

Attachment No. 1

GGSD Private Sewer Lateral Loan Program Information



GARDEN GROVE SANITARY DISTRICT PRIVATE SEWER LATERAL REPLACEMENT LOAN PROGRAM GUIDELINES

Loan funds are available to property owners of single-family residences that are seeking to repair/replace private residential sewer facilities and/or laterals. Loan funding is limited and is available on a first come first serve basis to qualified applicants. Loans are available only for a property owner's principal place of residence.

A. APPLICATION BY PROPERTY OWNER

1. Fill out information on the attached application form.
2. If available, provide any history of problems with the sewer lateral line (if you have already obtained a written or video assessment of your lateral, submit it with your application).
3. Return completed application to the Garden Grove Municipal Service Center, located at 13802 Newhope Street, Garden Grove, CA 92843.

B. DISTRICT REVIEW PROCEDURE

The following procedure is to be followed when the District receives your application:

1. The District will verify ownership of property.
2. The property owner shall obtain a written or video assessment of their sewer lateral from a licensed plumber or contractor.
3. The completed assessment documentation should be submitted to the District for review as soon as possible. The assessment will provide a detailed description of the needed work, location and cause of the break. The cost of the assessment inspection is not eligible for reimbursement from the loan.
4. Upon review of the assessment, the District will determine eligibility for the Private Sewer Lateral Replacement Loan Program and notify the property owner of their eligibility status.
5. If deemed eligible for a loan, the property owner shall obtain at least two (2) written estimates from District approved contractors for the necessary repair or replacement work and submit them to the District for review. Bids for work shall be fixed bids, without allowance for extra costs. The District cannot recommend any particular contractor.

6. All necessary City permits must be obtained.

C. LOAN PROCEDURE

1. The District shall determine the loan amount and terms based on consideration of:
 - The selected bid contractual amount
 - Loan recordation fee
 - Availability of funding from District
 - Prioritization of projects based on financial need and condition of lateral
 - Other factors deemed appropriate by District staff to fully carry out the intent and purpose of the Private Sewer Lateral Replacement Loan Program
2. The District or District's Representative shall provide the property owner with loan disclosure information.
3. Once the property owner has approved the disclosure, the District or District's Representative shall process the loan and prepare loan documents.
4. The property owner will sign the following:
 - Loan Program Agreement
 - Promissory Note
 - Deed of Trust
 - Disclosure Statement
 - Rescission Notice
5. If after the 3-day rescission period the property owner does not rescind the loan, the Deed of Trust shall be recorded at the Orange County Recorder's Office and the property owner will be given notice to have their contractor proceed with the work. All necessary City permits must be obtained prior to the commencement of the work. The work shall not be backfilled until inspected and approved by District.
6. All loan proceeds will be paid by the District or District's Representative directly to the contractor performing the work. Funds due to contractors shall be paid only in phases of the work being performed, with final payment (not less than 25% of loan) made once the work is completed and has been inspected and approved by the District and appropriate City departments.

D. LOAN TERMS

1. The maximum loan amount is \$10,000.
2. The loan will accrue simple annual interest at the current City Portfolio rate. Monthly payments of principal and accrued interest are required.
3. The loan, including any interest, is due and payable (i) 15 years from the date of the loan; (ii) upon sale, transfer, lease or encumbrance of the property; (iii) upon refinancing of any debt that is secured by a lien on the property, to the extent the refinanced loan amount exceeds the current loan amounts and refinancing costs; or (iv) upon the borrower's failure to occupy the property as his or her principal place of residence, whichever is earlier.
4. There are no pre-payment penalties if you want to pay this loan off.
5. Actual loan terms may vary from borrower to borrower depending on special circumstances.

**GARDEN GROVE SANITARY DISTRICT
PRIVATE SEWER LATERAL REPLACEMENT LOAN PROGRAM APPLICATION**

Loan funds are available to single home property owners who are seeking to repair / replace their private lateral, the portion of the lateral from the sewer main to the house. Loan funding is limited and is available on a first-come, first-serve basis. The maximum loan amount is \$10,000.



**Submit this loan application to:
Garden Grove Sanitary District
Attention: Raquel Manson
13802 Newhope Street, Garden Grove, CA 92843
Tel: (714) 741-5554**

SECTION 1: GENERAL INFORMATION *Please print clearly.*

1. Current Property Owners Names _____

2. Property Address

Street _____, Garden Grove, CA Zip _____

3. Mailing Address (if different from above)

Street _____, Garden Grove, CA Zip _____

APN # _____

4. Home Phone _____ Work Phone _____ Cell Phone _____

SECTION 2: SITE INFORMATION

1. State the nature of the problem(s):

Tree Roots Collapsed Pipe Grease/Fat Build-up Other: _____

2. How many times have you had sewer backups in the last 12 months? _____

3. Has your private sewer lateral been inspected by a license plumber? No Yes

Provide a copy of all documentation from your plumber regarding the condition of your sewer lateral.

4. Have you obtained a bid from a licensed plumber for the work? No Yes

If yes, provide the following: Name: _____
Address: _____ License# _____
Estimated Cost of Work: \$ _____

Note: Bids, assessments, and work must be completed by a licensed contractor.

5. Is there insurance claim for this work? No Yes ***Provide copy of any claim information.***

6. Please indicate which describes the property?

Owner Occupied Tenant occupied Other: _____

SECTION 3: CERTIFICATION

I certify by signing this application that I am the legal owner of the property described herein. I am aware the submission of this document does not constitute that the Garden Grove Sanitary District has approved a loan. I have read the information the Sewer Lateral Repair/Replacement Loan Program Guidelines and am aware that a letter will be issued advising if funds have been approved. Work performed prior to receiving a loan authorization is performed at my own risk.

Signature of Applicant: _____ Date: _____

Signature of Co-Applicant: _____ Date: _____

GARDEN GROVE SANITARY DISTRICT PRIVATE SEWER LATERAL LOAN AGREEMENT

THIS GARDEN GROVE SANITARY DISTRICT PRIVATE SEWER LATERAL
LOAN AGREEMENT (the "Agreement") is made as of _____, 20____, by
and between THE GARDEN GROVE SANITARY DISTRICT ("District"), and
_____ ("Owner").

RECITALS

A. District has designated funds for the establishment of a Private Sewer
Lateral Replacement Loan Program.

B. The purpose and intent of this program is to assist Garden Grove
homeowners in the repair and/or replacement of private residential sewer facilities
and/or laterals.

C. Owner desires to utilize funds from District's Private Sewer Lateral
Replacement Loan Program to make District approved repairs and or replacement of
the private sewer facilities and/or lateral located at _____
(the "Property"). The legal description of the Property is attached hereto as Exhibit "A"
and incorporated herein.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. District agrees to loan, and Owner agrees to borrow, the sum of _____
Dollars and 00/100 Cents (\$_____) (the "Loan"). Owner's obligation to
repay the Loan shall be evidenced by a Promissory Note, which is due and
payable within fifteen (15) years from the date of this Agreement, with simple
interest payable at the rate of _____ percent (____%) per annum.
Monthly payments in the amount of _____ Dollars and ___/100 Cents
(\$_____) are required. The Promissory Note shall be secured by the recordation
of a Deed of Trust as an encumbrance to the Property. The form of the
Promissory Note is attached hereto as Exhibit "B," and the form of the Deed of
Trust is attached hereto as Exhibit "C," both of which are incorporated herein.
Owner agrees to apply all funds disbursed to District approved repairs and/or
replacement of their private sewer lateral.
2. The additional conditions of the Loan are as follows:
 - 2.1 The full amount of the Loan shall be due and payable:
 - (a) 15 years from the date of the Promissory Note; or

(b) Upon refinancing of any debt that is secured by a lien on the Property except for loan amounts which do not exceed the current loan amount, plus costs of refinancing; or

(c) Upon sale, transfer, lease, or encumbrance of all or any interest in the Property, except for a transfer permitted in Paragraph 2.2; or

(d) Upon Owner's failure to occupy the Property as Owner's principal place of residence on the fifteenth (15th) anniversary thereof.

2.2 The Loan is not assumable except under the following limited circumstances:

(a) The transfer of the Property to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant;

(b) A transfer of the Property where the spouse becomes an owner of the Property;

(c) A transfer of the Property resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property; or

(d) A transfer to an inter vivos trust in which the Owner is and remains the beneficiary and occupant of the Property.

2.3 The entire proceeds of the Loan are to be used for the repair and/or replacement of the private sewer lateral of the Property with none of the funds to be used by Owner for personal use. In the event that the amount of the Loan is not sufficient to pay the entire amount of the work, Owner shall be responsible for the additional amount from Owner's own funds.

2.4 Owner shall maintain in effect, during all times funds are owing under this Agreement to District, an all risk property insurance policy on the Property in an amount not less than the replacement value of all structures on the Property. The policy shall name the District as a loss payee, and shall provide for a thirty (30) day notice of cancellation of coverage to District. Owner shall transmit a copy of the certificate of insurance and loss payee endorsement to District within thirty (30) days of the effective date of this Agreement, and Owner shall annually transmit a copy of the certificate of insurance and loss payee endorsement to District at the address set forth in Section 5 hereof. Any certificate of insurance must be in form, content, and with companies reasonably approved by the District.

3. All funds covered by the Loan are to be released by District only to duly licensed contractors authorized by law to perform the services required and for sewer improvements listed on the Scope of Work, attached hereto at Exhibit "D" and incorporated herein, which have first been approved by District. Funds due to contractors shall be paid only in phases of the work being performed, with final payment (not less than 25% of loan) made upon completion of the required work. District reserves the right to determine, at its sole discretion, which improvements are to be covered by the Loan.
4. District reserves the right to terminate and cancel the Loan and demand repayment thereof, in the event Owner fails or refuses to comply with any of Owner's obligations under this Agreement, after notice from the District and a thirty (30) day opportunity to cure.
5. Any notices required to be given under this Agreement shall be sent by first class mail, postage prepaid, to the following:

District: Garden Grove Sanitary District
 13802 Newhope Street
 Garden Grove, CA 92843
 Attn: Public Works Director

Owner: _____

6. Owner agrees that District's participation is solely for Owner's benefit and District assumes no responsibility or liability to Owner or to any other party for any obligations between Owner, contractors or third parties in carrying out the improvements on the Property.
7. Owner agrees to defend, hold harmless and indemnify District from and against any and all claims which may be brought or raised against District or any of its officers, employees, representatives or agents by Owner, Owner's contractors, or any third parties pursuant to or in any way associated with or alleged to be associated with Owner's loan or the administration of the proceeds therefrom or the activities conducted pursuant thereto.
8. In the event that either party hereto is required to bring any form of an enforcement action to enforce any provision of this Agreement or Promissory Note or Deed of Trust, the prevailing party shall be entitled to reasonable attorney's fees.
9. Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through Owner that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion,

sex, marital status, national origin, or ancestry in the sale, transfer, use, occupancy, tenure, or enjoyment of the Property.

10. The funds provided by District under this Agreement shall constitute a debt owed to District and shall be due and payable by Owner, Owner's estate or Owner's successors in interest.
11. This Agreement shall be governed by the laws of the State of California.
12. This Agreement, together with the attachments hereto, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and integrates and supersedes all prior negotiations, discussions and previous agreements between the parties.
13. This Agreement includes by reference Exhibit "E," the Truth-in-Lending Disclosure and Notice of Rescission.
14. No modification of this Agreement shall be made or effective except by a written amendment executed by Owner and District.
15. Owner may not assign its interest under this Agreement, or the Promissory Note or Deed of Trust, except as provided in the Promissory Note and Deed of Trust.

The parties hereto have executed this Agreement the day and year first appearing herein.

"DISTRICT"

"OWNER"

GARDEN GROVE SANITARY
DISTRICT

Signature

General Manager

ATTEST:

District Secretary

APPROVED AS TO FORM:

District Counsel

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"

EXHIBIT "B"
PROMISSORY NOTE

EXHIBIT "B"

EXHIBIT "C"
DEED OF TRUST

EXHIBIT "C"

EXHIBIT "D"
SCOPE OF WORK

EXHIBIT "D"

EXHIBIT "E"
TRUTH-IN-LENDING DISCLOSURE

EXHIBIT "E"

GARDEN GROVE SANITARY DISTRICT

PRIVATE SEWER LATERAL PROMISSORY NOTE

NOTICE TO BORROWER
THIS DOCUMENT IS SECURED BY
A DEED OF TRUST ON RESIDENTIAL PROPERTY

Loan No. _____ - _____

_____, 20__

FOR VALUE RECEIVED, the undersigned, _____ (the "Borrower") hereby promises to pay to the order of the Garden Grove Sanitary District ("Lender") at the following address: 13802 Newhope Street, Garden Grove, CA 92843, or at such other place as the holder may from time to time designate by written notice to Borrower, in lawful money of the United States, the principal sum of _____ Dollars (\$ _____), with simple interest at the rate of _____ percent (____%) per annum on the unpaid principal balance from the date of this Note, until paid. The obligation of the Borrower with respect to this Note is secured by that certain Private Sewer Lateral Deed of Trust, Loan No. _____ (the "Deed of Trust"), and executed by the Borrower concurrently herewith.

1. **Borrower's Obligation.** This Note evidences the obligation of the Borrower to the Lender for the repayment of funds loaned (the "Loan") to finance the repair and/or replacement of private residential sewer facilities and/or laterals located on that certain real property (the "Property"), which has the address of _____
Garden Grove

(Street) (City)
California, _____, and which is more fully described in Exhibit A of the Deed of Trust.
(Zip code)

2. **Repayment of Loan Principal and Interest.** Principal and interest due under this Note shall be payable in monthly installments of _____ Dollars (\$ _____) or more, beginning _____, 20__, and continuing thereafter on the 1st day of each month until the entire Loan is paid. In addition, Borrower agrees to pay the unpaid principal balance, unpaid accrued interest, and any other amounts due under this Note upon the earlier of:

- (a) 15 years from the date of this Note; or
- (b) Upon refinancing of any debt that is secured by a lien on the Property except for loan amounts which do not exceed the current loan amount, plus costs of refinancing; or
- (c) Upon sale, transfer, lease, or encumbrance of all or any interest in the Property, except for a transfer permitted in Paragraph 3; or
- (d) Upon Borrower's failure to occupy the Property as Borrower's principal place of residence.

3. **Permitted Transfers.**

The Loan is not assumable except under the following limited circumstances:

- (a) The transfer of the Property to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant.
- (b) A transfer of the Property where the spouse becomes an owner of the property;
- (c) A transfer of the Property resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property.

- (d) A transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.
4. **Acceleration of Payment.** The principal amount of this loan, together with any then outstanding accrued interest thereon shall become immediately due and payable, at the option of the holder and without demand or notice, upon the occurrence of any of the following events:
- (a) In the event of a default under the terms of this Note or the Deed of Trust;
 - (b) In the event that the Borrower shall cease to occupy the Property as Borrower's principal place of residence; or
 - (c) In the event of any sale, transfer, lease, or encumbrance of the Property in violation of Paragraph 3 of this Promissory Note.
5. **Effect of Due-on Sale Clause.** Failure of the holder to exercise the option to accelerate payment as provided in Paragraph 4 of this Note will not constitute waiver of the right to exercise this option in the event of subsequent cause for acceleration. Failure by Borrower to occupy the Property as Borrower's principal place of residence shall be considered an on-going event of default under this Note.
6. **Place and Manner of Payment.** All amounts due and payable under this Note are payable at the principal office of the Lender set forth above, or at such other place or places as the Lender may designate to the Borrower in writing from time-to-time.
7. **Application of Payments.** All payments received on account of this Note shall be first applied to accrued interest, if any, and the remainder shall be applied to the reduction of principal.
8. **Attorney's Fees.** The Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the Lender in the enforcement of this Note.
9. **Default and Acceleration.** All covenants, conditions and agreements contained in the Deed of Trust are hereby made a part of this Note. The Borrower agrees that the unpaid balance of the then principal amount of this Note, together with all accrued interest thereon and charges owing, shall, at the option of the Lender or, if so provided in this Note and Deed of Trust executed by the Borrower, shall automatically, become immediately due and payable, and thereafter until paid bear interest at the rate of 10% per annum, compounded annually, upon the failure of the Borrower to make any payment hereunder as and when due; upon the failure of the Borrower to perform or observe any other term or provision of this Note, or upon the occurrence of any event (whether termed default, event of default or similar term) which under the terms of the Deed of Trust, shall entitle the Lender to exercise rights or remedies thereunder.
10. **Notices.** Except as may be otherwise specified herein, any approval, notice, direction, consent, request or other action by the Lender shall be in writing and must be communicated to the Borrower at the address of the Property, or at such other place or places as the Borrower shall designate to the Lender in writing, from time to time, for the receipt of communications from the Lender. Mailed notices shall be deemed delivered and received five (5) working days after deposit in the United States mails in accordance with this provision
11. **Prepayment Policy:** Borrower may prepay this Note at any time without penalty.
12. **Governing Law.** This Note shall be construed in accordance with and be governed by the laws of the State of California.
13. **Severability.** If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
14. **No Waiver by the Lender.** No waiver of any breach, default or failure of condition under the terms of the Note or Deed of Trust shall thereby be implied from any failure of the Lender to take, or any delay by the Lender in taking action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure; and a waiver of any term of the Note, Deed of Trust, or any of the

obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

15. **Successors and Assigns.** The promises and agreements herein contained shall bind and inure to the benefit of, as applicable, the respective heirs, executors, administrators, successors and assigns of the parties.

Executed as of the date set forth above at _____
City and State

Borrower

Borrower

Mailing Address for Notices:

_____ +

- (a) As may hereafter be borrowed from Lender by the then-record owner of the Property and evidenced by a promissory note or notes reciting that it or they are so secured and all modifications, extensions, or renewals of the Note; and
- (b) As may be incurred, paid, or advanced by Lender, or as may otherwise be due to Trustee or Lender, under any provision of this Deed of Trust and any modification, extension, or renewal of this Deed of Trust; and
- (c) As may otherwise be paid or advanced by Lender to protect the security or priority of this Deed of Trust.

2.3. Performance of each obligation, covenant, and agreement of Borrower contained in this Deed of Trust, the Note, or any other document executed by Borrower in connection with the loan(s) secured by this Deed of Trust, and all amendments to these documents whether set forth in this Deed of Trust or incorporated in this Deed of Trust by reference.

3. **BORROWER COVENANTS:**

Borrower hereby covenants to maintain and protect the security of this Deed of Trust, to secure the full and timely performance by Borrower of each and every obligation, covenant, and agreement of Borrower under the Note and this Deed of Trust, and as additional consideration for the obligation(s) evidenced by the Note, Borrower covenants as follows:

3.1. **Title.** That Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that Borrower will warrant and defend generally the title of the Property against all claims and demands subject to any declarations, easements, or restrictions listed in the schedule of exemptions to coverage in any title insurance policy insuring Lender's interest in the Property.

3.2. **Payment of Principal and Interest.** That Borrower shall promptly pay, when due, the principal and interest on the Note, and such other charges as are provided in the Note, and such other amounts as are provided under this Deed of Trust.

3.3. **Maintenance of the Property.** (a) To keep the Property in a decent, safe, sanitary, tenantable condition and repair and permit no waste thereof; (b) not to commit or suffer to be done or exist on or about the Property any condition causing the Property to become less valuable; (c) remove, demolish or structurally alter any buildings and improvements now or hereinafter located on the Property; (d) to repair, restore or rebuild promptly any buildings or improvements on the Property that may become damaged or be destroyed while subject to the lien of this Deed of Trust; (e) to comply with all applicable laws, ordinances and governmental regulations affecting the Property or requiring any alteration or improvement thereof, and not to suffer or permit any violations of any such law, ordinance or governmental regulation, nor of any covenant, condition or restriction affecting the Property; (f) not to initiate or acquiesce in any change in any zoning or other land use or legal classification which affects any of the Property without the Lender's written consent; and (g) not to alter the use of all or any part of the Property without the prior written consent of the Lender.

3.4. **Appear and Defend.** Borrower shall appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Lender or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which the Lender or Trustee may appear, and in any suit brought by the Lender to foreclose this deed.

3.5. **Payment of Taxes and Utility Charges.** Borrower shall pay, at least ten (10) days before delinquency all taxes and assessments affecting the Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, fines and impositions attributable to the Property, leasehold payments or ground rents, if any, and any interest on the Property or any part thereof; all costs, fees and expenses of this trust. Borrower shall make such payments when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and Borrower shall promptly furnish to Lender receipts evidencing all such payments made.

3.6. **Insurance.** To keep the Property insured with loss payable to the Lender, against loss or damage by fire and such other hazards, casualties and contingencies and by such companies on such forms and in the amount of the replacement cost of the Property, and to deliver the original of all such policies to the Lender, together with receipts satisfactory to the Lender evidencing payment of the premiums. All such policies provide that the Lender shall be given thirty (30) days advance written notice of the cancellation, expiration or termination of any such policy or any material change in the coverage afforded by it. Renewal policies and any replacement policies, together with premium receipts satisfactory to the Lender, shall be delivered to the Lender at least thirty (30) days prior to the expiration of existing policies. Neither Trustee nor the Lender shall by reason of accepting, rejecting, approving or obtaining insurance incur any liability for the existence, nonexistence, form or legal sufficiency

of such insurance, or solvency of any insurer for payment of losses. All insurance proceeds for such losses must be utilized for the repair or restoration of the insured property.

3.7. **Payments and Discharge of Liens.** Borrower will pay, when due, all claims of every kind and nature which might or could become a lien on the Property or any part thereof; provided, however, that the following are excepted from this prohibition: (a) liens for taxes and assessments which are not delinquent although by law are given the status of a lien, and (b) such of the above claims as are, and only during the time they are, being contested by Borrower in good faith and by appropriate legal proceedings, and Borrower shall post security for the payment of these contested claims as may be requested by the Lender. Borrower shall not default in the payment or performance of any obligation secured by a lien, mortgage or deed of trust which is superior to this Deed of Trust.

4. **IT IS MUTUALLY AGREED THAT:**

4.1. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and Section 2.1 shall be applied by Lender first to interest payable on the Note and then to the principal due on the Note.

4.2. **Future Advances.** Upon request by Borrower, Lender, at Lender's option, may make future advances to Borrower. All such future advances, with interest thereon, shall be added to and become a part of the indebtedness secured by this Deed of Trust when evidenced by promissory note(s) reciting that such note(s) are secured by this Deed of Trust.

4.3. **Disbursements to Protect Lender's Security.** All sums disbursed by Lender to protect and preserve the Property, this Deed of Trust, or Lender's security for the performance of Borrower's obligations under the Note shall be and be deemed to be an indebtedness of Borrower secured by this Deed of Trust.

4.4. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, arrangements or proceedings involving a bankrupt or decedent, foreclosure of any mortgage secured by the Property or sale of the Property under a power of sale of any instrument secured by the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearance, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Section 4.4, with interest thereon, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. Nothing contained in this Section 4.4 shall require Lender to incur any expense or take any action hereunder.

4.5. **Inspection.** Lender or its agent may make or cause to be made reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to any such inspection specifying reasonable cause for the inspection

4.6. **Awards and Damages.** All judgments, awards of damages, settlements and compensation made in connection with or in lieu of (a) taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (b) any damage to or destruction of the Property or any part thereof by insured casualty, and (c) any other injury or damage to all or any part of the Property, are hereby assigned to and shall be paid to the Lender. The Lender is authorized and empowered (but not required) to collect and receive any such sums and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Lender shall determine at its option. The Lender shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Lender may be released to Borrower upon such conditions as the Lender may impose for its disposition. Application of all or any part of the amounts collected and received by the Lender or the release thereof shall not cure or waive any default under this Deed of Trust. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sum secured by this Deed of Trust.

4.7. **Prohibition on Transfers of Interest.** With the exception of the transfers permitted in Section 4.11 below, if all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Security Instrument to be immediately due and payable. If Lender

exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with Section 6.9 hereof. Such notices shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by Section 5.2(a) hereof.

4.8. Sale or Forbearance. No sale of the Property, forbearances on the part of the Lender or extension of the time for payment of the indebtedness hereby secured shall operate to release, discharge, waive, modify, change or affect the liability of Borrower either in whole or in part.

4.9. The Lender's Rights to Release. Without affecting the liability of any person for payment of any indebtedness hereby secured (other than any person released pursuant hereto), including without limitation any one or more endorsers or guarantors, and without affecting the lien hereof upon any of the Property not released pursuant hereto, at any time and from time to time without notice: (a) The Lender may, at its sole discretion, (I) release any person now or hereafter liable for payment of any or all such indebtedness, (II) extend the time for or agree to alter the terms of payment of any or all of such indebtedness, and (III) release or accept additional security for such indebtedness, or subordinate the lien or charge hereof; and (b) Trustee, acting pursuant to the written request of the Lender, may reconvey all or any part of the Property, consent to the making of any map or plot thereof, join in granting any assessment thereon, or join in any such agreement of extension or subordination.

4.10. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing indebtedness secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any. The recitals in the reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

4.11. Requirement of Owner-occupancy and Permitted Transfers. Borrower shall occupy the Property as Borrower's principal place of residence during the term of the Note. Notwithstanding any other provision of the Note or this Deed of Trust, the following transfers shall not be deemed to be a default under the Note or this Deed of Trust:

- (a) The transfer of the Property to the surviving joint tenant by devise, descent or operation of the law, on the death of a joint tenant.
- (b) A transfer of the Property where the spouse becomes an owner of the property;
- (c) A transfer of the Property resulting from a decree of dissolution of marriage, legal separation or from an incidental property settlement agreement by which the spouse becomes an owner of the Property.
- (d) A transfer to an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.

5. EVENTS OF DEFAULT

5.1. Events of Default. Any one or more of the following events shall constitute a default under this Deed of Trust (a) failure of the Borrower to pay the indebtedness secured hereby or any installment thereof, whether principal, interest or otherwise, when and as the same become due and payable, whether at maturity or by acceleration or otherwise; or (b) failure of Borrower to observe or to perform any covenant condition or agreement to be observed or performed by Borrower pursuant to the Note or this Deed of Trust including but not limited to the occupancy of property by Borrower provision; or (c) the occurrence of any event which, under the terms of the Note, shall entitle the Lender to exercise the rights or remedies thereunder; or (d) the occurrence of any event which, under the terms of any senior note or deed of trust shall entitle the Lender to exercise the rights or remedies thereunder.

5.2. Acceleration and Sale.

(a) **Acceleration.** Except as provided in Section 4.7, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, upon Borrower's failure to make any payment or to perform any of its obligations, covenants and agreements pursuant to the Note, Lender shall mail notice to Borrower as provided in Section 6.9 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, no less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower

of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect from the Borrower, or sale proceeds, if any, all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

(b) **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust, Borrower will have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of the judgment enforcing this Deed of Trust if: (1) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note, had no acceleration occurred; (2) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, remedies including, but not limited to, reasonable attorneys' fees; and (3) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

(c) **Sale.** After delivery to Trustee of a Notice of Default and Demand for Sale and after the expiration of such time and the giving of such notice of default and sale as may then be required by law, and without demand on Borrower Trustee shall sell the Property at the time and place of sale fixed by it in said notice of sale, at public auction to the highest bidder for cash in lawful money of the United States of America, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale and from time to time thereafter may postpone such sale by public announcement at the time and place fixed by the preceding postponement. Any person, including Borrower, Trustee or the Lender, may purchase at such sale. Upon such sale by Trustee it shall deliver to such purchaser its deed conveying the Property so sold, but without any covenant or warranty expressed or implied. The recitals in such deed of any matters or facts shall be conclusive proof of their truthfulness. Upon sale by Trustee and after deducting all costs, expenses and fees of Trustee and of this Deed of Trust, Trustee shall apply the proceeds of sale to the payment of the principal indebtedness hereby secured, whether evidenced by the Note or otherwise, or representing advances made or costs or expenses paid or incurred by the Lender under this Deed of Trust, or the secured obligations or any other instrument evidencing or securing any indebtedness hereby secured and to the payment of all other sums then secured thereby, including interest as provided in this Deed of Trust, the secured obligations or any other such instrument, in such order as the Lender shall direct; and then the remainder, if any, shall be paid to the person or persons legally entitled thereto.

(d) **Assignment of Rents; Appointment of Receiver; Lender in Possession.** Upon acceleration under paragraph (a) of Section 5.2 hereof or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property (if any) including those past due. All rents collected by Lender or the Receiver shall be applied first to payment of the costs of management of the Property and collection of rents including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Security Instrument. Lender and the receiver shall be liable to account only for those rents actually received. The provisions of this paragraph and paragraph (a) of Section 5.2 shall operate subject to the claims of prior lien holders.

5.3. **Exercise of Remedies; Delay.** No exercise of any right or remedy by the Lender or Trustee hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law, and no delay by the Lender or Trustee in exercising any such right or remedy hereunder shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

5.4. **Trustee Substitution.** The irrevocable power to appoint a substitute trustee or trustees hereunder is hereby expressly granted to the Lender, to be exercised at any time hereafter, without specifying any reason therefore by filing for record in the office where this Deed of Trust is recorded a deed of appointment, and said power of appointment of successor trustee or trustees may be exercised as often as and whenever the Lender deems advisable. The exercise of said power of appointment, no matter how often, shall not be deemed an exhaustion thereof, and upon recording of such deed or deeds of appointment, the trustee or trustees so appointed shall thereupon, without further act or deed of conveyance, succeed to and become fully vested with identically the same title and estate in and to the Property hereby conveyed and with all the rights, powers, trusts and duties of the predecessor in the trust hereunder, with the like effect as if originally names as trustee or as one of the trustees.

5.5. **Remedies Cumulative.** No remedy herein contained or conferred upon the Lender or Trustee is intended to be exclusive of any other remedy or remedies afforded by law or by the terms hereof to the Lender or Trustee but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

6. MISCELLANEOUS PROVISIONS

6.1. **Successors, Assigns, Gender, Number.** The covenants and agreements contained in this Deed or Trust shall bind, and the benefit and advantages under it shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties. Wherever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

6.2. **Headings.** The headings are inserted only for convenience of reference and in no way define, limit, or describe the scope or intent of this Deed of Trust, or of any particular provision thereof, or the proper construction thereof.

6.3. **Actions on Behalf of the Lender.** Except as otherwise specifically provided herein, whenever any approval, notice, direction, consent, request or other action by the Lender is required or permitted under this Deed of Trust, such action shall be in writing.

6.4. **Terms.** The words "the Lender" means the present Lender, or any future owner or holder, including pledgee of the indebtedness secured hereby.

6.5. **Obligations of Borrower.** If more than one person has executed this Deed of Trust as "Borrower," the obligations of all such persons hereunder shall be joint and several.

6.6. **Severability.** If any provision of this Deed of Trust shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

6.7. **Indemnification.** Borrower will indemnify and hold the Lender, its officers and agents harmless against any and all losses, claims, demands, penalties and liabilities which the Lender, its officers or agents may sustain or suffer by reason of anything done or omitted in good faith pursuant to or in connection with this Deed of Trust and not assert any claim against the Lender, its officers or agents by reason of any action so taken or omitted. Borrower shall, at Borrower's expense, defend, indemnify, save and hold the Lender, its officers and agents harmless from any and all claims, demands, losses, expenses, damages (general, punitive or otherwise), causes of action (whether legal or equitable in nature) asserted by any person, firm, corporation or other entity arising out of this Deed of Trust and Borrower shall pay the Lender upon demand all claims, judgments, damages, losses or expenses (including reasonable legal expense) incurred by the Lender as a result of any legal action arising out of this Deed of Trust.

6.8. **Notice.** Except for any notice required under applicable law to be given in another manner (a) any notice to Borrower provided for in this Deed of Trust shall be given by mailing such notice by certified mail directed to the Property Address or any other address Borrower designates by notice to Lender as provided herein; and, (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's mailing address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall deem to have been given to Borrower or Lender when given in the manner designated herein.

6.9. **Statement of Obligation.** Lender may collect a fee not to exceed \$15 for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

6.10. **Use of Property.** Borrower shall not permit or suffer the use of any of the Property for any purpose other than as a single family residential dwelling.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust on the day and year set forth above. By signing below, Borrower agrees to the terms and conditions as set forth above.

MAILING ADDRESS FOR NOTICES:

SIGNATURE OF BORROWER(s):

(Street)

(City) (State) (Zip)

Acknowledgements

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On _____, 20 __, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature _____

EXHIBIT "A"
LEGAL DESCRIPTION

TRUTH- IN -LENDING DISCLOSURE STATEMENT

- | | | |
|----|-------------------------|-------------|
| 1. | CONTRACT AMOUNT | \$ _____ |
| 2. | CONTINGENCY AMOUNT | \$ _____ |
| 3. | TOTAL FINANCE CHARGES | \$ _____ |
| 4. | TOTAL AMOUNT FINANCED | \$ _____ |
| 5. | INTEREST | \$ _____ |
| 6. | TOTAL PAYMENTS | \$ _____ |
| 7. | ANNUAL PERCENTAGE RATE: | <u>TBD%</u> |

Interest will be due and accumulate at a non-compounding simple interest rate of ___% per year for a period of 15 years from the date of this loan. Annual interest rate shall be calculated as follows: (simple interest rate of ___%) x (amount of unpaid principal). Total interest shall be the sum of the annual interest amounts as annually calculated throughout the term of the loan. Interest shall not be compounded.

8. THE TOTAL OF PAYMENTS IS \$ _____, payable in 180 equal monthly installments of _____ Dollars (\$ _____), beginning _____, 20__, and continuing thereafter on the 1st day of each month until the entire loan is paid. In addition, the loan will become immediately due and payable for reasons outlined in the Garden Grove Sanitary District Private Sewer Lateral Loan Agreement.

9. SECURITY

Regardless of any other agreement between the District and you, or any third party, which now exists, this loan will be secured by a Deed of Trust covering real property, located at _____ in the City of Garden Grove, California.

10. PREPAYMENT

There is no prepayment penalty. The loan can be paid in full at any time.

11. PROPERTY INSURANCE

Property insurance is required on the collateral described above. This insurance cannot be obtained from or through the District; you may choose the person through whom the insurance is obtained. The insurer must be acceptable to the District.

12. CREDIT INSURANCE

Credit life insurance or credit life and disability insurance are not required as a condition to this loan. Such insurance will not be provided in connection with this loan.

The undersigned requests the Garden Grove Sanitary District to proceed with the making to the above-described loan in reliance upon the foregoing representations.

Date: _____ Owner: _____

EXPIRATION OF RESCISSION PERIODS
Direct Loans
(Truth in Lending –Garden Grove Sanitary District Private Sewer Lateral Loan)

Owner's Name	Loan Amount	Address
	\$10,000.00	

In connection with the agreement of Garden Grove Sanitary District to make the loan described above, which will be secured by a Deed of Trust on the residence listed above, each of the undersigned hereby represents as follows:

1. The undersigned understands the terms of this Agreement and its attachments.
2. The undersigned will inform the Garden Grove Sanitary District within three days of today's date should any of them desire to rescind or terminate this transaction.
3. The undersigned acknowledges that this loan will not be funded for at least three days from today, in order to provide them with an opportunity to rescind should they so desire.
4. The Garden Grove Sanitary District agreed, subject only to the occurrence of certain conditions, to make the above described loan and delivered to each of the undersigned a Disclosure Statement setting forth the terms of said loan and a Notice of Right of Rescission advising each of the undersigned of their right to rescind and cancel said transaction in accordance with the Truth in Lending Act on or before the date the undersigned executed this document.
5. Prior to the date shown on the next page, no proceeds of said loan have been disbursed to or for the benefit of any of the undersigned.
6. None of the undersigned have canceled or rescinded the above described loan transaction nor have any of the undersigned notified said District of any intention to cancel or rescind said loan transaction.

The undersigned requests the Garden Grove Sanitary District to proceed with the making of the above-described loan in reliance upon the foregoing representations.

Owner's Signature

Date

PRIVATE SEWER LATERAL
LOAN PROGRAM
January 22, 2008
Page 2

improvement loans. The amended contract will expand the scope of work to include administration of the Private Sewer Lateral Loan Program. Ameri-National will process loan documents, record and track payments, and provide other necessary loan management services.

FINANCIAL IMPACT

There is no financial impact to the General Fund. Sewer Enterprise funds for the program are available in the adopted budget.

COMMUNITY VISION

To maintain and upgrade the sewer system to ensure maximum protection of public health and the environment by implementing programs and policies to prevent sewer system overflows, as outlined in the City's Strategic Plan.

RECOMMENDATION

It is recommended that the Garden Grove Sanitary District Board:

- Approve the proposed Private Sewer Lateral Loan Program
- Authorize the General Manager or his designee to execute all loan documents necessary to implement the program

KEITH G. JONES
Director of Public Works

By: Ann Cao
Sr. Administrative Analyst

Attachment: Private Sewer Lateral Loan Program Guidelines

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LODGED
JAN 26 2006
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION AT SANTA ANA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ORANGE COUNTY COASTKEEPER, a non-profit organization,
Plaintiff,
v.
THE CITY OF GARDEN GROVE, a municipal corporation,
Defendant.

CASE NO.: SACV 05-66 JVS (MLGx)
STIPULATED DISMISSAL and SETTLEMENT AGREEMENT;
(PROPOSED) ORDER

(Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1387)

Plaintiff Orange County Coastkeeper ("Coastkeeper") and defendants City of Garden Grove and Garden Grove Sanitary District (collectively, "Garden Grove"), by and through their attorneys of record, hereby enter into this stipulation, dismissal, and settlement agreement.

WHEREAS, Orange County Coastkeeper is a non-profit corporation dedicated to the

1 preservation, protection and defense of the environment, the wildlife and the natural
2 resources of the coastal waters in Orange County;

3 WHEREAS, Garden Grove operates the sewage collection system for the City of
4 Garden Grove;

5 WHEREAS, on January 18, 2005, Plaintiff Coastkeeper filed an action against
6 Garden Grove alleging violations of the Clean Water Act in the form of Sanitary Sewer
7 Overflows ("SSOs") pursuant to the citizen suit provision of the Clean Water Act (33 U.S.C.
8 section 1365 et seq.);

9 WHEREAS, Coastkeeper filed its lawsuit in the United States District Court, Central
10 District of California, and such lawsuit was designated as case number SACV 05-0066 JVS
11 (MLGx) ("Complaint");

12 WHEREAS, Coastkeeper and Garden Grove have agreed to settle this matter and
13 enter into this Agreement to avoid further expense and the uncertainty of litigation;

14 WHEREAS, Garden Grove and Coastkeeper have engaged in extensive discussions
15 and freely exchanged information without resorting to formal discovery as otherwise
16 allowed under the Federal Rules of Civil Procedure;

17 WHEREAS, Garden Grove and Coastkeeper agree that Coastkeeper has standing
18 to bring this lawsuit;

19 WHEREAS, Garden Grove denies all allegations of the 60-Day Notice and
20 Complaint;

21 WHEREAS, Coastkeeper and Garden Grove have agreed that it is in the Parties'
22 mutual interest to enter into the attached Settlement Agreement setting forth terms and
23 conditions appropriate to resolving the allegations set forth in the Complaint and 60-Day
24 Notice without further proceedings;

25 WHEREAS, Coastkeeper shall submit this Stipulated Dismissal and Settlement
26 Agreement to the United States Department of Justice and United States Environmental
27 Protection Agency for the statutory review period pursuant to 33 U.S.C. § 1365(c) and 40
28 C.F.R § 135.5 concurrent with its filing with the Court, and parties agree to work in good

1 faith to incorporate any comments those Federal entities may make;

2 WHEREAS, all actions taken by Garden Grove pursuant to this Agreement shall be
3 made in compliance with all applicable federal, state and local rules and regulations;

4 WHEREAS, a copy of the Settlement Agreement is incorporated hereinto and
5 attached as Attachment I to this stipulated dismissal and order;

6 NOW THEREFORE, the Parties jointly stipulate as follows:

7 1. The Court has jurisdiction over the subject matter of this action pursuant to
8 Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A);

9 2. Venue is appropriate in the Central District Court pursuant to Section
10 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the Garden Grove Facilities at which
11 the alleged violations took place are located within this District;


12 3. The Parties request that this Court retain jurisdiction over this action for the
13 purpose of enforcing compliance by the Parties with the terms of the Settlement Agreement
14 and;

15 4. Coastkeeper's Action against Garden Grove will be dismissed with prejudice
16 after expiry of the 45-day comment period for the United States Environmental Protection
17 Agency and the Department of Justice.

18 Dated: 25 Jan 2006

LAWYERS FOR CLEAN WATER, INC.

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By: 
DANIEL COOPER, Attorneys for
Orange County Coastkeeper

WOODRUFF, SPRADLIN & SMART, P.C.

By: _____
Thomas L. Woodruff
Patrick M. Desmond
Attorneys for Defendants
CITY OF GARDEN GROVE and
GARDEN GROVE SANITARY

1 faith to incorporate any comments those Federal entities may make;

2 WHEREAS, all actions taken by Garden Grove pursuant to this Agreement shall be
3 made in compliance with all applicable federal, state and local rules and regulations;

4 WHEREAS, a copy of the Settlement Agreement is incorporated hereinto and
5 attached as Attachment I to this stipulated dismissal and order;

6 NOW THEREFORE, the Parties jointly stipulate as follows:

7 1. The Court has jurisdiction over the subject matter of this action pursuant to
8 Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A);

9 2. Venue is appropriate in the Central District Court pursuant to Section
10 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the Garden Grove Facilities at which
11 the alleged violations took place are located within this District;

12 3. The Parties request that this Court retain jurisdiction over this action for the
13 purpose of enforcing compliance by the Parties with the terms of the Settlement Agreement
14 and;


15 4. Coastkeeper's Action against Garden Grove will be dismissed with prejudice
16 after expiry of the 45-day comment period for the United States Environmental Protection
17 Agency and the Department of Justice.

18 Dated: January 26 2006

LAWYERS FOR CLEAN WATER, INC.

19
20
21 By: _____
DANIEL COOPER, Attorneys for
Orange County Coastkeeper

22
23 WOODRUFF, SPRADLIN & SMART, P.C.

24
25
26 By:  _____
Thomas L. Woodruff
Patrick M. Desmond
Attorneys for Defendants
CITY OF GARDEN GROVE and
GARDEN GROVE SANITARY

DISTRICT[PROPOSED] ORDER

Based on the above stipulation of the parties,

IT IS HEREBY ORDERED that the 45-day statutory comment period having expired, the above captioned action is dismissed with prejudice as to Garden Grove.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over this matter for the purpose of enforcing compliance by the Parties with the terms of the Settlement Agreement.

IT IS SO ORDERED.

DATED: _____

The Honorable James V. Selna
UNITED STATES DISTRICT JUDGE
CENTRAL DISTRICT OF CALIFORNIA

Submitted by
LAWYERS FOR CLEAN WATER, INC.

By _____

Daniel Cooper
Attorney for Plaintiff
ORANGE COUNTY COASTKEEPER

ATTACHMENT 1
SETTLEMENT AGREEMENT

I. INTRODUCTION

This Settlement Agreement ("Agreement") is made and intended to become effective upon entry by the Court ("Effective Date"), by and between Orange County Coastkeeper ("COASTKEEPER") and the City of Garden Grove and Garden Grove Sanitary District ("GARDEN GROVE").

NOW, THEREFORE, without adjudication of any issue of fact or law, the Parties to this Agreement, by their authorized officials, agree as follows:

II. EFFECT OF AGREEMENT

1. Upon the Effective Date of this Agreement, COASTKEEPER hereby releases GARDEN GROVE, and each of its heirs, executors, council members, directors, administrators, successors, assigns, partners, officers, agents, servants and employees, from any and all alleged Clean Water Act violations that have or could have been claimed in the Complaint, known or unknown, up through the Effective Date of this Agreement. Except for future claims that GARDEN GROVE failed to comply with the Agreement, COASTKEEPER further releases GARDEN GROVE, and its successors and assigns, from all claims pertaining to alleged violations of the Clean Water Act related to the operation of its collection system and Municipal Separate Stormwater Sewer System ("MS4") that may occur between the Effective Date and the Termination Date of this Agreement.

2. Upon the Effective Date of this Agreement, GARDEN GROVE hereby releases COASTKEEPER and its members, attorneys, agents, and employees from any and all liability, including liability for penalties, mitigation, attorney's fees, expert fees and other costs of litigation arising out of the claims asserted in the Complaint.

3. This Agreement is not, and shall not be construed as an admission on the part of GARDEN GROVE of any of the allegations set forth by COASTKEEPER in the Complaint. Rather, this Agreement represents a commitment on the part of GARDEN

1 GROVE to implement its Sewer System Rehabilitation Plan ("SSRP") and System
2 Evaluation and Capacity Assurance Plan ("SECAP"), both of which were previously
3 submitted to the Santa Ana Regional Water Quality Control Board ("RWQCB") as required
4 by RWQCB Order No. R8-2002-0014. GARDEN GROVE's SECAP is attached hereto as
5 Exhibit "A" and GARDEN GROVE's SSRP is attached hereto as Exhibit "B".

6 III. TERMS

7 A. System Capacity Assessment

8 5. As set forth in its SECAP, GARDEN GROVE shall consider pipes within its
9 existing collection system to be Capacity ("Capacity") deficient when the depth to diameter
10 ratio is above 0.62 at peak dry weather flows.

11 6. As set forth in its SECAP, all new pipes added by GARDEN GROVE to its
12 collection system which are 15 inches in diameter or smaller shall be designed to flow at or
13 below a depth to diameter ratio of .5 during peak dry weather flows.

14 7. As set forth in its SECAP, all new pipes added by GARDEN GROVE to its
15 collection system which are 18 inches in diameter and larger will be designed to flow at or
16 below a depth to diameter ratio of .62 during peak dry weather flows.

17 8. As set forth in its SECAP, average dry weather flows in GARDEN GROVE's
18 collection system were estimated using unit flow factors, extensive flow monitoring data
19 and hydraulic modeling. COASTKEEPER represents that it has been given sufficient
20 opportunity to review, and that it has reviewed the data and methodology used by
21 GARDEN GROVE, in calculating average dry weather flows in its collection system.
22 COASTKEEPER agrees that this method, which is set forth in GARDEN GROVE's SECAP,
23 is an appropriate method for calculating average dry weather flows in GARDEN GROVE's
24 collection system.

25 9. As set forth in its SECAP, GARDEN GROVE shall use the following formula
26 to calculate peak dry weather flows within its collection system:

27
$$Q_{pdw} = 2.0 \times Q_{adw}^{0.92}$$

28 Where Q_{pdw} =peak dry weather flow and Q_{adw} =average dry weather

1 flow; and

2 Where Q_{adw} and Q_{pdw} are in units of cubic feet per second

3 10. As set forth in its SECAP, GARDEN GROVE shall use the following formula
4 to calculate peak wet weather flows within its collection system:

$$5 \quad Q_{pww} = 1.4 \times Q_{pdw}$$

6 Where Q_{pww}=peak wet weather flow and Q_{pdw}=peak dry weather flow; and

7 Where Q_{pww} and Q_{pdw} are in units of cubic feet per second

8 **B. System Condition Assessment/Inspection**

9 11. In February 2004, GARDEN GROVE undertook to inspect and assess its
10 entire collection system via closed circuit television ("CCTV") to identify Condition
11 ("Condition") defects in its collection system ("Initial Condition Assessment Project").
12 GARDEN GROVE shall complete its Initial Condition Assessment Project by July 1, 2008.
13 In 2004, GARDEN GROVE inspected and assessed 19% of its sewage collection system.
14 GARDEN GROVE's goals for inspecting and assessing the remaining 81% of its sewage
15 collection system are as follows:

16 Year Goal Percentage to Inspect and Assess

17 2005 25%

18 2006 28%

19 2007 28%

20
21 12. GARDEN GROVE will use the following grading system to rank identified
22 Condition deficiencies in its collection system during the Initial Condition Assessment
23 Project:

24 No Defects: Pipes with no structural, operation and maintenance or construction
25 feature defects

26 Minor: Pipes with slight sags, cracks, and small joint offsets

27 Moderate: Pipes with fractures, cracks, small and medium joint
28 offsets

1 Major: Pipes with multiple fractures, medium joint offsets and sags

2 Severe: Deformed pipe, hole in pipe, broken pipe and large joint offsets

3 Such grading shall be performed in accordance with the SSRP attached hereto as
4 Exhibit "B."

5 13. After completion of the Initial Condition Assessment Project, GARDEN
6 GROVE shall reinspect its collection system, via CCTV, according to the following
7 schedule:

8 a.. Portions of GARDEN GROVE's collection system ranked No Defects
9 and Minor shall be CCTV inspected and evaluated once every ten
10 years.

11 b.. Portions of GARDEN GROVE's collection system ranked Moderate
12 shall be CCTV inspected and evaluated once every five years.

13 c. Portions of GARDEN GROVE's collection system ranked Major shall
14 be CCTV inspected and evaluated once every three years.

15 d. Portions of GARDEN GROVE's collection system ranked Severe shall
16 be CCTV inspected annually and evaluated to determine if immediate
17 corrective action is needed.

18 e. Portions of GARDEN GROVE's collection system with operational and
19 maintenance deficiencies, except identified hot spots, shall be CCTV
20 inspected and evaluated once every four years.

21 14. As structural deficiency mitigation projects are implemented by GARDEN
22 GROVE, reaches of GARDEN GROVE's collection systems affected by such projects shall
23 have their conditions reclassified for purposes of Condition assessment and follow-up
24 CCTV inspection and evaluation.

25 **C. Condition and Capacity Capital Improvements**

26 15. GARDEN GROVE will implement Condition deficiency correction projects and
27 Capacity deficiency mitigation projects (collectively referred to as "Capital Improvement
28 Projects") to its collection system as more particularly set forth in this Agreement.

1 16. GARDEN GROVE shall implement Capacity deficiency mitigation projects
2 necessary to address currently identified Capacity deficiencies in its collection system.
3 GARDEN GROVE shall do so by following the capital improvement schedule set forth in
4 Table 5 of its SECAP, which is attached hereto as Exhibit "A" and referenced in Section 4
5 above.

6 17. In any fiscal year which spans from July 1 to June 30 of the following year,
7 GARDEN GROVE will spend a minimum of \$3,500,000 (July 2005 dollars) on Capital
8 Improvement Projects to address Capacity and Condition deficiencies during the term of
9 this Agreement. GARDEN GROVE's average expenditures, including assessment, design
10 and construction of Capital Improvement Projects to address Capacity and Condition
11 deficiencies for any consecutive three fiscal year period will be greater than or equal to
12 \$5,000,000 per year. The average expenditures shall be calculated by taking the total
13 expenditures over a consecutive three-year period and dividing it by three. For the
14 purposes of this Agreement, funds shall be deemed expended by GARDEN GROVE if they
15 are actually spent or encumbered by a valid enforceable contract to provide labor, materials
16 and/or services to address Capacity or Condition deficiencies in GARDEN GROVE's
17 sewage collection system. In the event GARDEN GROVE terminates a valid enforceable
18 contract awarded to carry out the elimination of Capacity or Condition deficiencies prior to
19 payment of all amounts due under the contract, the unexpended amounts of said contract
20 shall be carried forward to the next fiscal year and be spent by GARDEN GROVE to fulfill
21 its obligations under this Agreement. For the purposes of calculating minimal yearly
22 expenditures, projects which exclusively address Capacity issues caused by new
23 development not set forth in GARDEN GROVE's current general plan of land uses will not
24 be considered.

25 18. GARDEN GROVE plans to fund its capital improvement projects through debt
26 financing in the amount of \$48 million supported by an already adopted sewer rate
27 increase. GARDEN GROVE intends to issue the first portion of its debt instruments, in the
28 amount of \$30 million, by July 1, 2006 ("First Tranche"). GARDEN GROVE intends to

1 issue the second portion of its debt instrument, in the amount of \$18 million, by July 1,
2 2013. If, because of factors beyond the control of GARDEN GROVE, this financing plan
3 fails to be implemented by the scheduled dates or proves deficient in any way in allowing
4 for the implementation of GARDEN GROVE's Capital Improvement Projects, GARDEN
5 GROVE shall be provided a Grace Period of one year in which to find alternate financing
6 for either or both Tranches of its financing for its Capital Improvement Projects.

7 Any failure on the part of GARDEN GROVE to implement Capital Improvement
8 Projects during the grace period shall not be considered a breach of this Agreement and
9 COASTKEEPER will refrain from resorting to any form of dispute resolution or alleging a
10 breach of this Agreement during the grace period. However, in invoking the grace period,
11 GARDEN GROVE and COASTKEEPER shall abide by the following procedure:

12 a. First Tranche: GARDEN GROVE shall provide COASTKEEPER written
13 notification of its intent to invoke the grace period for the First Tranche of its financing by
14 July 1, 2006 setting forth the factors supporting the request. The one-year grace period
15 shall begin to run from the date of such notification.

16 b. Second Tranche: No sooner than July 1, 2011, COASTKEEPER shall
17 request in writing that GARDEN GROVE provide an estimated date ("Estimated Date") for
18 the issuance of the Second Tranche. Within sixty days of such request, GARDEN GROVE
19 shall provide COASTKEEPER with a written response setting forth its best estimate of the
20 date when the Second Tranche will occur. In the event GARDEN GROVE intends to
21 invoke the grace period for the Second Tranche of its financing it shall provide
22 COASTKEEPER written notification of its intent at least 120 days prior to the Estimated
23 Date setting forth the factors supporting the request.

24 19. GARDEN GROVE shall prioritize its program of future Capacity related
25 projects according to the SECAP attached hereto as Exhibit "A." However, prioritization
26 shall be subject to, and GARDEN GROVE shall be permitted to adjust and reprioritize it
27 based on, best engineering judgment and practice.

28 20. GARDEN GROVE shall prioritize its program of future Condition related

1 projects according to the SSRP attached hereto as Exhibit "B." However, such prioritization
2 shall be subject to, and GARDEN GROVE shall be permitted to adjust and reprioritize it
3 based on, best engineering judgment and practice.

4 **D. Hotspots**

5 21. Reaches of GARDEN GROVE's sewage collection system are identified as
6 "hotspots" if, through CCTV inspections, it is revealed that the flow in a given reach is
7 significantly impaired by a sag, ball roots or grease. Once a reach is identified as a
8 hotspot, the reach is placed on a hotspot list and remains on that list until, in the case of a
9 sag, the reach is replaced or, in the case of ball roots or grease, measures are taken so as
10 to make it reasonably likely that the source of the ball roots or grease will not continue to
11 create a flow impedance.

12 22. Following a sanitary sewage overflow, GARDEN GROVE shall perform a
13 CCTV inspection of all district owned reaches of its collection system that are necessary to
14 identify the source or cause, so as to allow GARDEN GROVE to determine the necessity of
15 adding one or more reaches to its hotspot list.

16 23. GARDEN GROVE currently uses the hotspot cleaning cycle contained in
17 Exhibit "B" attached hereto and referenced in Section 4 above. GARDEN GROVE agrees
18 to continue this hotspot line-cleaning schedule.

19 **E. Non-Hotspot Cleaning**

20 24. GARDEN GROVE is currently on a cleaning cycle under which all non-
21 hotspot reaches of its collection system are cleaned every three years. GARDEN GROVE
22 agrees to maintain this non-hotspot line-cleaning schedule.

23 **F. SSO Reporting**

24 25. GARDEN GROVE shall conduct quarterly training with all staff members
25 responsible for the reporting of sanitary sewer overflows in order to review with such staff
26 members GARDEN GROVE's SSO Overflow Emergency Response Plan dated January
27 1,2003 and procedure for accurate and complete sanitary sewer overflow reporting.
28 GARDEN GROVE reserves the right to update its SSO Overflow Emergency Response

1 Plan from time to time. COASTKEEPER agrees that to the extent GARDEN GROVE
2 updates its SSO Overflow Emergency Response Plan, the updated version shall form the
3 basis of GARDEN GROVE's quarterly training.

4 **G. FOG PROGRAM**

5 26. Following an SSO in which the source is determined to be a Food Service
6 Establishment ("FSE") in GARDEN GROVE, GARDEN GROVE shall take the following
7 steps to enforce its Fats, Oils and Grease ("FOG") Ordinance:

8 a. A staff member of GARDEN GROVE'S Environmental Compliance
9 Division ("ECD") shall inspect the FSE. GARDEN GROVE will make every effort to inspect
10 such FSE within one business day of the SSO. Such inspection shall consist of an
11 examination of the FSE's facilities, procedures, practices and FOG characterization logs.
12 Such inspection shall also include, where possible, a meeting with the proprietor and/or
13 property owner to discuss the SSO and the importance of using Best Management
14 Practices ("BMPs").

15 b. A staff member of GARDEN GROVE'S "ECD" will review the spill history
16 of the FSE.

17 c. GARDEN GROVE shall send a Notice of Correction to the FSE. Such
18 letter shall describe the cause of the SSO that has been attributed to the FSE, outline
19 pertinent parts of GARDEN GROVE's FOG Ordinance and suggest remediation methods.
20 Such letter will require the recipient to acknowledge receipt within 30 days

21 d. If an SSO occurs that is attributed to an FSE after a Notice of Correction
22 has been sent to that FSE, a Notice of Violation will be sent to that FSE. Such letter shall
23 describe the cause of the SSO that has been attributed to the FSE, outline pertinent parts
24 of GARDEN GROVE's FOG Ordinance, describe remediation methods and demand that
25 the FSE begin to take such remediation methods within 90days of receipt of the Notice of
26 Violation.

27 e. If an FSE fails to begin to take remediation methods within 90days of
28 receipt of the Notice of Violation, the case will be referred to GARDEN GROVE'S City

1 Attorney with a request that administrative or judicial proceedings be commenced to
2 impose penalties.

3 Upon the first occurrence of an SSO that is attributable to an FSE, GARDEN
4 GROVE shall, at the least, perform the inspection described in paragraph and send the
5 Notice of Correction described in paragraph b above. However, GARDEN GROVE retains
6 discretion to issue a Notice of Violation, issue a citation or refer a case to its City Attorney
7 in lieu of a Notice of Correction when circumstances indicate more action is appropriate

8 **H. Flow Monitoring**

9 27. GARDEN GROVE agrees that within one year of the Effective Date of this
10 Agreement, GARDEN GROVE shall purchase and install five sanitary sewer overflow
11 monitors ("SSO Monitors"). Such SSO Monitors shall be installed at the five locations in
12 GARDEN GROVE's collection system with the greatest calculated likelihood of a sanitary
13 sewer overflow.

14 28. GARDEN GROVE agrees that it shall install ten flow monitors in its collection
15 system. Such flow monitors shall be installed at the ten locations in GARDEN GROVE's
16 collection system with the greatest calculated capacity deficiency that is not being
17 monitored by an SSO Monitor. GARDEN GROVE shall only be required to keep flow
18 monitors at these ten locations during the continuous four-month period between
19 December 1 and March 31 ("wet weather period"). The flow monitors shall be capable of
20 recording the depth from which the occurrence of an SSO can be determined.

21 29. Once peak dry weather flows in areas of GARDEN GROVE's collection
22 system being monitored by an SSO Monitor or a flow monitor are returned to a depth to
23 diameter ratio of .62 or less through Capacity deficiency mitigation projects, GARDEN
24 GROVE shall remove the SSO Monitor or flow monitor from that area and install it in the
25 unmonitored location in its collection system with the highest calculated Capacity
26 deficiency.

27 30. GARDEN GROVE's obligation to install flow monitors and SSO Monitors in its
28 collection system shall cease upon the termination date of this Agreement or when no

1 reaches of GARDEN GROVE's collection system have a calculated or monitored peak dry
2 weather flow greater than 0.62.

3 I. Compliance Reporting

4 31. GARDEN GROVE shall send to COASTKEEPER all updates to an audit of
5 the SSRP which are submitted to the RWQCB. Such documents shall be sent to
6 COASTKEEPER at the time they are submitted to the RWQCB. Further, GARDEN
7 GROVE shall send to COASTKEEPER, on an annual basis, its monthly spill reports to the
8 RWQCB. Such reports shall be sent to COASTKEEPER by January 31 of the year
9 following the year in which the reports were generated. All reports provided under this
10 provision shall be sent to COASTKEEPER at the address set forth in the Notices section of
11 this Agreement.

12 IV. DISPUTE RESOLUTION

13 32. The dispute resolution procedure set forth herein shall be the exclusive
14 mechanism to resolve any dispute arising under this Agreement.

15 33. The Court shall retain jurisdiction to resolve disputes which arise between the
16 Parties under the terms of this Agreement. However, neither Party may resort to the Court
17 for dispute resolution unless and until the Parties engage in all of the following dispute
18 resolution mechanisms:

- 19 a. Informal Negotiations: Any dispute that arises under the terms of this
20 Agreement shall initially be subject to a period of good faith informal
21 negotiations, which shall not exceed beyond 60 days unless the
22 Parties otherwise mutually agree in writing to an extension of the
23 informal negotiation period. A dispute shall be considered to have
24 arisen and the 60 day informal negotiation period shall begin to run on
25 the date one party sends, via first-class mail, written notification
26 specifically referencing the applicable provision(s) of this Agreement
27 and describing the dispute and requesting a meeting with the other
28 party. The Parties shall meet and confer in good faith to resolve this

1 dispute. Completion of the informal negotiation period shall be
2 deemed a condition precedent to requesting mediation and/or filing a
3 motion with the court to resolve a dispute under this Agreement.

4 b. **Mediation:** If the Parties cannot resolve the dispute within the 60 day
5 informal negotiation period described in the paragraph immediately
6 above, and there has been no agreement to extend the informal
7 negotiation period, either Party may require that the dispute proceed to
8 mediation. The Party demanding mediation shall send written notice to
9 the other party, via first-class mail, of its demand to proceed with
10 mediation (hereafter referred to as "Mediation Notice"). Once
11 mediation is demanded by one party, the Parties shall work in good
12 faith to mutually agree to a mediator within 30 days of the date the
13 Mediation Notice is sent. If the Parties are unable to mutually agree to
14 a mediator within 30 days of the date the Mediation Notice is sent, the
15 Parties agree to allow the case administrator at Judicial Arbitration and
16 Mediation Services ("JAMS"), Judicate West or other certified
17 Alternative Dispute Resolution service in Orange County, California, to
18 appoint an appropriate mediator based on the facts of this case. Each
19 Party will be permitted to submit a brief letter, not to exceed five pages,
20 outlining the facts of this case, to aide the case administrator in
21 selecting an appropriate mediator. The dispute shall be mediated
22 within 60 days of selection or appointment of a mediator. All charges
23 (fees, costs, etc.) generated by a mediator for mediation of a dispute
24 under this Agreement shall initially be borne equally by the Parties.
25 The Parties shall meet and confer in good faith with the mediator to
26 resolve this dispute. Mediation cannot be waived by either Party.
27 Completion of mediation shall be deemed a condition precedent to
28 filing any motion with the court seeking resolution of a dispute under

1 this Agreement.

2 c. If the Parties are unable to resolve a dispute arising under this
3 Agreement through informal negotiation and mediation, either Party
4 may file a motion with the Court requesting the Court to resolve the
5 dispute. Such motion must be filed within 30 days of the day mediation
6 is deemed completed by receipt by the Parties of written notice from
7 the mediator. Upon the filing of such motion, the opposing party shall
8 have 30 days in which to file a response to the motion and suggest an
9 alternate proposal for resolution of the dispute.

10 34. The failure by any Party to adhere to the timelines set forth for resolution of a
11 dispute shall act to forever bar that Party from seeking any relief regarding the dispute
12 raised by that Party in an untimely manner pursuant to paragraph 33. For example, if a
13 Party fails to timely serve a request for mediation after informal negotiations have failed that
14 Party shall be forever barred from proceeding to mediation and/or requesting that the Court
15 resolve that specific dispute. The Parties may mutually agree, in writing, to opt out of this
16 time bar provision for any specific dispute.

17 35. Neither party shall be entitled to recover its attorney's fees or related costs,
18 including experts fees, in conjunction with the resolution of a dispute under this Agreement
19 achieved pursuant to the Informal Negotiations or Mediations processes provided for in this
20 Agreement. Notwithstanding the above, the prevailing party in any dispute resolution
21 proceeding heard and decided by the Court shall be entitled to petition the Court for
22 recovery of its attorney's fees and related costs, including those incurred directly related to
23 a Mediation process. Fees and costs shall be awarded as authorized pursuant to Section
24 1365 (d) of the Clean Water Act.

25 V. **FORCE MAJEURE**

26 36. Separate from, and in addition to, any other limitations on GARDEN
27 GROVE's obligations under this Agreement, GARDEN GROVE's obligation to comply with
28 one or more of the provisions of this Agreement shall be deferred to the extent and for the

EVENT OF DISCONTINUED ANTICIPATED.

1 duration that the delay in compliance is caused by an event or circumstances beyond the
2 reasonable control of GARDEN GROVE or any entity controlled by GARDEN GROVE,
3 including its contractors, and that could not have been reasonably foreseen and prevented
4 by the exercise of due diligence by GARDEN GROVE. Delays due to:

- 5 a. Unanticipated or increased costs or expenses associated with the
6 completion of any work or activity under the Agreement; or
- 7 b. Changed financial circumstances; or
- 8 c. GARDEN GROVE's failure to make timely and bona fide applications
9 and to exercise diligent efforts to obtain permits; or
- 10 d. Normal inclement weather: shall not, in any event, be considered to be
11 circumstances beyond GARDEN GROVE's control.

12 37. If any events or circumstances occur which cause or may cause a delay in
13 GARDEN GROVE's compliance with any provisions of this Agreement and GARDEN
14 GROVE seeks relief therefrom:

- 15 a. GARDEN GROVE shall provide written notice to COASTKEEPER
16 within 30 days of the date that GARDEN GROVE knew of the event or
17 circumstances or should have known of the event or circumstances by
18 the exercise of due diligence.
- 19 b. GARDEN GROVE's notice shall specifically refer to the applicable
20 provision(s) of this Agreement and describe the anticipated length of
21 time the delay may continue, the cause or causes of the delay, the
22 measures taken or to be taken by GARDEN GROVE to prevent or
23 minimize the delay, the schedule by which the measures will be
24 implemented and the anticipated date of compliance. GARDEN
25 GROVE shall adopt all reasonable measures to avoid and minimize
26 such delays.
- 27 c. If COASTKEEPER disagrees with GARDEN GROVE's notice, the
28 Parties shall meet and confer in good faith to determine whether the

1 Parties concur that the delay was or is impossible to avoid, despite
2 the good faith efforts of GARDEN GROVE. If, after a good faith effort
3 to resolve the dispute as to whether GARDEN GROVE's delay was or
4 is impossible to avoid, the Parties cannot resolve the dispute, either
5 Party may seek dispute resolution under the procedures set forth in
6 part V. In such proceeding, GARDEN GROVE shall bear the burden
7 of proving that any delay of any requirement of the Agreement was
8 caused or will be caused by force majeure and the extent of any delay
9 attributable to such circumstances.

10 38. GARDEN GROVE has prepared and submitted its SSRP and SECAP to the
11 RWQCB. To the extent the RWQCB or the State Water Quality Control Board ("SWQCB")
12 takes action which requires GARDEN GROVE to act inconsistently with its current adopted
13 SSRP or SECAP or this Agreement, GARDEN GROVE shall not be in violation of this
14 Agreement if it acts inconsistently with this Agreement but in compliance with the RWQCB
15 or SWRCB requirements. If there is a dispute between the Parties as to whether an action
16 by the SWQCB or the RWQCB requires GARDEN GROVE to act inconsistently with the
17 terms of this Agreement, the Parties will submit in writing to the RWQCB the question of
18 whether a RWQCB or SWQCB action is inconsistent with this Agreement. To the extent
19 the RWQCB finds the existence of an inconsistency between a SWRCB or RWQCB action
20 in this Agreement, Garden Grove shall not be in violation of this Agreement if it acts
21 inconsistently with this Agreement but is in compliance with the SWRCB or RWQCB
22 requirements. Following written notification by GARDEN GROVE to COASTKEEPER of an
23 inconsistency described in this section, GARDEN GROVE shall not be deemed to be in
24 non-compliance with this Agreement during any period of dispute resolution or final
25 determination by the RWQCB. If COASTKEEPER brings a separate judicial or
26 administrative challenge to a SWQCB or RWQCB action which effects this Agreement,
27 GARDEN GROVE shall not voluntarily and/or actively act as an intervenor or as a party in
28 opposition to COASTKEEPER's challenge except to the extent required by law. Except as

1 otherwise provided in this paragraph, GARDEN GROVE shall not independently seek any
2 order or other action by RWQCB that is inconsistent with this Agreement.

3 **VI. INCORPORATION AND MODIFICATION**

4 39. This Agreement constitutes the entire understanding between the Parties
5 hereto with respect to the subject matter set forth herein and supersedes any and all prior
6 or other contemporaneous understandings, correspondence, negotiations or agreements,
7 written or oral between them regarding the within subject matter. No alterations,
8 modifications or interpretations hereof shall be binding unless in writing and signed by all of
9 the Parties.

10 40. Any and all amendments to this Agreement must be in writing and signed by
11 all of the Parties.

12 41. This Agreement is the result of negotiations in which each Party was
13 represented by counsel of its own selection. Each of the Parties hereby waives any
14 provisions of law to the effect that an ambiguity in a contract, agreement or instrument
15 should be interpreted against the Party that drafted the contract, agreement or instrument.

16 **VII. NOTICES**

17 42. All notices under this Agreement shall be sent to the following addresses:

18 For Garden Grove: City Manager
19 City of Garden Grove
20 11222 Acacia Parkway
21 Post Office Box 3070
22 Garden Grove, CA 92842-3070
23

24
25
26 For Coastkeeper: Garry Brown
27 Executive Director
28 Orange County Coastkeeper

1 441 Old Newport Boulevard
2 Suite 103
3 Newport Beach, CA 92663

4 and:

5
6 Daniel Cooper
7 Lawyers for Clean Water, Inc.
8 1004 O'Reilly Ave
9 San Francisco, CA 94129
10

11 **VIII. PAYMENTS**

12 43. Attorney's Fees and Costs. Within 20 days of the entry of the Order
13 approving the Stipulated Dismissal and this Agreement GARDEN GROVE shall pay
14 COASTKEEPER's attorney's fees and costs in the compromised sum of \$163,000.00, as
15 payment of attorneys' services, expert witnesses services and out-of-pocket costs and
16 expenditures incurred by COASTKEEPER for the prosecution and resolution of this action
17 through the Effective Date.

18 44. Supplemental Environmental Project. GARDEN GROVE shall implement a
19 Supplemental Environmental Project ("SEP") which the Parties agree is intended to secure
20 significant environmental benefits. This SEP shall consist of a Private Lateral Sewer
21 Rehabilitation or Replacement Low Interest Loan Program (PLSRRLILP).

22 GARDEN GROVE shall commit an annual allocation of \$45,000.00 into a budgetary
23 account to be used to help finance the PLSRRLILP. Any unexpended balance in this
24 account shall be carried over to subsequent years. The above-referenced allocation shall
25 be made for fiscal years 2006-07, 2007-08, 2008-09 and 2009-10. The funds set aside
26 through the PLSRRLILP budgetary allocation shall be used to fund low interest loans to
27 property owners for the rehabilitation or replacement of deficient private lateral sewers in
28 GARDEN GROVE. GARDEN GROVE shall have discretion in establishing the terms and

1 interest rate of such loans. GARDEN GROVE shall take all reasonable and necessary
2 steps, including setting or modifying the terms and interest of the loan program, to ensure
3 that the entire amount allocated to the program each year is utilized for loans for defective
4 lateral repair or replacement during each fiscal year.

5 GARDEN GROVE shall require CCTV inspections of private laterals whenever
6 GARDEN GROVE finds that a sewage overflow emanating from a private lateral line has
7 reached public property or onto the private property of a third party.

8 GARDEN GROVE shall require property owners to replace lateral lines found to
9 have any of the following uncorrectable conditions: Sags, root intrusion, substantial
10 deterioration of lines or other conditions which present a substantial likelihood of continued
11 SSO's but that cannot be corrected through means other than replacement.

12 All debt service received by GARDEN GROVE in conjunction with its PLSRRP
13 program shall be returned to the PLSRRP budgetary allocation account.

14 45. All payments to COASTKEEPER shall be made by check made payable to
15 Lawyers For Clean Water, Attorney-Client Trust Account and shall be sent via overnight
16 delivery to the following address:

17 Daniel Cooper, Esq.
18 Lawyers For Clean Water, Inc.
19 1004 "A" O'Reilly Avenue
20 San Francisco, CA 94129

21 **IX. TERMINATION**

22 46. This Agreement shall terminate ten years from its effective date ("Termination
23 Date").

24 **X. COUNTERPARTS**

25 47. This Agreement may be signed in counterparts and its validity shall not be
26 challenged on that basis.

27 48. The provisions of this Agreement shall bind COASTKEEPER and GARDEN
28 GROVE (collectively "Parties"), including any successors or assigns. The Parties certify.

1 execute it on behalf of the Parties, and to legally bind the Parties to its terms.

2 WE HEREBY CONSENT to the entry of this Settlement Agreement.

3 Dated: _____ 2006


4 ORANGE COUNTY COASTKEEPER

5
6 By: _____
7 GARRY BROWN, Executive Director

8 APPROVED AS TO FORM AND CONTENT

9 Dated: 25 Jan 2006

10 LAWYERS FOR CLEAN WATER, INC.

11
12 By:  _____
13 DANIEL COOPER, Attorneys for
14 Orange County Coastkeeper
15 BRIGGS LAW CORPORATION

16 Dated: _____ 2006

17
18 By: _____
19 CORY BRIGGS, Attorneys for
20 Orange County Coastkeeper

21 Dated: _____ 2006

22 CITY OF GARDEN GROVE

23
24 By: _____
25 William Dalton, Mayor

26 Dated: _____ 2006

27 GARDEN GROVE SANITARY DISTRICT

28
By: _____
William Dalton, President

1 execute it on behalf of the Parties, and to legally bind the Parties to its terms.

2 WE HEREBY CONSENT to the entry of this Settlement Agreement.

3 Dated: January 24, 2006

ORANGE COUNTY COASTKEEPER

By: Garry Brown
GARRY BROWN, Executive Director

8 APPROVED AS TO FORM AND CONTENT

9 Dated: _____ 2006

LAWYERS FOR CLEAN WATER, INC.

13 Dated: JAN. 25, 2006

By: _____
DANIEL COOPER, Attorneys for
Orange County Coastkeeper
BRIGGS LAW CORPORATION

By: Cory Briggs
CORY BRIGGS, Attorneys for
Orange County Coastkeeper

18 Dated: _____ 2006

CITY OF GARDEN GROVE

By: _____
William Dalton, Mayor

22 Dated: _____ 2006

GARDEN GROVE SANITARY DISTRICT

By: _____
William Dalton, President

1 that their undersigned representatives are fully authorized to enter into this Agreement, to
2 execute it on behalf of the Parties, and to legally bind the Parties to its terms.

3 WE HEREBY CONSENT to the entry of this Settlement Agreement.

4 Dated: _____ 2006

5 ORANGE COUNTY COASTKEEPER

6
7
8 By: _____
GARRY BROWN, Executive Director

9 APPROVED AS TO FORM AND CONTENT

10 Dated: _____ 2006

11 LAWYERS FOR CLEAN WATER, INC.


12
13 By: _____
DANIEL COOPER, Attorneys for
Orange County Coastkeeper
BRIGGS LAW CORPORATION

14 Dated: _____ 2006

15
16
17 By: _____
CORY BRIGGS, Attorneys for
Orange County Coastkeeper

18
19 Dated: 01-24 2006

20 CITY OF GARDEN GROVE

21 By: 
William Dalton, Mayor

22
23 Dated: 01-24 2006

24 GARDEN GROVE SANITARY DISTRICT

25
26 By: 
William Dalton, President

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APPROVED AS TO FORM AND CONTENT

Dated: 01/24 2006

CITY OF GARDEN GROVE
GARDEN GROVE SANITARY DISTRICT

By: Thomas L Woodruff
WOODRUFF, SPRADLIN & SMART
Thomas L. Woodruff
Patrick M. Desmond
Attorney for Defendants
Defendants, City of Garden Grove,
Garden Grove Sanitary District