

CONFORMED COPY

GEF TRUST FUND GRANT NUMBER TF056692

Project Agreement

(GEF Ningbo Water and Environment Management Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

acting as an Implementing Agency of the Global Environment Facility

and

NINGBO MUNICIPALITY

Dated September 22, 2006

GEF TRUST FUND GRANT NUMBER TF056692

PROJECT AGREEMENT

AGREEMENT, dated September 22, 2006 between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank), acting as an implementing agency of the Global Environment Facility (GEF) and NINGBO MUNICIPALITY (Ningbo).

WHEREAS by the Global Environment Facility Trust Fund Grant Agreement (the GEF Grant Agreement) of even date herewith between the People's Republic of China (Recipient) and the International Bank for Reconstruction and Development, acting as an implementing agency of the GEF (the Agency), the Agency agreed to make available to the Recipient an amount equal to five million Dollars (\$5,000,000).

WHEREAS Ningbo, in consideration of the Agency's entering into the GEF Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

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

ARTICLE II

Execution of the Project

Section 2.01. (a) Ningbo declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement, and, to this end, shall carry out, and shall cause to be carried out by Cixi City, CMSC and CHWMC, the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, and social, environment, and ecological standards acceptable to the Bank, 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 Ningbo shall otherwise agree, Ningbo shall carry out, and

shall cause to be carried out, the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

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 GEF Trust Fund Grant shall be governed by the provisions of Schedule 1 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) Ningbo 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) Ningbo shall carry out, and shall cause to be carried 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 this Agreement.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, Ningbo 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 Ningbo, a plan for the continued achievement of the objectives of the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with Ningbo on said plan.

Section 2.04. (a) Ningbo 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 GEF Trust Fund Grant.

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

ARTICLE III

Financial Covenants

Section 3.01. (a) Ningbo shall maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with

consistently applied accounting standards acceptable to the Bank, adequate to reflect the operations, resources and expenditures related to the Project.

- (b) Ningbo shall:
 - (i) have the records, accounts and 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 (6) months after the end of each such year (or such other period agreed to by the Bank): (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year (or such other period agreed to by the Bank), as so audited; and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and
 - (iii) furnish to the Bank such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 3.02. (a) Without limitation upon Ningbo's progress reporting obligations set out in paragraph 10 of Schedule 2 to this Agreement, Ningbo shall prepare and furnish to the Bank financial monitoring reports, in form and substance satisfactory to the Bank, which sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by each said report, showing separately funds provided under the GEF Trust Fund Grant, and explain variances between the actual and planned uses of such funds.

(b) The first such financial monitoring report shall be furnished to the Bank not later than forty-five (45) days after the end of the first calendar semester 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 semester; thereafter, each financial monitoring report shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar semester, and shall cover such calendar semester.

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 GEF Trust Fund Grant Agreement becomes effective.

Section 4.02. This Agreement and all obligations of the Bank and of Ningbo thereunder shall terminate on the date on which the GEF Trust Fund Grant Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Ningbo 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:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(1-202) 477-6391

For Ningbo:

c/o Ningbo Water and Environment Project Management Office
1509/R, 15/F Tianning Tower
138 West Zhongshan Road
Ningbo Municipality
People's Republic of China

Facsimile:

(86574) 87280430

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 Ningbo may be taken or executed by its Mayor or a Vice Mayor or such other person or persons as said Mayor or a Vice Mayor shall designate in writing, and Ningbo 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 Beijing, People's Republic of China, as of the day and year first above written.

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

By: /s/ Ms. Elaine Sun

Authorized Representative

NINGBO MUNICIPALITY

By: /s/ Mr. ZHU Guangyao

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: 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 Recipient (other than goods manufactured in the Hong Kong Special Administrative Region or the Macau Special Administrative Region of the Recipient).

B. Other Procurement Procedures

1. National Competitive Bidding. Goods estimated to cost less than \$500,000 equivalent per contract and works estimated to cost less than \$15,000,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding and the following additional provisions:

The procedures to be followed for National Competitive Bidding shall be those set forth in the Law on Tendering and Bidding of the People's Republic of China promulgated by Order No. 21 of the President of the People's Republic of China on August 30, 1999, with the following clarifications required for compliance with the Guidelines:

- (i) All invitations to prequalify or to bid shall be advertised in a newspaper of national circulation in the Recipient's country, except for civil works contracts that are estimated to cost less than \$2,000,000 equivalent each and for goods contracts that are estimated to cost less than \$300,000 equivalent each, which may be advertised in a provincial daily newspaper. Such advertisement shall be made in sufficient time for prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses. In any event, a minimum of thirty (30) days shall be given to bidders between the date of advertisement in such newspaper and the deadline for submission of bids, and the advertisement and bidding documents shall specify the deadline for such submission.
- (ii) Qualification requirements of bidders and the method of evaluating the qualification of each bidder shall be specified in detail in the bidding documents.
- (iii) All bidders that meet the qualification criteria set out in the pre-qualification document shall be allowed to bid and there shall be no limit on the number of pre-qualified bidders.
- (iv) All bidders shall be required to provide security in an amount sufficient to protect the Recipient and Ningbo in case of breach of contract by the contractor, and the bidding documents shall specify the required form and amount of such security.
- (v) The date and time for opening of all bids shall be the same as the deadline for receipt of such bids.
- (vi) All bids shall be opened in public; all bidders shall be offered an opportunity to be present (either in person or through their representatives) at the time of bid opening, but bidders shall not be required to be present at the bid opening.
- (vii) No bid may be rejected solely on the basis that the bid price falls outside any standard contract estimate, or margin or bracket of average bids established by the Recipient or Ningbo, as the case may be.
- (viii) Each contract shall be awarded to the lowest evaluated responsive bidder, that is, the bidder who meets the appropriate standards of capability and resources and whose bid has been determined: (A) to be substantially responsive to the bidding documents; and (B) to offer the lowest evaluated cost. The

winning bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

- (ix) Each contract financed with the proceeds of the GEF Trust Fund Grant shall provide that the suppliers and contractors shall permit the Bank, at its request, to inspect their accounts and records relating to the performance of the contract and to have said accounts and records audited by auditors appointed by the Bank.
- (x) Re-bidding should not be allowed solely because the number of bids is less than three (3).

2. Shopping. Goods estimated to cost less than \$100,000 equivalent per contract, may be procured under contracts awarded on the basis of Shopping.

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 \$300,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Selection Based on Consultants' Qualifications. Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

2. 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.

3. 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.

Section IV. Review by the Bank of Procurement Decisions

Except as the Bank shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Bank: (a) each contract for works, regardless of cost; and (b) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$100,000 or more. In addition, the record of justification referred to in paragraph 5 of Appendix 1 to the Consultant Guidelines for each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more shall be subject to prior approval of the Bank. All other contracts shall be subject to Post Review by the Bank.

SCHEDULE 2

Implementation Program

Project Management

1. Ningbo shall maintain, and cause to be maintained, for purposes of carrying out the Project, the following organizations, with terms of reference, staffing and other resources acceptable to the Bank, throughout the period of implementation of the Project:

(a) The Ningbo Leading Group, which is composed of the Vice Mayor of Ningbo and Directors from each of Ningbo's Municipal Development and Reform Commission ("DRC"), Environmental Protection Bureau, Water Resources Bureau, Construction Bureau, and Finance Bureau, responsible for providing overall policy guidance and planning support during Project implementation.

(b) The Project Management Office, established under DRC and composed of a project manager, an experienced chief engineer and procurement specialist, a project accountant, an environmental specialist, a resettlement unit, and a translator, responsible for overall Project coordination and implementation.

(c) The Cixi Leading Group, which includes the Vice-Mayor of the city and the director and a deputy director from the Cixi Construction Bureau and other relevant agencies, responsible for providing policy direction and planning support for the Project.

(d) The Expert Group, which includes wetland experts, professors and engineers of various Ningbo and Cixi government agencies, responsible for providing technical support to the Cixi Leading Group on the design and implementation of the Project.

Resettlement and Environment Protection

2. Ningbo shall:

(a) take, and shall cause Cixi City and CHWMC to take, all necessary actions to minimize to the extent possible any involuntary loss by persons of shelter, productive assets or access to productive assets or income or means of livelihood, temporarily or permanently in carrying out the Project;

(b) for this purpose, implement, and cause Cixi City and CHWMC to implement the Resettlement Action Plan, in a manner satisfactory to the Bank; and

(c) provide, and cause Cixi City and CHWMC to provide, to the Bank for its prior concurrence any proposed modification or waiver of the Resettlement Action Plan, prior to putting into effect such modification or waiver.

3. Ningbo shall implement, and shall cause Cixi City, CMSC and CHWMC to implement, the Environmental Management Plan in a manner satisfactory to the Bank and designed to ensure that the Project is implemented in accordance with sound environmental practices and standards.

4. Ningbo shall, and shall cause Cixi City and CMSC to:

(a) maintain policies and procedures adequate to enable Cixi City, CMSC and CHWMC to monitor and evaluate, in accordance with guidelines acceptable to the Bank, the implementation of the Environmental Management Plan and the Resettlement Action Plan and the achievement of the objectives of said plans, including the engagement of experienced and qualified independent monitoring agencies acceptable to the Bank;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank by January 31 and July 31 of each year, commencing on January 31, 2007, semi-annual reports of the results of the monitoring and evaluation activities referred to in sub-paragraph (a) above, together with any revisions proposed to be introduced into said plans in order to achieve their respective objectives; and

(c) introduce such revisions into said plans as shall have been agreed with the Bank.

Financial Arrangements

5. Ningbo shall allocate to Cixi City, CMSC and CHWMC, each a portion of the GEF Trust Fund Grant under arrangements satisfactory to the Bank.

Subsidiary Grant Agreement

6. Ningbo shall make available the portion of the proceeds of the GEF Trust Fund Grant which was allocated to CMSC and CHWMC pursuant to paragraph 5 of this Schedule for the purpose of carrying out their respective part of the Project under a subsidiary grant agreement to be entered between Ningbo (through Cixi City) and each of CMSC and CHWMC: (a) on a grant basis; and (b) under conditions which shall have been approved by the Bank, and which shall include, without limitation, those set forth in Schedule 3 to this Agreement.

7. (a) Ningbo (through Cixi City) shall cause CMSC and CHWMC each to: (i) perform, in accordance with the provisions of their respective Subsidiary Grant Agreement, all of the obligations set forth therein; (ii) take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable CMSC or CHWMC, as the case may be, to perform such

obligations; and (iii) not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Ningbo shall exercise (through Cixi City) its rights under each of the Subsidiary Grant Agreements in such manner as to protect the interests of the Recipient, the Bank and Ningbo, and to accomplish the purposes of the GEF Trust Fund Grant, and except as the Bank shall otherwise agree, not assign, amend, abrogate or waive any of the Subsidiary Grant Agreements or any provision thereof.

Consultants

8. Ningbo shall cause Cixi City, CMSC and CHWMC, by June 1, 2007, to have in place consultants, procured in accordance with the provisions of Schedule 1 to this Agreement, to carry out the following work: (a) the detailed design of the wetlands to be constructed under Part A of the Project; (b) the detailed design of the Wetlands Center to be constructed under Part B of the Project; and (c) provide assistance for the management of the Wetlands Center under Part C.1 of the Project.

Wetlands Center

9. With respect to Part B of the Project, Ningbo, through Cixi City, shall cause CHWMC:

(a) to complete by December 31, 2006: (i) appointment of staff with qualifications, experience and terms of reference acceptable to the Bank; (ii) establishment of a financial management system, acceptable to the Bank; and (iii) complete training to its staff in financial management, procurement, disbursements and safeguard procedures in a manner satisfactory to the Bank; and

(b) to complete by June 1, 2009, construction of the buildings and works for ecological enhancement and restoration of wetlands, in a manner satisfactory to the Bank, and officially open the Wetlands Center to the public.

Monitoring and Reporting

10. Ningbo 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 objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about January 31 and July 31 of each year, commencing on January 31, 2007, a semi-annual report, integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) above (integrating the reports

furnished by CMSC and CHWMC pursuant to paragraph 4(e)(ii) of Schedule 3 to this Agreement), each such report to: (i) set out physical progress in the implementation of the Project, both cumulatively, and in respect of the preceding calendar semester, and explain variances between the actual and planned Project implementation; and (ii) set forth the status of procurement under the Project as at the end of the period covered by said report;

(c) prepare, under terms of reference satisfactory to the Bank and furnish to the Bank on or about July 31, 2008, a mid-term report on the progress achieved in the carrying out of the Project during the period preceding such report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(d) review with the Bank by December 31, 2008, or such later date as the Bank shall request, the mid-term report referred to in sub-paragraph (c) above, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Bank's views on the matter.

SCHEDULE 3

Principal Conditions of the Subsidiary Grant Agreements

For the purposes of paragraph 6 of Schedule 2 to this Agreement each Subsidiary Grant Agreement shall include the following principal conditions.

1. CMSC or CHWMC, as the case may be, shall undertake to: (a) carry out its respective parts of the Project with due diligence and efficiency and in accordance with appropriate management, financial, engineering and public utility practices and social, environmental and ecological standards acceptable to the Bank, and provide, promptly as needed, the funds, facilities and other resources required for the purpose; and (b) without limitation on the foregoing, take all measures necessary to ensure that its respective parts of the Project shall be implemented in accordance with the Resettlement Action Plan and the Environmental Management Plan.

2. CMSC and CHWMC shall each undertake to procure the goods, works and consultants' services to be financed out of the proceeds of the GEF Trust Fund Grant in accordance with the provisions of Schedule 1 to this Agreement, and utilize such goods, works and consultants' services exclusively in the carrying out of their respective parts of the Project.

3. CMSC and CHWMC shall each undertake to enable the Bank and Ningbo to inspect such goods and the sites and works included in their respective parts of the Project, the operation thereof, and any relevant records and documents.

4. CMSC and CHWMC shall each undertake to:

(a) Maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) Have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank.

(c) Furnish to the Bank and Ningbo, as soon as available, but in any case not later than six (6) months after the end of each such year, certified copies of said financial statements and accounts for such year as so audited; an opinion on such statements by said auditors in such scope and detail as the Bank or Ningbo shall have reasonably requested; and all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as the Bank or Ningbo shall reasonably request.

(d) Prepare and furnish to the Bank and Ningbo all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as the Bank or Ningbo shall reasonably request.

(e) (i) Maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Bank and to Ningbo the carrying out of its respective parts of the Project and the achievement of the objectives thereof; and

(ii) prepare, under terms of reference satisfactory to the Bank and to Ningbo and furnish to Ningbo for its review, consolidation and submission to the Bank in accordance with paragraph 10(b) of Schedule 2 to this Agreement on or about January 15 and July 15 of each year, commencing on January 15, 2007, semi-annual reports integrating the results of the monitoring and evaluation activities performed pursuant to clause (i) of this sub-paragraph (e) on the progress achieved in the carrying out of its respective parts of the Project during the period preceding the date of each such report.

5. Ningbo shall have the right to suspend or terminate the right of CMSC and CHWMC, as the case may be, to the use of the proceeds of the GEF Trust Fund Grant made available under their respective Subsidiary Grant Agreement upon their failure to perform their obligations under such agreement.