Project Agreement

(Ho Chi Minh City Investment Fund for Urban Development Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

HO CHI MINH CITY INVESTMENT FUND FOR URBAN DEVELOPMENT

Dated November 16, 2007
PROJECT AGREEMENT

Agreement dated November 16, 2007, entered into between INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) and HO CHI MINH CITY INVESTMENT FUND FOR URBAN DEVELOPMENT (“Project Implementing Entity” or “HIFU”) (“Project Agreement”) in connection with the Financing Agreement (“Financing Agreement”) of same date between the Socialist Republic of Vietnam (“Recipient”) and the Association. The Association and the Project Implementing Entity hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the 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 Financing Agreement or the General Conditions.

ARTICLE II — PROJECT

2.01. The Project Implementing Entity declares its commitment to the objectives of the Project. 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 — TERMINATION

3.01. For purposes of Section 8.05(c) of the General Conditions, the date on which the provisions of this Agreement shall terminate is twenty five (25) years after the date of this Agreement.

ARTICLE IV — REPRESENTATIVE; ADDRESSES

4.01. The Project Implementing Entity’s Representative is the Director General of Ho Chi Minh City Investment Fund for Urban Development.

4.02. The Association’s Address is:
4.03. The Project Implementing Entity’s Address is:

Ho Chi Minh City Investment Fund for Urban Development
33-39 Pasteur St.
District 1, Ho Chi Minh City
Socialist Republic of Vietnam

Facsimile:
(84-8) 821-4243

AGREED at Hanoi, Socialist Republic of Vietnam, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: /s/ Mr. Ajay Chhibber
Authorized Representative

HO CHI MINH CITY INVESTMENT FUND FOR URBAN DEVELOPMENT

By: /s/ Ms. Ngo Kim Lien
Authorized Representative
SCHEDULE

Execution of the Project

Section I.    Implementation Arrangements

A. Institutional Arrangements.

1. For the purpose of coordinating Project activities, in particular in respect of procurement and financial management activities, HIFU shall, throughout the period of Project implementation, maintain a Project working team; the members of said working team to be drawn from HIFU’s functional departments, have appropriate experience and qualifications and be assigned with clear functions and responsibilities, all in a manner acceptable to the Association.

2. HIFU shall:

   (a) adopt the PPA Manual and the PSP Manual, and implement the provisions thereof in a manner satisfactory to the Association; and

   (b) provide to the Association for its prior approval any revision proposed to be introduced into either of said Manuals in order to achieve their respective objectives and, thereafter, introduce only such revisions to said Manuals as shall have been agreed with the Association.

3. To support HIFU in the implementation of its investments pursuant to the PPA Manual and the PSP Manual and thereby institutionalize the operational reforms under Part II of the Project, HIFU shall engage the following consultants with qualifications, experience and terms of reference satisfactory to the Association:

   (a) a firm with international experience in public-private partnership in infrastructure projects with cost recovery, said firm to assist HIFU, inter alia, in planning and coordinating sub-project preparation and appraisal activities, and in integrating into such activities assessments of environmental and social impacts, environmental and social management planning processes, and evaluation of proposed mitigation plans, in accordance with the provisions of the PPA Manual;

   (b) consultants to carry out independent monitoring of the implementation by Sub-project Enterprises of resettlement action plans, environmental management plans and other environmental and social mitigation measures, as may be the case; and

   (c) a senior advisor and a technical specialist to provide on-the-job training and advice in regard to the selection of private sector partners in accordance with the provisions of the PSP Manual, including, inter alia, assistance in the
preparation of documents and processes to evaluate bidders effectively, and in the
due diligence assessment of the technical, financial and implementation
capacities of bidders.

B. Sub-projects.

1. In order to be eligible for a HIFU Loan or a HIFU Equity Investment out of the
proceeds of the Credit, a Sub-project shall meet the following criteria:

(a) the Sub-project fulfills an infrastructure investment need as described in
HCMC’s socio-economic and sectoral development priorities;

(b) the Sub-project supports the development of municipal infrastructure in
any of the following sectors: water supply, distribution and treatment; solid
waste management; sewerage disposal and/or treatment; transport and transport
logistics; infrastructure to support telecommunication and information and
communication technology development; energy generation and/or distribution,
energy transport infrastructure; residential development, in particular for low-
income people; and health and education infrastructure;

(c) the Sub-project is structured to generate revenues and enable cost
recovery;

(d) HIFU has undertaken the preparation and/or appraisal of the Sub-project
in accordance with the provisions of the PPA Manual; and

(e) there is private sector participation in the Sub-project and the private
sector partner or partners have been selected in accordance with the provisions of
the PSP Manual.

2. Upon determination of the eligibility of a Sub-project for a HIFU Loan and/or a
HIFU Equity Investment, HIFU shall:

(a) enter into a Sub-project Agreement satisfactory to the Association with
the Sub-project Enterprise, whereby HIFU shall obtain rights adequate to protect
the interests of HIFU, HCMC and the Association, including the right to require
the Sub-project Enterprise to:

(i) use the proceeds of the HIFU Loan and/or the HIFU Equity
Investment only for purposes of the Sub-project, and manage, operate
and maintain the Sub-project and conduct its operations with due
diligence and efficiency, in conformity with appropriate technical,
financial, economic, environmental and social standards and practices
acceptable to HIFU and the Association, including the environmental and
social safeguard requirements as set forth in the PPA Manual;
(ii) procure goods, works and services required for the Sub-project at a reasonable price following established commercial procedures acceptable to the Association;

(iii) maintain a financial management system including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to HIFU, adequate to reflect its operations, resources and expenditures in respect of the Sub-project;

(iv) in respect of a HIFU Loan, provide HIFU with records and documentation of all claims for payments to suppliers and contractors;

(v) in respect of a HIFU Equity Investment, prepare and furnish to HIFU not later than one (1) month after the end of each calendar quarter, interim un-audited financial reports for the Sub-project covering the quarter, in form and substance satisfactory to HIFU and the Association;

(vi) have its records, accounts and financial statements for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to HIFU, and provide to HIFU, as soon as available, the report of such audit of such scope and in such detail as HIFU shall have reasonable requested;

(vii) enable HIFU, HCMC and the Association to inspect the Sub-project and its operations, and any records, accounts and documents related thereto; and

(viii) provide all such information as HIFU, HCMC or the Association may reasonably request regarding the Sub-project and its operations; and

(b) exercise its rights in respect of the HIFU Loan and/or the HIFU Equity Investment made in respect of the Sub-project in such manner as to protect its interests, the interests of HCMC and the Association, and to achieve the purpose of the Credit.

C. Safeguards.

1. Without limitation to the provisions of paragraph A.2 of this Section I, HIFU shall:

(a) implement, and cause Sub-project Enterprises to implement, the environmental and social safeguards provisions of the PPA Manual, including the Environmental Safeguard Guideline, the Social Safeguard Manual, the
Resettlement Policy Framework, and the Ethnic Minority Planning Framework, all in a manner satisfactory to the Association;

(b) as may be required pursuant to the provisions of said Guideline, Manual and Frameworks, in respect of selected Sub-projects, cause Sub-project Enterprises to prepare and implement environmental management plans, resettlement action plans and/or ethnic minority action plans, in each case in a manner satisfactory to HIFU and the Association;

(c) provide to the Association for its prior concurrence any revision proposed to be introduced to any of said Guideline, Manual or Frameworks in order to achieve their objectives and, thereafter, only introduce such revisions as shall have been agreed with the Association; and

(d) maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of said Guideline, Manual and Frameworks, and all related environmental management plans, resettlement action plans and ethnic minority action plans, as may be the case, and the achievement of their respective objectives.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports.

1. (a) 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 agreed with the Association. Each such Project Report shall cover the period of one calendar semester, and shall be furnished to the Recipient not later forty-five (45) days after the end of the period covered by such report, commencing on February 15, 2008.

(b) Promptly after providing such report to the Association, the Project Implementing Entity shall hold a semi-annual review with the Association, HCMC and the Recipient, to evaluate the progress in Project implementation and in the achievement of Project objectives.

2. The Project Implementing Entity shall provide to the Recipient not later than April 30, 2013 for incorporation in the report referred to in Section 4.08(c) of the General Conditions all such information as the Recipient or the Association shall reasonably request for the purposes of such Section.

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. Without limitation on the provisions of Part A of this Section, 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 un-audited financial reports for the Project and for the Project Implementing Entity 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 audited financial statements for each period shall be furnished to the Association not later than six (6) months after the end of the period.

4. Commencing with its fiscal year 2007, the Project Implementing Entity shall take all necessary action to ensure that at all time:

   (a) the aggregate value of all its equity investments does not exceed fifty percent (50%) of its paid-in capital;

   (b) the ratio of debt to equity does not exceed 3:1, where: (i) the term “debt” means any indebtedness incurred under (A) a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date and to the extent the amount of such debt has become outstanding pursuant to such contract, agreement or instrument, and (B) a guarantee agreement, on the date the agreement providing for such guarantee has been entered into but only to the extent that the guaranteed amount is outstanding; and (ii) the term “equity” means paid-in capital plus retained earnings and reserves not allocated to cover specific liabilities;

   (c) its liquid assets are sufficient to cover its projected operating expenses for the subsequent eighteen (18) months, where: (i) the term “liquid assets” means cash, all assets which could in the ordinary course of business be converted into cash within twelve (12) months, and marketable securities; and (ii) the term “operating expenses” means all expenses related to operations, including administration, taxes and payment in lieu of taxes, repayment of debt, and interest and other charges on debt;
(d) the aggregate of its investments for purpose of a single Sub-project does not exceed fifteen percent (15%) of its total capital (debt and equity), where: (i) the term “investments” include loans made and equity investments; (ii) the terms “debt” and “equity” have the meanings set forth in clause (b) above;

(e) the value of any of its equity investments using the proceeds of Financing in any single Sub-project Enterprise does not exceed thirty percent (30%) of the total equity of such entity; and

(f) the ratio of debt to equity in any of its investments in any single Sub-Project Enterprise using the proceeds of the Financing does not exceed 3:1 where “3” represents the proportion of debt to total capital (debt and equity) and “1” represents the proportion of equity to total capital (debt and equity) in such entity, where: the terms “debt” and “equity” have the meanings set forth in clause (b) above.

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 Financing Agreement.