telex: 248423(MCI)
Facsimile: 1-202-477-6391
Washington, D.C.
4.03. The Project Implementing Entity’s Address is:

Marshall Islands Marine Resources Authority
P.O. Box 860
Delap, Majuro
MH 96960

Facsimile:

+692 625 5447

AGREED at Majuro, MH, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: ______________________________
    Authorized Representative

Name: MICHEL KEER

Title: COUNTRY DIRECTOR

MARSHALL ISLANDS MARINE RESOURCES AUTHORITY

By: ______________________________
    Authorized Representative

Name: Glen Joseph

Title: Executive Director
SCHEDULE

Execution of the Project

Section I. Implementation Arrangements

A. Institutional Arrangements

1. Project Coordination

To ensure the proper and efficient implementation of the Project, the Project Implementing Entity shall:

(a) at all times during Project implementation, maintain a Project unit ("Project Unit"), with terms of reference and resources acceptable to the Association, headed by a Project coordinator ("Project Coordinator") and assisted by competent staff in adequate numbers, to be responsible for, inter alia, overseeing implementation and monitoring of the Project, including environmental and social safeguards compliance and procurement and financial management; and

(b) not later than two (2) months following the Amendment Effective Date, appoint the following persons to assist the Project Coordinator, each of whom shall have terms of reference, qualifications and experience acceptable to the Association: (i) a deputy Project coordinator; (ii) a safeguards specialist; and (iii) a procurement advisor.

2. Service Agreement

In light of the Project restructuring under this Amended and Restated IDA Project Agreement, the service agreement entered into between the Project Implementing Entity and FFA pursuant to the Original IDA Project Agreement is no longer required for Project implementation. Consequently, the Project Implementing Entity shall:

(a) take all measures necessary to enable the independent verification agent appointed by FFA to complete its independent verification of, and report to FFA and the Association on, the status of achievement of all DLI Targets through the DLI Period 2018 in accordance with the verification protocol and procedures set out in the Program Operations Manual for the Original Project; and

(b) take all action required on its part to ensure that, not later than one (1) month after the final disbursement under Category (2) of the table in Section IV.A.2 of Schedule 2 to the Amended and Restated Financing Agreement, said service agreement is duly terminated by agreement with FFA.
B. Program Operations Manual

1. The Project Implementing Entity shall not later than two (2) months following the Amendment Effective Date, revise its operations manual for the Project, in form and substance acceptable to the Association, to update the arrangements and procedures for: (a) institutional coordination and day-to-day execution of the Project; (b) disbursement and financial management; (c) procurement processing procedures including the decision-making process; (d) environmental and social safeguards management; (e) monitoring and evaluation, reporting and communication; and (f) such other administrative, financial, technical and organizational arrangements and procedures as required for the Project ("Program Operations Manual" or "POM").

2. The Project Implementing Entity shall carry out the Project in accordance with the POM; and except as the Association shall otherwise agree in writing, the Project Implementing Entity shall not assign, amend, abrogate, or waive, or permit to be assigned, amended, abrogated, or waived, the POM, any provision thereof.

3. In the event of a conflict between the provisions of the POM on the one hand, and those of this Agreement on the other hand, the provisions of this Agreement shall prevail.

C. Annual Work Plans and Budgets

1. The Project Implementing Entity shall prepare and furnish to the Association not later than September 30 of each year during the implementation of the Project (or such later date as the Association may agree) for the Association's no-objection, a consolidated annual work plan and budget containing all Project activities and expenditures proposed to be included in the Project during the Project Implementing Entity's following fiscal year, including a specification of the source or sources of financing for all such expenditures (including in particular those expenditures to be financed out of the proceeds of the Financing and those to be financed out of the proceeds of the GEF Grant), the environmental and social safeguard measures taken or planned to be taken in accordance with the provisions of Section I.E of this Schedule and the updated Procurement Plan for said following fiscal year.

2. The Project Implementing Entity shall implement the Project in accordance with the annual work plan and budget accepted by the Association ("Annual Work Plan and Budget") for the Project Implementing Entity's respective fiscal year; provided, however, that in the event of any conflict between the Annual Work Plan and Budget and the provisions of this Agreement, the provisions of this Agreement shall prevail.

3. The Project Implementing Entity shall not make or permit to be made any change to the Annual Work Plan and Budget without the Association's prior no-objection in writing.
D. Anti-Corruption

The Project Implementing Entity shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

E. Safeguards

1. The Project Implementing Entity shall carry out the Project in accordance with the provisions of the Environmental and Social Management Framework ("ESMF"), including the Process Framework.

2. Whenever an Environmental and Social Management Plan ("ESMP") shall be required for any proposed Project activity in accordance with the provisions of the ESMF, the Project Implementing Entity shall ensure that:

   (a) prior to the commencement of such activity, such ESMP is: (i) prepared in accordance with the provisions of the ESMF (including the Process Framework); (ii) furnished to the Association for review and no-objection; and (iii) thereafter adopted and disclosed as accepted by the Association, in a manner satisfactory to the Association; and

   (b) thereafter such measures are taken as shall be necessary or appropriate to ensure compliance with the requirements of such ESMP.

3. The Project Implementing Entity shall not amend, abrogate or waive, or permit to be amended, abrogated or waived, the ESMF (including the Process Framework) or any ESMP, unless the Association has provided its prior no-objection thereto in writing, and the Project Implementing Entity has complied with the same consultation and disclosure requirements as applicable to the original adoption of the said instrument.

4. The Project Implementing Entity shall ensure that all terms of reference for any technical assistance or studies carried out under the Project shall be consistent with the Association’s environmental and social safeguards policies, as well as the Recipient’s laws relating to the environment and social aspects, and in drafting any regulations, guidelines or corporate procedures and carrying out capacity building activities under the Project, due attention shall be given to said policies and laws.

5. The Project Implementing Entity shall ensure that under the Project:

   (a) all monitoring, control and surveillance activities carried out by the Project Implementing Entity shall be under the control of a civilian fisheries officer or another civilian agency of the Recipient acceptable to the Association, and shall be carried out under terms of reference limited to fisheries surveillance;

   (b) each surveillance mission carried out by the Project Implementing Entity shall be: (i) governed by detailed protocols prepared in accordance with terms of reference satisfactory to the Association, requiring that such missions be: (A) under the operational command or authority of a civilian fisheries officer; and
(B) conducted during a specific time period that is duly recorded and documented; and (ii) be conducted by personnel who have been properly trained in the operation of any equipment used in the surveillance mission;

(c) where a patrol or surveillance mission has multiple tasks: (i) accounts are maintained in a manner acceptable to the Association which demonstrate that the Financing has been used for the exclusive purpose of financing fisheries surveillance activities; and (ii) that the Association is granted access to such accounts;

(d) all goods, works, services and operating costs for fisheries monitoring, control and surveillance and related enforcement activities financed out of the proceeds of the Financing are used for the sole purpose of enforcing the fisheries laws and regulations and shall not be used for any military purpose, or for enforcement of other non-fisheries laws; and

(e) all fisheries monitoring, control and surveillance and related enforcement activities carried out under the Project, shall be compatible with international law, and specifically, with Article 73 of the United Nations Convention Law of the Sea Treaty (UNCLOS), that:

(A) any foreign vessels and crew arrested in the Recipient’s exclusive economic zone shall be immediately released upon posting a reasonable bond or other security; (B) penalties imposed by the Project Implementing Entity for violations of fisheries laws and regulations may not include imprisonment; and (C) in cases of arrest or detention of foreign vessels, the Project Implementing Entity shall promptly notify the flag state of the action taken and of any penalties subsequently imposed.

6. Without limitation upon its other reporting obligations under this Agreement, the Project Implementing Entity shall, in accordance with terms of reference satisfactory to the Association: (a) monitor the status of compliance with the ESMF (including the Process Framework), any ESMP and the provisions of paragraphs 4 and 5 of this Section I.E; and (b) prepare quarterly reports and furnish the same to the Association, as part of the Project Reports, on the results of such monitoring activities, giving details of:

(i) measures taken in furtherance of the ESMF (including the Process Framework, any such ESMP and said paragraphs;

(ii) conditions, if any, which interfere or threaten to interfere with the smooth implementation of the ESMF (including the Process Framework), of any such ESMP or of said paragraphs; and

(iii) remedial measures taken or required to be taken to address such conditions.

7. In the event of any conflict between the provisions of the ESMF (including the Process Framework) or an ESMP, and the provisions of this Agreement, the provisions of this Agreement shall prevail.
Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Project Implementing Entity shall monitor and evaluate the progress of the Project and prepare Project reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of indicators set forth in the Program Operations Manual. Each such Project report shall cover the period of one (1) calendar semester, and shall be furnished to the Recipient not later than thirty (30) days after the end of the period covered by such report for incorporation and forwarding by the Recipient to the Association of the overall Project Report.

2. Mid-term Review

The Project Implementing shall: (a) not later than the date referred to in Section II.A.2 of Schedule 2 to the Amended and Restated Financing Agreement, carry out a mid-term review of the Project, and thereafter prepare and furnish to the Recipient and the Association a mid-term review report, in such detail as the Association shall reasonably request, documenting progress achieved in the carrying out of the Project during the period preceding the date of such report, taking into account the monitoring and evaluation activities performed pursuant to paragraph 1 of this Section II.A, and setting out the measures recommended to ensure the continued efficient carrying out of the Project and the achievement of its objective during the period following such date; and (b) review with the Recipient and the Association said mid-term report, on or about the date one (1) month after it has been furnished to Recipient and the Association, and thereafter take all measures required to ensure the continued efficient implementation of the Project and the achievement of its objective, based on the conclusions and recommendations of the mid-term report and the Association's views on the matter.

B. Financial Management, Financial Reports and Audits

1. The Project Implementing Entity shall maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Association, both in a manner adequate to reflect the operations and financial condition of the Project Implementing Entity, including the operations, resources and expenditures related to the Project.

2. The Project Implementing Entity shall prepare and furnish to the Association not later than forty-five (45) days after the end of each calendar quarter, interim unaudited financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Project Implementing Entity shall have its financial statements referred to above audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association. Each audit of these financial statements shall cover the period of one (1) fiscal year of the Project Implementing Entity. The Project Implementing Entity shall ensure that the audited
financial statements for each period shall be: (a) furnished to the Recipient and the Association not later than nine (9) months after the end of the period; and (b) made publicly available in a timely fashion and in a manner acceptable to the Association.

Section III. Procurement

All goods, works and services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the provisions of Section III of Schedule 2 to the Amended and Restated Financing Agreement.