

ATTACHMENT "B"

Agenda-Notes of Explanation
Sanitary District No.5 Board Meeting
May 7, 2007

Request by the District Manager for the Board of Directors to make a motion for the District Manager to facilitate a reimbursement agreement upon completion of the Paradise Drive Sewer Line Extension.

Background:

District staff has spent many hours on the Paradise Drive Sewer Line Extension Project. The District Manager has met with District Counsel on the attached Agreement. The attached agreement allows for a cap on the project of \$550,000.00 and allows the participants to review the final cost of the project. The District will enter into an agreement only after the sewer line is completed and all conditions are met.

Recommendation: Make a motion for the District Manager to facilitate an agreement upon completion of the sewer line and all conditions are met.

Robert L. Lynch
District Manager

Attachment: Agreement between District 5 and Participants.

**AGREEMENT BETWEEN SANITARY DISTRICT NO.5 OF MARIN
COUNTY AND THE PARTICIPANTS OF PARADISE DRIVE
SEWER LINE EXTENSION PROJECT**

This Agreement is made this ___ day of May 2007, by and between Sanitary District No. 5 of Marin County, hereinafter referred to as SD 5 and the _____, hereinafter referred to as _____.** (all underline portions of this Agreement refer to whomever is contracting with SD5 herein)

The subject matter of this Agreement is SD 5's agreement to accept ownership and maintenance responsibilities of a sewer line that _____ will construct on the Tiburon Peninsula and SD 5's agreement to facilitate a reimbursement agreement for _____ to receive reimbursement from persons who connect to the sewer line in the future. SD 5's obligations under this Agreement **are conditioned** upon specific requirements of the sewer line that are outlined below and it should be noted that SD 5 shall have no responsibilities under this Agreement until the sewer line is constructed and all of the requirements outlined below have been met including the expirations of the statute of limitations for anyone to challenge the environmental reviews.

_____ agrees that it will construct a sewer line according to the conditions outlined below. _____ further agrees that it will retain all receipts for the construction work.

_____ agrees that SD 5's obligations under this Agreement are conditioned upon _____ meeting the following requirements to SD 5's satisfaction: (1) _____ must construct the sewer line according to approved plans and specifications, which meet current requirements of California law on the construction of a sewer main; (2) Upon completion of the construction, SD 5 shall inspect the sewer line to ensure that it meets the plans and specifications. Should the sewer line fail to meet the plans and specifications, then _____ shall make the necessary improvements so that the sewer line does meet plans and specifications; and (3) _____ shall secure all environmental reviews required by California and local laws and requirements. Environmental certifications, which evidence compliance with California law shall be submitted to SD 5 by _____. All statute of limitations involved in a challenge to the environmental reviews shall expire prior to SD 5's agreement to take over ownership and maintenance of the sewer line.

Upon _____ successful completion of the requirements outlined above, SD 5 agrees to enter into a reimbursement agreement with _____, which shall allow _____ to recover a pro-rata portion of its costs of

construction of the sewer line. Under no circumstances will a payback agreement be in excess of \$550,000.00.

Additionally, _____ agrees that SD 5 will consider the provisions of the reimbursement agreement at a public meeting with the public having input and an opportunity to be heard on each provision of the reimbursement agreement including the amount that each person must pay to hook into the new sewer line. The reimbursement agreement shall also be referred to as a payback agreement and is authorized by California Health and Safety Code Sections 6520.2 and 6522. Under no circumstances will _____ realize a profit on the construction of the sewer line since the purpose of the payback agreement is for each person that hooks into the new sewer line to pay a fair share of the costs. _____ specifically understands and agrees that the authorized amount involved in the payback agreement may, in fact, be less than the \$550,000.00 and that _____ may not be reimbursed for all of its costs of construction.

This Agreement constitutes the entire agreement between the parties. Any modification of this Agreement shall be in writing and signed by both parties. Additionally, both parties agree that no verbal representations have been made to explain any portion of this Agreement and that no verbal representations are authorized by either party to change or modify any provision or to explain the provisions of this Agreement.