



Meeting Date: 12/16/08

| ACTION | TYPE OF ITEM |
|--|--|
| <input type="checkbox"/> Approved Recommendation | <input checked="" type="checkbox"/> Info/Consent |
| <input type="checkbox"/> Ord. No(s). _____ | <input type="checkbox"/> Report |
| <input type="checkbox"/> Res. No(s). _____ | <input type="checkbox"/> Public Hearing (Info/consent) |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |

Prepared By: Mark S. Norris

Agenda Item No. I-8

Reviewed By: City Manager [Signature]

City Attorney [Signature]

Finance [Signature]

Public Works [Signature]

DATE: December 5, 2008

TO: City Council

FROM: Mark S. Norris, Assistant Public Works Director
Public Works Department

SUBJECT: Amendment to Agreement with Channel Islands Beach Community Service District for Sewer Transportation and Treatment.

RECOMMENDATION

That City Council:

1. Approve and authorize the Mayor to execute an amendment to the agreement with Channel Islands Beach Community Service District ("Channel Islands") for Sewer Transportation and Treatment (A-6680) providing immediate cash payment to the City in the sum of \$543,140, estimated to be Channel Islands' share of the amount required to construct the Victoria Trunk portion of the Redwood Sewer Trunk Project.
2. Approve a Special Budget Appropriation in the amount of \$543,140 for the Channel Island Beach Community Service District portion of the Victoria Trunk Project.

DISCUSSION

On June 13, 2006, the City Council approved an Agreement with Channel Islands for sewer transportation and treatment. That agreement provided for Channel Islands to share in the cost of the Redwood Sewer Trunk Project. A portion of this project is known as The Victoria Trunk Sewer Project.

The City intends to construct the Victoria Trunk Sewer as set forth in the Agreement and Channel Islands has agreed to pay its share of the capital and construction costs. This amount represents its estimated share of the capital and construction costs of the Victoria Trunk Sewer as set forth in Paragraph 3 of the Agreement. Channel Islands has obtained bond financing to participate in the Victoria Trunk Sewer project. The terms of this financing require that Channel Islands share of funds be disbursed prior to the end of 2008. The attached amendment provides for a disbursement by Channel Islands to the City of \$543,140 for the project. This sum will be held by the city and disbursed as the project progresses.

The parties also agree that at the end of the construction of the Victoria Trunk Sewer, there will be a "true-up" of the capital and construction costs owed by Channel Islands. The true-up will be completed no later than December 31, 2010. If the true-up shows that the amount paid by Channel Islands exceeds Channel Islands' share of the cost, then Channel Islands shall receive a credit for the excess amount and interest against the amount Channel Islands has agreed to pay to the City for operation and maintenance costs contained in Paragraph 6 of the Agreement.

For additional information regarding the Agreement with Channel Islands for sewer transportation and treatment, please reference Attachment No. 2. The Victoria Trunk Sewer Project will be brought back to Council for additional appropriations and bidding approval in the spring of 2009.

FINANCIAL IMPACT

Funds in the amount of \$543,140 will be appropriated into the City's Wastewater Collection Fund Account No. 611-6613-581-7540 and expensed to the Victoria Trunk Project No. 096601, Account # 611-6613-822-8604. The Victoria Trunk Sewer Project will be brought back to Council for the remaining appropriations in the amount of \$754,361 and bidding approval in the spring of 2009.

- Attachment #1 - Amendment to Agreement with Channel Islands Beach Community Service District for Sewer Transportation and Treatment
- #2 - Council Agenda Item for meeting of July 11, 2006 No. 1-8
- #3 - Special Budget Appropriation

Note: Attachment # 2 (Council Agenda Item for Meeting of July 11, 2006 No. 1-8) has been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on the Monday prior to the Council meeting.

AMENDMENT TO AGREEMENT

THIS AMENDMENT is entered effective the 16th day of December, 2008, by and between the CITY OF OXNARD, a political subdivision of the State of California, (hereinafter referred to as "Oxnard") and the CHANNEL ISLANDS BEACH COMMUNITY SERVICES DISTRICT, a community services district formed pursuant to California Government Code Section 61000, et seq. (hereinafter referred to as "Channel Islands").

RECITALS

- A. Oxnard and Channel Islands have entered into a Wastewater Transportation and Treatment Agreement (Agreement No. A-6680) dated July 11, 2006 (hereinafter referred to as the "Agreement") attached hereto as Exhibit A and incorporated herein by reference.
- B. The parties wish to amend the Agreement and provide for a methodology of payment of capital funds by Channel Islands to Oxnard for the Victoria Trunk Sewer portion of the project set forth in the Agreement.

NOW, THEREFORE, it is agreed as follows:

1. Oxnard intends to construct the Victoria Trunk Sewer as set forth in the Agreement.
2. Pursuant to the Agreement, Channel Islands has agreed to pay its share of the capital and construction costs of the Victoria Trunk Sewer. Channel Islands agrees to pay to Oxnard prior to December 31, 2008, the sum of \$543,140 which represents its estimated share of the capital and construction costs of the Victoria Trunk Sewer as set forth in Paragraph 3 of the Agreement. The payment by Channel Islands to Oxnard shall be in a lump sum and shall be held by Oxnard for the purposes of the capital and construction costs of said improvements.
3. The parties agree that at the end of the construction of the Victoria Trunk Sewer, there shall be a "true-up" of the capital and construction costs owed by Channel Islands. The true-up shall be completed no later than December 31, 2010. In the event that the "true-up" shows an amount paid by Channel Islands (\$543,140) exceeds Channel Islands' share of the cost as provided in paragraph 3 of the Agreement, then Channel Islands shall receive a credit for such excess amount against the amount Channel Islands has agreed to pay to Oxnard for operation and maintenance costs contained in Paragraph 6 of the Agreement.

Moreover, if the "true-up" evidences that Channel Islands' estimated payments exceed the actual construction expenses, then Channel Islands will be credited with interest at the Local Agency Investment Fund Rate earned by Oxnard on its investments in such fund for

the amount of excess payments, commencing on the date payment is made. The interest amount shall be credited to Channel Islands as set forth in this paragraph.

4. Oxnard affirms that Channel Islands will have all rights to transport flow set forth in the Agreement.
5. Except as amended herein, the Agreement shall remain in full force and effect.

CITY OF OXNARD, a political
subdivision of the State of California

By _____
Dr. Thomas E. Holden, Mayor

CHANNEL ISLANDS BEACH
COMMUNITY SERVICES DISTRICT,
a community services district formed
pursuant to California Government Code
Section 61000, et seq.

By *Marcia J. ...*

APPROVED AS TO CONTENT

By *[Signature]*
Mark Norris, Assistant Public Works Director

APPROVED AS TO FORM:

By _____
Alan Holmberg, Acting City Attorney

ATTEST

By _____
Daniel Martinez, City Clerk

CITY OF OXNARD
REQUEST FOR SPECIAL BUDGET APPROPRIATION

To the City Manager:

December 16, 2008

Request is hereby made for an appropriation of total \$ 543,140

Reason for appropriation: Channel Islands Beach Community Service District portion of Victoria Trunk Project # 096601

| <u>FUND</u> | <u>DESCRIPTION/ACCOUNT</u> | <u>AMOUNT</u> |
|---|--|----------------------|
| Wastewater Collection | | |
| 611 | Revenue Account from Other Agencies 611-6613-581-7540 | (\$546,140.00) |
| 611 | Victoria Trunk Project # 096601 611-6613-822-8604 | \$546,140.00 |
| Net Estimated Change to Wastewater Collection Fund Balance | | <u><u>\$0.00</u></u> |



 Manager

REQUIRES CITY COUNCIL APPROVAL

CHIEF FINANCIAL OFFICER



| | |
|-----------------------------------|--------------------|
| Disposition | Approved _____ |
| | Rejected _____ |
| Transfer by Journal Voucher _____ | City Manager _____ |