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O.A.J.C. Project Number 272-0104

FIFTH AMENDMENT

TO

PROJECT LOAN AND GRANT AGREEMENT

BETWEEN

THE SULTANATE OF OMAN

AND

THE UNITED STATES OF AMERICA

FOR

WATER RESOURCES DEVELOPMENT PROJECT

DATE: September 23, 1992

LOAN AND GRANT AGREEMENTS

FM/CAR/OPA, ROOM 603, SA-2

FM/CMP, ROOM 703, SA-2

NE DESK OFFICER, (SEE ATTACHED) ✓

PPC/CDIE/DI, ROOM 209, SA-18

GC/NE

PROJECT OFFICER

FILE

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PROJECT LOAN AND GRANT AGREEMENT

FIFTH AMENDMENT

Dated: September 23, 1992

BETWEEN The Sultanate of Oman

AND The United States of America, acting through the Agency for
International Development (A.I.D.)

WHEREAS, on September 27, 1986 the Sultanate of Oman and the United States of America, acting through A.I.D. (collectively, the "Parties"), entered into a Project Loan Agreement whereby A.I.D. agreed to lend to the Sultanate of Oman Fourteen Million Five Hundred and Fifty-Six Thousand United States Dollars (\$14,556,000) to finance foreign exchange and local currency costs of goods and services required for the Project;

WHEREAS, on September 14, 1987 the Parties entered into the First Amendment to the Project Loan Agreement to provide an additional Nine Million Nine Hundred and Thirty-Five Thousand United States Dollars (\$9,935,000) for the purposes set out in the Project Loan Agreement, as amended;

WHEREAS, on September 12, 1988 the Parties entered into the Second Amendment to the Project Loan Agreement to provide an additional Eight Million United States Dollars (\$8,000,000) for the purposes set out in the Project Loan Agreement, as amended;

WHEREAS, on May 1, 1989 the Parties entered into the Third Amendment to the Project Loan Agreement to rename the Project Loan Agreement as the Project Loan and Grant Agreement, and to provide an additional Ten Million United States Dollars (\$10,000,000) as a grant for the purposes set out in the Project Loan and Grant Agreement;

WHEREAS, on September 30, 1990 the Parties entered into the Fourth Amendment to the Project Loan and Grant Agreement to revise Annex 1, Detailed Project Description, to more fully define activities to be carried out under the Agreement, as amended, and

WHEREAS, the Parties now wish to enter into this Fifth Amendment to the Project Loan and Grant Agreement for the purposes set out below.

NOW, THEREFORE, the Parties hereby agree as follows:

I. ARTICLE 3 FINANCING

- A. Section 3.1 The Grant; The Loan is amended by deleting the phrase "Ten Million United States ("U.S.") Dollars ("Grant")" and substituting therefor the phrase, "Thirty Million United States ("U.S.") Dollars ("Grant")."
- B. Section 3.3 Project Assistance Completion Date is amended by deleting the date "September 30, 1992" in paragraph (a) and substituting therefor the date "September 15, 1996."

II. ARTICLE 5 CONDITIONS PRECEDENT TO DISBURSEMENT is amended as follows:

- A. Add a new Section 5.3 to read as follows:

Section 5.3 Conditions Precedent to Initiating Certain Procurement Actions

Prior to USAID authorizing issuance of tender documents to contractors prequalified to bid on construction of the Salalah Wastewater Reclamation Plant, the Sultanate of Oman, except as the Parties may otherwise agree in writing, shall furnish to USAID, or USAID shall otherwise have received, in form and substance acceptable to USAID:

(a) Evidence that Sultanate of Oman funds have been reserved and will be released in a timely manner for other critical elements of the Subactivity, i.e., the collection/conveyance system and the effluent disposal/aquifer recharge facilities;

(b) Evidence that the Dhofar Municipality has established and

adequately staffed the Project Management Unit (PMU) required to effectively manage the Subactivity as described in the Salalah Water/Wastewater Masterplan Report;

(c) The Municipality's plan for operating and maintaining the Salalah sewerage system and aquifer recharge facilities, including an indication of how recurrent costs will be met; and

(d) An Environmental Assessment for the facilities to be constructed and draft tender documents for construction of the wastewater reclamation plant.

B. Renumber Section 5.3 Notification as Section 5.4 Notification.

C. Renumber Section 5.4 Terminal Date for Conditions Precedent as Section 5.5 Terminal Date for Conditions Precedent.

III. ARTICLE 7 PROCUREMENT SOURCE

Section 7.1 Foreign Exchange Costs is amended by adding the following sentence at the end of the Section: "Ocean transportation costs will be financed under the Grant only if shipment is made on vessels under flag registry of the United States, except as USAID may otherwise agree in writing."

IV. REVISED ANNEX 1 DETAILED PROJECT DESCRIPTION

A. Section B ("Description of Loan-Funded Project Activities"), Subsection 2 ("Salalah") is revised to read as follows:

2. Salalah Water and Wastewater Improvements

Loan funds will be used to finance engineering design, construction and construction supervision services for the Wadi Qaftawt Stabilization Ponds, an activity which is included in Oman's Third Five-Year Development Plan. This improvement will substantially reduce the pollution of groundwater resources

from the uncontrolled dumping of tankered wastes.

Loan funds will be used to finance engineering design and construction supervision services for other priority improvements identified in the Water and Wastewater Masterplan for Salalah. Specifically, these improvements will include a collection/conveyance system, reclamation plant, effluent disposal system, and aquifer recharge facilities. Loan funds will also be used to partially finance construction of the reclamation plant. Unless A.I.D. otherwise agrees in writing, loan funds budgeted for the reclamation plant will be used exclusively to finance services of construction firms meeting U.S. nationality requirements and commodities having their source and origin in the United States or Oman.

The Sultanate of Oman, acting through the Office of the Wali of Dhofar, will provide office space for engineering consultants, assign competent personnel to oversee and manage the work of the engineering consultants and construction contractors, and provide or acquire land and/or easements required to accommodate the improvements. The Sultanate of Oman will also finance installation of the collection/conveyance system and construction of the effluent disposal and aquifer recharge facilities noted above.

- B. Section C ("Description of Grant-Funded Project Activities") is amended by adding a new Subsection 6 to read as follows:

6. Salalah Water and Wastewater Improvements

Grant funds will be used to partially finance construction of the wastewater reclamation plant required for the Salalah sewerage system. Unless A.I.D. otherwise agrees in writing, grant funds budgeted for the reclamation plant will be used exclusively to finance services of construction firms meeting U.S. nationality requirements and commodities having their source and origin in the United States or Oman.

C. Section D ("Financial Plan") is deleted in its entirety and revised to read as follows:

Table I below provides a revised financial plan for the Water Resources Development Project. The planned allocation of funds between individual activities may be changed at a later date through an exchange of letters without formal amendment of this Agreement.

TABLE I (REVISED) - WATER RESOURCES DEVELOPMENT PROJECT (272-0104)
SUMMARY FINANCIAL PLAN

A. U. S. CONTRIBUTION (\$000)

SUB-PROJECT	BUDGETED-PROJECTED EXPENDITURE SCHEDULE					
	Thru 91	92	93	94	95	96

LOAN

Muscat Improvements	15,022	900	12,010	2,112			
Salalah Improvements	17,469	2,300	400	4,275	9,094	1,400	
SUB TOTAL	32,491	3,200	12,410	6,387	9,094	1,400	

GRANT

Muscat Masterplan	1,000	200	800				
Salalah Masterplan	2,838	300	2,538				
Coastal Zone Study	1,650	200	1,450				
MWR Plan/Mgmt Support	1,706	200	1,300	206			
Training	500	100	268	132			
Salalah Improvements	22,106				12,506	9,600	
Audit and Evaluation	200						200
SUB TOTAL	30,000	1,000	6,356	338	12,506	9,600	200
TOTAL	62,491	4,200	18,766	6,725	21,600	11,000	200

B. OMAN CONTRIBUTION (\$000)

Muscat Improvements	111,600	33,160	58,980	19,460			
Salalah Improvements	35,000	170	220	352	18,713	15,545	
Muscat Masterplan	400	270	130				
Salalah Masterplan	300	230	70				
TOTAL	147,300	33,830	59,400	19,812	18,713	15,545	

V. REVISED ANNEX 2 PROJECT LOAN AND GRANT STANDARD PROVISIONS ANNEX

A. Annex 2, "Project Loan Standard Provisions" is hereby renamed "Project Loan and Grant Standard Provisions." The terms "Loan" and "Borrower" wherever found in Annex 2 are hereby amended to read, respectively, "Assistance" and "Cooperating Country." For purposes of the Project Loan and Grant Agreement, as amended, the term "Cooperating Country" shall mean the Sultanate of Oman.

B. Section B.5 ("Reports, Records, Inspections, Audit") of Annex 2 ("Project Loan and Grant Standard Provisions") is hereby amended and restated in its entirety to read as set forth on Attachment A to this Fifth Amendment.

VI. Except as specifically amended herein, the Project Loan and Grant Agreement, as previously amended, between the Sultanate of Oman and the United States of America shall remain in full force and effect.

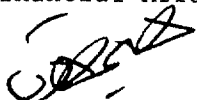
IN WITNESS WHEREOF, The Sultanate of Oman and the United States of America, each acting through its duly authorized representatives, have caused this Fifth Amendment to be signed in their names and delivered as of the day and year first above written.

FOR THE SULTANATE OF OMAN

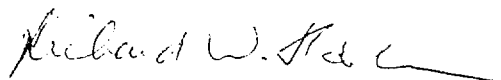
FOR THE UNITED STATES OF AMERICA



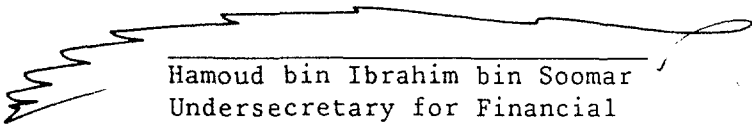
Qais bin Abdul Munim al-Zawawi
Deputy Prime Minister for
Financial and Economic Affairs
and Deputy Chairman of the
Council of Financial Affairs



Sayyid Haitham bin Tareq bin
Taimur al-Said
Undersecretary for Political
Affairs
Ministry of Foreign Affairs
Co-Chairman, OAJC



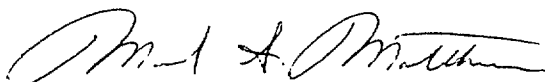
Ambassador Richard W. Boehm
American Embassy
Co-Chairman, OAJC



Hamoud bin Ibrahim bin Soomar
Undersecretary for Financial
Affairs



Hamoud bin Hilal al-Habsi
Undersecretary for Economic
Affairs
Managing Director, OAJC



Mark S. Matthews
A.I.D. Representative
OAJC

FISCAL DATA:

Approp:	72-112/31037	
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Approp:	72-1121037	
BPC:	NESA-92-23272-JG13	<u>334,918.00</u>
		<u>\$20,000,000.00</u>

Attachment A
to
Fifth Amendment
to the
Project Loan and Grant Agreement
for the
Water Resources Development Project

Section 8.5 Reports, Accounting Records, Audits, Inspections

- (A) The Cooperating Country shall furnish A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request.
- (B) The Cooperating Country shall maintain accounting books, records, documents, and other evidence relating to the Project and to this Agreement, adequate to show, without limitation, all costs incurred under the Assistance, the receipt and use of goods and services acquired under the Assistance, the costs of the Project supplied from other sources, the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion ("Project Books and Records"). At the Cooperating Country's option, with approval by A.I.D., Project Books and Records shall be maintained in accordance with one of the following methods: (1) Generally Accepted Accounting Principles prevailing in the United States, (2) Generally Accepted Accounting Principles prevailing in the Cooperating Country, (3) Accounting Principles prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants), or (4) such other accounting principles as the parties may agree to in writing. Project Books and Records shall be maintained for at least three years after the date of last disbursement by A.I.D.
- (C) If U.S. Dollars 25,000 or more is disbursed directly to the Cooperating Country in any one calendar year under the Assistance, the Cooperating Country, except as the parties may otherwise agree in writing, shall have financial audits made of the funds disbursed to the Cooperating Country under the Assistance in accordance with the following terms:
- (1) The Cooperating Country shall select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the A.I.D. Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines."
 - (2) An audit of the funds provided under the Assistance shall be conducted for each fiscal year of the Cooperating Country. The audit shall determine whether the receipt and expenditure of the funds provided under the Assistance are presented in accordance with Generally Accepted Accounting Principles agreed to in Section (B) above and whether the Cooperating Country has complied with the terms of the Agreement. Each audit shall be completed no later than one year after the close of the Cooperating Country's fiscal year.
- (D) The Cooperating Country shall submit an audit report to A.I.D. within 30 days after completion of each audit arranged for by the Cooperating Country in accordance with this section. The A.I.D. Inspector General will review each report to determine whether it

complies with the audit requirements of this Agreement. Subject to A.I.D. approval, cost of audits performed in accordance with the terms of this section may be charged to the Assistance. In cases of continued inability or unwillingness to have an audit performed in accordance with the terms of this section, A.I.D. will consider appropriate sanctions which include suspension of all or a portion of disbursements until the audit is satisfactorily completed or A.I.D. performs its own audit.

- (E) The Cooperating Country shall submit to A.I.D., in form and substance satisfactory to A.I.D., a plan by which the Cooperating Country will ensure that funds made available to subrecipients that receive U.S. Dollars 25,000 or more in any one calendar year under the Assistance are audited in accordance with this Agreement. The plan should describe the methodology to be used by the Cooperating Country to satisfy its audit responsibilities with respect to any subrecipient to which this section applies. Such audit responsibilities with respect to subrecipients may be satisfied by relying on independent audits of the subrecipients or on appropriate procedures performed by the internal audit or program staff of the Cooperating Country, by expanding the scope of the independent financial audit of the Cooperating Country to encompass testing of subrecipients' accounts, or by a combination of these procedures. The plan should identify the funds made available to subrecipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Cooperating Country's audit responsibilities (a nonprofit organization organized in the United States is required to arrange for its own audits; a for-profit contractor organized in the United States that has a direct contract with A.I.D. is audited by the cognizant U.S. Government agency; a private voluntary organization organized outside the United States with a direct grant from A.I.D. is required to arrange for its own audits; and a host-country contractor should be audited by the cognizant Grantee contracting agency). The Cooperating Country shall ensure that appropriate corrective actions are taken on recommendations contained in the subrecipients' audit reports; consider whether subrecipients' audits necessitate adjustment of its own records; and require each subrecipient to permit independent auditors to have access to records and financial statements as necessary.
- (F) A.I.D. may, at its discretion, perform the audits required under this Agreement on behalf of the Cooperating Country by utilizing funds under the Assistance or other resources available to A.I.D. for this purpose. The Cooperating Country shall afford authorized representatives of A.I.D. the opportunity at all reasonable times to audit or inspect the Project, the utilization of goods and services financed by A.I.D., and books, records and other documents relating to the Project and the Assistance.

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