

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: Matthew J. Fertal From: Keith G. Jones  
Dept: City Manager Dept: Public Works  
Subject: AMENDMENT NO. 1 TO CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF GARDEN GROVE AND MIDWAY CITY SANITARY DISTRICT Date: December 08, 2009

**OBJECTIVE**

To receive for City Council approval for Amendment No.1 to the Construction and Maintenance agreement between the City of Garden Grove and Midway City Sanitary District.

**BACKGROUND**

In 2001 the City of Garden Grove started the design of Newland/Yockey Storm Drain (Line B-5) to alleviate local flooding problems in the southwesterly portion of the city. During the design for Line B-5, staff recognized that the sewer line in Oasis Avenue was in conflict with the proposed storm drain and had to be replaced in order to function in conjunction with the proposed storm drain.

On March 25, 2008, the City Council approved an agreement with the Midway City Sanitary District MCSD to re-construct ninety five lineal feet of 10-inch PVC sewer pipe, two 48-inch manholes, and forty feet of 10-inch sanitary sewer line in Newland Street, which is mostly situated in the City of Westminster.

On June 25, 2009, the City Council awarded a contract to Belczak & Sons, Inc. to construct the storm drain system and the 10-inch sewer pipe mentioned above. Construction of the project is nearing completion.

**DISCUSSION**

During construction phase the contractor installed 8-inch pipe instead of the proposed 10-inch sewer pipe that was shown on the plans. The installation of 8-inch sewer pipe was brought to MCSD attention. To avoid delays to the project schedule and potential change orders, MCSD has agreed to the smaller sewer pipe. As a result, the City of Garden Grove has prepared the attached amendment and MCSD has executed it.

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Currently, the 8-inch sewer has more than adequate capacity. Under the terms of the amendment, should additional sewer capacity be required to increase the pipe from eight to ten inches, that City of Garden Grove will be responsible for that cost.

FINANCIAL IMPACT

There is no financial impact for the recommended action. Any future cost will be covered by drainage fees.

COMMUNITY VISION IMPLEMENTATION

This project is consistent with the community vision for maintaining and enhancing the City's infrastructure assets to maximize their value, longevity and usefulness for the community.

RECOMMENDATION

Staff recommends that the City Council:

- Authorize the Mayor to execute the Amendment to the Construction and Maintenance agreement between the City of Garden Grove and Midway City Sanitary District.

  
KEITH G. JONES  
Public Works Director

  
By: Kamyar Dibaj  
Assistant Engineer

**Recommended for Approval**

  
Matthew Fertal  
City Manager

Attachment: Three signed copies of Amendment No.1 by MCSD.

**AMENDMENT NO. 1 TO CONSTRUCTION AND MAINTENANCE AGREEMENT  
BETWEEN THE CITY OF GARDEN GROVE AND MIDWAY CITY SANITARY  
DISTRICT**

This **AMENDMENT NO. 1** ("Amendment") is effective this 3<sup>RD</sup> day of NOVEMBER, 2009, by and between the City of Garden Grove ("GARDEN GROVE") and the Midway City Sanitary District ("MCS D").

WITNESSETH:

**WHEREAS**, by Construction and Maintenance Agreement dated March 25, 2008 ("Agreement"), GARDEN GROVE and MCS D entered into a contract under which GARDEN GROVE agreed to design, construct, and maintain certain public improvements, specifically ninety-five feet (95') of ten-inch (10") sanitary sewer line, two (2) forty eight-inch (48") manholes, and twelve feet (12') of fifteen-inch (15") type 316L stainless steel sewer casing with protective wrap or hot-hipped coating on exterior of casing ("PROJECT") that will extend four feet (4') on each side of an existing storm drain, in, along and under the public right of way of Newland Street in the City of Westminster and within the facilities site of MCS D ("MCS D FACILITY").

**WHEREAS**, CITY has requested, and MCS D has agreed, to amend construction of the proposed ten-inch (10") sanitary sewer line on Oasis Avenue and through said stainless steel casing to an eight-inch (8") sanitary sewer line to avoid adverse impacts to the project schedule and potential change orders.

**WHEREAS**, the CITY desires to take full responsibility for installing an eight-inch (8"), instead on a ten-inch (10"), sanitary line within encasement.

**NOW, THEREFORE**, it is mutually understood by the parties that:

- 1. AMENDMENT TO PROJECT SPECIFICATIONS.** MCS D hereby agrees to the aforementioned amendment, set forth in the recitals herein, to the PROJECT specifications contained in the Agreement, namely the use of a eight-inch (8") instead of a ten-inch ("10") sanitary sewer line on Oasis Avenue in order to avoid adverse impacts to the project schedule and potential change orders.
- 2. CONDITION OF AMENDMENT.** In return CITY agrees that it will, at no cost to MCS D, increase the sanitary sewer pipe size through the casing from eight inches ("8") to ten inches ("10") maximum upon demonstration through flow studies and calculations by MCS D that additional sewer capacity is required.
- 3. REMAINING PROVISIONS OF AGREEMENT.** All other terms, conditions, and provisions of the Agreement, to the extent not modified with this Amendment, shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment to the Agreement as of the Effective Date defined and referenced above.

**"GARDEN GROVE"**

**CITY OF GARDEN GROVE**  
a California municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor or Authorized Designee

ATTEST:

\_\_\_\_\_  
City Clerk

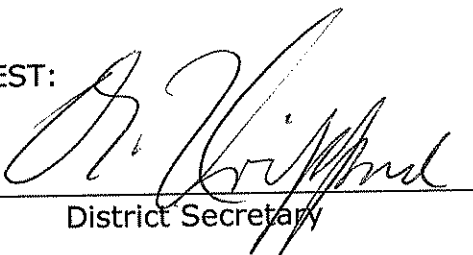
**"MCS D"**

**MIDWAY CITY SANITARY DISTRICT**  
a sanitary district organized under the  
Sanitary District Act of 1923


Date: 11-3-09

By: Joy L. Neugebauer  
President or Authorized Designee

ATTEST:

  
District Secretary

APPROVED AS TO FORM:

BY:   
Counsel to the Midway City  
Sanitary District