

June 6, 2005

Honorable Mayor and Members of
the Hermosa Beach City Council

Regular Meeting of
June 14, 2005

MANHATTAN BEACH SEWER CONNECTION AGREEMENT

Recommendation:

It is recommended that the City Council:

1. Authorize the City Manager to execute the attached agreement allowing the connection to the Manhattan Beach sewer;
2. Appropriate \$12,000 from the Sewer Fund (160) to pay the Sewer Connection Fee; and
3. Approve the transfer of \$25,000 from CIP No. 03-418 to CIP No. 02-412 to complete the sewer connection.

Summary:

The City's sewer pump station at 33rd Street and Ingleside Drive has become inoperable and in need of extensive rehabilitation. Mayor Reviczky suggested that staff investigate the idea of a gravity flow connection to the Manhattan Beach sewer system in lieu of rehabilitating this pump station at a cost of approximately \$150,000.

Manhattan Beach staff worked with us to develop this agreement and determined the proposed annual fee. This amount was determined based upon the number of properties in Hermosa being served (213 total properties – see Exhibit A in Agreement) times Manhattan's annual sewer fee amount of \$5 per month. They rounded this down to \$12,000, to be adjusted annually by the CPI amount (the same as their sewer fee).

Staff believes this amount to be reasonable and recommends approval. The City saves the funds needed to refurbish the pumping facility as well as annual operation and maintenance costs.

Completing this connection to the Manhattan Beach sewer system will require constructing two manholes and approximately 50 feet of sewer pipe (see Exhibit B in Agreement) at an estimated cost of \$25,000. This cost has already been allocated in the FY 04-05 budget for the upgrade of the two sewer pump stations (CIP No. 03-418). Staff recommends transferring \$25,000 from this project to the Sewer Improvement Project (CIP No. 02-412), which is presently under contract to perform the work under change order.

The contract for the renovation of the Sewer Pump Station at 35th Street and The Strand is scheduled to be awarded in June.

Fiscal Impact:

Transfer \$25,000 from CIP No. 03-418 to CIP No. 02-412 and appropriate \$12,000 from the Sewer Fund (160).

Attachment: Sanitary Sewer Connection Agreement

Respectfully submitted,

Concur:

Richard D. Morgan, P.E.
Director of Public Works/City Engineer

Stephen R. Burrell
City Manager

Noted for fiscal impact:

Viki Copeland
Finance Director

H:\B95\PWFILES\CCITEMS\approval manhattan sewer agrmt 6-14-05.doc

AGREEMENT SANITARY SEWER CONNECTION

This Agreement is entered into on June 14, 2005 by and between the cities of Hermosa Beach ("Hermosa") and Manhattan Beach ("Manhattan") (hereinafter individually "Party" and collectively, the "Parties") each of which is a municipal corporation and a general law city of the State of California.

RECITALS

- A. Each of the Parties owns, operates and maintains a municipal sanitary sewer system for the disposal and conveyance of wastewater originating in their respective territorial boundaries.
- B. Hermosa's sewage pump station at 33rd Street and Ingleside Drive (the "pump station") is in a state of disrepair and requires extensive rehabilitation.
- C. In lieu of performing such reconstruction, Hermosa seeks to divert wastewater from the pump station and discharge it into Manhattan's sewer system by gravity flow.
- D. A physical connection already exists between the Parties' respective sewer systems, and Manhattan's system has adequate capacity to receive the wastewater generated from this diversion and convey it approximately one thousand feet to the Sanitation District's main sewer line.
- E. This Agreement will facilitate the foregoing arrangement and will be to the mutual interest and advantage of both Parties.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and conditions set forth below, the parties agree as follows:

1. **Service Connection.** Manhattan hereby permits, licenses and authorizes Hermosa to construct a sewer connection as described and in the location designated in Exhibit B attached hereto and incorporated herein by reference. Hermosa and or its designated agents may enter upon Manhattan's right-of-way as necessary to construct and maintain the connection for the duration of this Agreement. Hermosa shall construct and maintain the connection at its sole cost and expense and in accordance with Manhattan's usual standards and all applicable laws for the construction of public works facilities.
2. **Discharge of Wastewater.** Manhattan hereby agrees to accept into its sanitary sewer system the discharge of wastewater from all developed properties within the geographic area in Hermosa described in Exhibit A. No additional connections shall be made without the prior written approval of Manhattan. Hermosa shall be responsible for enforcing applicable laws, regulations and permit requirements pertaining to illegal discharges within its boundaries.
3. **Term of Agreement.** This Agreement is effective on the date signed by both parties and shall remain in effect for five (5) years, to be renewable in five (5) year increments thereafter.

4. **Service Connection Fee.** In consideration of the wastewater discharge permitted by this Agreement, Hermosa shall pay to Manhattan the sum of \$12,000 per year, payable on or before the anniversary of the effective date each year this Agreement is in effect. The payment shall be prorated for any partial year this Agreement is in effect. The payment due under this paragraph shall be adjusted annually on the anniversary date of this Agreement by the percentage change in the Consumer Price Index for the most recent twelve month period for which data is available. "Consumer Price Index" or "CPI" shall mean the Consumer Price Index (CPI) All Urban Consumers for the Los Angeles Metropolitan Area, base period 1982-84=100, published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the Term by the United States Department of Labor, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.
5. **Indemnification.**
- A. Hermosa agrees to protect, indemnify and save harmless Manhattan and its officers, officials and employees from and against all claims, demands and causes or action on account of personal injuries, property damage or death arising out of the negligent or wrongful performance of work performed by Hermosa hereunder.
 - B. Manhattan agrees to protect, indemnify and save harmless Hermosa and its officers, officials and employees from and against all claims, demands and causes or action on account of personal injuries, property damage or death arising out of the negligent or wrongful operation or maintenance of its sewer system.
 - C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.
6. **Modification.** This Agreement may be modified only by a written agreement executed by the Parties.
7. **Assignment.** The Parties understand that their status as public entities are primary inducements for each to enter into this Agreement. For this reason, the Parties agree that they will not assign or transfer any portion of or interest in this Agreement. Any attempt to assign or transfer any portion of this Agreement will be void.
8. **Notices.** All notices required by this Agreement must be in writing and given to the Parties at the following addresses:
- | | |
|---------------------------|-------------------------|
| CITY OF MANHATTAN BEACH: | CITY OF HERMOSA BEACH: |
| City Clerk | City Clerk |
| 1400 Highland Ave. | 1315 Valley Drive |
| Manhattan Beach, CA 90266 | Hermosa Beach, CA 90254 |
9. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the appropriate branch of the Los Angeles County Municipal or Superior Court.

10. **Interpretation.** This Agreement shall be interpreted as though prepared by both Parties.
11. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.
12. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter herein. Each Party to this Agreement acknowledges that representations by any Party not embodied herein, and any other agreements, statements, or promises concerning the subject matter of this Agreement, not contained in this Agreement, are not valid and binding. Any modification of this Agreement will be effective only if it is in writing signed by the Parties. Any issue with respect to the interpretation or construction of this Agreement is to be resolved without resorting to the presumption that ambiguities should be construed against the drafter.
13. **Counterparts.** This Agreement may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CITY OF MANHATTAN BEACH

CITY OF HERMOSA BEACH

 Geoff Dolan
 City Manager

 Stephen R. Burrell
 City Manager

ATTEST:

ATTEST:

 Liza Tamura
 City Clerk

 Elaine Doerfling
 City Clerk

APPROVED AS TO FORM:
 Robert V. Wadden, Jr., City Attorney

APPROVED AS TO FORM:
 Michael Jenkins, City Attorney

By: _____

By: _____