Financing Agreement

(Additional Financing for the Taiz Municipal Development and Flood Protection Project)

between

REPUBLIC OF YEMEN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 25, 2008
FINANCING AGREEMENT

Agreement dated February 25, 2008, entered into between REPUBLIC OF YEMEN ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement). The Recipient and the Association hereby agree as follows:

ARTICLE I - GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this 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 General Conditions.

ARTICLE II - FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to twelve million six hundred thousand Special Drawing Rights (SDR 12,600,000) (variously, "Credit" and "Financing") to assist in financing the project described in Schedule 1 to this Agreement ("Project").

2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement. The Recipient’s Representative for purposes of taking any action required or permitted to be taken pursuant to this Section is the Minister of Planning and International Cooperation.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.
2.05. The Payment Dates are April 15 and October 15 in each year.

2.06. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.

2.07. The Payment Currency is the United States dollars.

ARTICLE III - PROJECT

3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out the Project through MOPWH in accordance with the provisions of Article IV of the General Conditions.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV - TERMINATION

4.01. The Effectiveness Deadline is the date one hundred twenty (120) days after the date of this Agreement.

ARTICLE V - REPRESENTATIVE; ADDRESSES

5.01. The Recipient’s Representative is Minister of Planning and International Cooperation.

5.02. The Recipient’s Address is:

Ministry of Planning and International Cooperation
P.O. Box 175
Sana’a
Republic of Yemen

Facsimile:

9671 250 665
9671 250 605
5.03. The Association’s Address is:

International Development Association

1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable: Telex: Facsimile:

INDEVAS  248423 (MCI)  1-202-477-6391
Washington, D.C.

AGREED at Washington, District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF YEMEN

By /s/ Abdulwahab Abdulla Al-Hajjri

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Daniela Gressani

Authorized Representative
SCHEDULE 1

Project Description

The objectives of the Project are to assist the Recipient in: (a) strengthening the institutional capacity of the local government in the Taiz Governorate to carry out its mandate under the Local Authorities Law; and (b) protecting the residents and businesses of the city of Taiz, as well as the city’s infrastructure, from seasonal destructive flooding.

The Project consists of the following parts:

Part A: Flood Protection Structures and Ancillary Infrastructure

1. Construction of flood structures measuring about 5.1 kilometers in length.

2. Carrying out works for: (a) 22 kilometers of street paving in tributary areas to the flood damage protection structures to improve rainfall surface drainage and prevent soil erosion to minimize maintenance of flood structures while improving pedestrian and vehicular access; (b) 1.5 kilometers of retaining walls to protect built-up areas and nearby flood and road infrastructure assets from potential risk of landslides; (c) 2.4 kilometers of footpaths in steep walkways to control erosion while providing safe pedestrian access; and (d) 13.8 kilometers of sewage collector pipes and about 2,000 connections to reduce water pollution caused by sewage discharges into the flood channels.

Part B: Resettlement of Affected Persons

No activities will be undertaken within this component under the Additional Financing.

Part C: Capacity Building

1. Carrying out a capacity building program for local government and local councils established under the Local Authorities Law, consisting of the provision of works, goods, experts’ services and training, whose objective is to: (a) enable MOPWH and MOLA to implement the Recipient’s decentralization policies espoused by the Local Authorities Law; (b) enable local councils to operate within facilities that will enhance service provision to citizens; (c) enable the city of Taiz to develop improved systems for the collection of local revenue; (d) enable the city of Taiz to strengthen the provision of local services, including traffic management, urban planning, and solid waste management; and (e) enable national and local authorities to improve public land management.

2. Provision of support to the PMU, through the provision of experts’ services, goods and training, to strengthen its Project implementation capabilities.
SCHEDULE 2
Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall vest responsibility for the implementation of the Project in MOPWH. For purposes of assisting MOPWH in the implementation of the Project, the Recipient shall maintain the PMU located in Taiz, within MOPWH, with professional staff in adequate numbers whose qualifications, experience and terms of reference shall be acceptable to the Association.

2. The functions of PMU shall include, inter alia, responsibility for: (i) the procurement process and the preparation of withdrawal applications under the Project; (ii) monitoring, in accordance with indicators agreed upon with the Association, progress in the implementation of the Project; (iii) preparation, for submission to the Association, of annual work programs and updated procurement plans relating to the Project; and (iv) preparation, for submission to the Association, of the reports referred to under Section II of this Schedule. Key staff of PMU shall consist of a director, social officer, a monitoring and evaluation specialist, a procurement officer, a financial management specialist, two construction engineers, a supervision and urban planning engineer, an executive secretary, an environmental and safety officer and a local government capacity building officer.

B. Anti-Corruption

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

C. Safeguards

The Recipient shall: (i) carry out the EMP in a manner designed to ensure that the Project is implemented in accordance with sound environmental practices and standards; (ii) maintain policies and procedures adequate to enable the Recipient to monitor and evaluate, on an on-going basis, in accordance with guidelines acceptable to the Association, the implementation of the EMP and the achievement of the objectives thereof; (iii) furnish to the Association semi-annual reports, commencing on June 30 and ending on December 31 of each year, until completion of the Project, each such report to incorporate the results of the monitoring and evaluation activities, together with any revisions proposed to be introduced to the EMP to achieve its objectives; and (iv) thereafter, introduce such revisions into the EMP as shall have been approved by the Association.
Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Recipient 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 the indicators agreed with the Association. Each Project Report shall cover the period of one calendar quarter, and shall be furnished to the Association not later than one month after the end of the period covered by such report.

2. For purposes of Section 4.08(c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than December 15, 2010.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association as part of the Project Report not later than forty five (45) days after the end of each calendar quarter, interim financial reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.

Section III. Procurement

A. General

1. Goods and Works. All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants’ Services. All consultants’ services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance
with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

**B. Particular Methods of Procurement of Goods and Works**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) National Competitive Bidding</td>
</tr>
<tr>
<td>(b) Shopping</td>
</tr>
</tbody>
</table>

The procedures to be followed for National Competitive Bidding under this paragraph shall be those set forth in Law No. 23 for 2007, concerning Government Tenders, Auctions and Stores, and its Regulations, subject to the following additional procedures:

(i) a Recipient-owned enterprise in the Republic of Yemen shall be eligible to bid only if it can establish that it is legally and financially autonomous, operates under commercial law, and is not a dependent agency of the Recipient;

(ii) bidding (or pre-qualification, if required) shall not be restricted to any particular class of contractors or suppliers, and non-registered contractors and suppliers shall also be eligible to participate;

(iii) tenders shall be advertised for at least two (2) consecutive days in two (2) local newspapers of wide circulation;

(iv) prospective bidders shall be allowed a minimum of thirty (30) days for the preparation and submission of bids, such thirty (30) days to begin
with the availability of the bidding documents or the advertisement, whichever is later;

(v) until national standard bidding documents acceptable to the Association are available, bidding documents approved by the Association shall be used, and may be prepared in Arabic;

(vi) registration shall not be used to assess bidders’ qualifications; qualification criteria (in case pre-qualification was not carried out) and the method of evaluating the qualification of each bidder shall be stated in the bidding documents, and before contract award the bidder having submitted the lowest evaluated responsive bid shall be subject to post-qualification;

(vii) a foreign bidder shall not be required to register or to appoint an agent as a condition for submitting its bid and, if determined to be the lowest evaluated responsive bidder, shall be given reasonable opportunity to register, without let or hindrance; the registration process shall not be applicable to sub-contractors;

(viii) all bids shall be submitted in sealed envelopes and may be submitted, at the bidder’s option, in person or by courier service;

(ix) all bids shall be opened at the same time in a public bid opening which bidders shall be allowed to attend and which shall follow immediately after the deadline for submission of bids;

(x) evaluation of bids shall be carried out in strict adherence to the criteria declared in the bidding documents and contracts shall be awarded to the lowest evaluated responsive bidder, without resorting to the rejection of bids above or below a certain percentage of the pre-bid estimate (bid price bracketing);

(xi) no bidder shall be requested or permitted to modify its bid after the bid closing date shall have elapsed and bids submitted after the deadline for submission of bids shall be returned to the bidder unopened;

(xii) post-bidding negotiations with the lowest or any other bidder shall not be permitted;

(xiii) under exceptional circumstances, the procuring entity may, before the expiration of bid validity, request all bidders in writing to extend the validity of their bids, in which case bidders shall not be requested nor permitted to amend the price or any other condition of their bids; a bidder shall have the right to refuse to grant such an extension without
forfeiting its bid security, but any bidder granting such extension shall be required to provide a corresponding extension of its bid security;

(xiv) price adjustment provisions may be included in contracts for works with a duration of more than eighteen (18) months;

(xv) rejection of all bids is justified when there is lack of effective competition, or bids are not substantially responsive, however, lack of competition shall not be determined solely on the basis of the number of bidders; and

(xvi) each contract financed from the proceeds of the Credit shall provide that the contractor or supplier shall permit the Association, at its request, to inspect their accounts and records relating to the performance of the contract and to have such accounts and records audited by auditors appointed by the Association.

C. Particular Methods of Procurement of Consultants’ Services

1. Quality- and Cost-based Selection. Except as otherwise provided in paragraph 2 below, consultants’ services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. Other Methods of Procurement of Consultants’ Services. The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants’ services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Selection under a Fixed Budget</td>
</tr>
<tr>
<td>(b) Selection Based on the Consultants’ Qualifications</td>
</tr>
<tr>
<td>(c) Single-Source Selection</td>
</tr>
<tr>
<td>(d) Individual Consultants</td>
</tr>
</tbody>
</table>

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review. All other contracts shall be subject to Post Review by the Association.
Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Credit Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Works</td>
<td>9,950,000</td>
<td>90%</td>
</tr>
<tr>
<td>(2) Goods</td>
<td>350,000</td>
<td>100% of foreign expenditures; 100% of local expenditures (ex-factory costs) 85% of other items procured locally</td>
</tr>
<tr>
<td>(3) Consultants’ Services</td>
<td>1,100,000</td>
<td>100%</td>
</tr>
<tr>
<td>(4) Project Management Costs</td>
<td>220,000</td>
<td>85%</td>
</tr>
<tr>
<td>(5) Unallocated</td>
<td>980,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>12,600,000</td>
<td></td>
</tr>
</tbody>
</table>
For the purposes of this Schedule, the term “Project Management Costs” means expenditures incurred by the PMU on account of utility charges, rent for office space, maintenance of vehicles, fuel, office supplies, banking charges, communication services, audit costs, travel costs, salaries and labor costs and other consumables but excluding salaries of officials of the Recipient.

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement.

2. The Closing Date is October 31, 2010.
**SCHEDULE 3**

**Repayment Schedule**

<table>
<thead>
<tr>
<th>Date Payment Due</th>
<th>Principal Amount of the Credit repayable (expressed as a percentage)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>On each April 15 and October 15:</td>
<td></td>
</tr>
<tr>
<td>commencing April 15, 2018 to and including October 15, 2027</td>
<td>1%</td>
</tr>
<tr>
<td>commencing April 15, 2028 to and including October 15, 2047</td>
<td>2%</td>
</tr>
</tbody>
</table>

* The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03 (b) of the General Conditions.
APPENDIX

Definitions

1. “Affected Persons” means individuals who, as a result of the implementation of the Project, have had, or shall have, their: (i) standard of living adversely affected; (ii) right, title, interest in any house, land (including premises, agricultural and grazing land), or right in annual or perennial crops and trees, or any other fixed or movable asset acquired or possessed, temporarily or permanently; (iii) access to productive assets adversely affected, temporarily or permanently; and (iv) business, occupation, work or place of residence or habitat adversely affected; each, an “Affected Person”.


3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.


5. “Environmental Management Plan” and “EMP” mean the Recipient’s plan set out in the environmental assessment report submitted by the Recipient to the Association in April 2001, and updated on December 7, 2007, as such plan may be updated from time to time by agreement of the Recipient and the Association, for implementation of the Project in accordance with certain institutional, mitigating and monitoring measures to offset or reduce adverse environmental impacts to acceptable levels.

6. “Fiscal Year” means the fiscal year of the Recipient commencing on January 1 and ending on December 31.

7. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).

8. “Governorate” means an administrative division of the Republic of Yemen.

9. “Local Authorities Law” means Law No. 4 of the Recipient promulgated by a Presidential Decree dated February 10, 2000, as the same may be amended from time to time.
10. “MOF” means the Ministry of Finance of the Recipient or any successor thereof.
11. “MOLA” means the Ministry of Local Administration of the Recipient or any successor thereof.
12. “MOPWH” means the Ministry of Public Works and Highways of the Recipient, or any successor thereof.
13. “PMU” means the Project management unit to be maintained in accordance with the provisions of Section I.A.2 of Schedule 2 to this Agreement.
14. “Original Financing Agreement” means the development credit agreement for a Taiz Municipal Development and Flood Protection Project between the Recipient and the Association, dated November 26, 2001, as amended to the date of this Agreement (Credit No. 3450).
15. “Original Project” means the Project described in the Original Financing Agreement.
17. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated December 11, 2007, and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.