

COUNTY OF SAN MATEO

Inter-Departmental Correspondence

Date: March 7, 2001

Board Meeting Date:

March 27, 2001

TO: Honorable Board of Supervisors

FROM: Neil R. Cullen, Director of Public Works

SUBJECT: Offer of Dedication of a Sewer Main Extension, Agreement for the Future Reimbursement for the Costs of Constructing Sewer Facilities – Burlingame Hills Sewer Maintenance District - Burlingame Area

RECOMMENDATION

Adopt Resolutions

- (1) Accepting an offer of dedication of a sewer main extension, and
- (2) Authorizing the President of the Board to execute an agreement with Louis and Dora D. Bacigalupi, Jr., hereinafter called "Owner", on behalf of the Burlingame Hills Sewer Maintenance District (District) that provides for the partial reimbursement of costs to the Owner by other property owners who connect into the sewer facilities that were constructed and paid for by the Owner

Key Facts

- 1 Your Board, acting as the governing Board of the Burlingame Hills Sewer Maintenance District, has the authority to accept facilities for operation and maintenance by the District
- 2 The Owners constructed sanitary sewer facilities that can be used to serve other properties that may annex to the District
- 3 The Owners have
 - a offered to dedicate the sanitary main extension they constructed to the District, and
 - b requested a "buy back" agreement which provides that the owner will be reimbursed a proportionate share of the cost of the facilities that were constructed and paid for by them, by the future users of these facilities

Honorable Board of Supervisors

Subject: Resolutions Accepting an Offer of Dedication of a Sewer Main Extension, and Reimbursement for Construction of Sewer Facilities – Burlingame Hills Sewer Maintenance District - Burlingame Area

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- 4 Section 4888 of the Health and Safety Code authorizes the District to enter into “buy-back” agreements with individuals for the reimbursement of costs for the construction of sewer facilities

Discussion

The Owners previously constructed a sewer main extension in order to obtain sewer service for their property in the Burlingame Hills area. A “buy back” agreement to reimburse the owner was not entered into at that time, as it was believed that no other properties would be annexing to the District and would be using the sewer main extension. However, there are parcels that have the potential for using this main extension and the owner is interested in recouping a portion of their construction costs, which were approximately \$43,000. They have also offered to dedicate the sewer main to the District to clarify ownership of the sewer main.

The proposed agreement provides for the reimbursement of a proportionate share of these costs as properties connect into these facilities. It also insures new users will participate in the reimbursement, as we do not know at this time exactly how many properties will be connected. As an example, the first new connection hereafter into the owner financed facilities pays 1/2 of the adjusted cost of the facility to the owner, the next connection pays 1/3 (1/6 each to owner and first connection), then the third connection pays 1/4 (1/12 each to owner, first connection and second connection), and so forth. This progression is then repeated for additional connections into the facilities. The term of the agreement is until December 31, 2010, and the Owner is responsible for keeping the District apprized of their current mailing addresses. The agreement also provides that the District has no liability if the District fails to collect the funds to reimburse the Owner.

Fiscal Impact

The total amount to be reimbursed will depend upon the number of properties that connect into these facilities prior to December 31, 2010. Costs will be indexed annually using the Engineering News Record Construction Cost Index (CCI) and returned to the Owner whenever new properties are connected to the sewer main extensions. These charges are in addition to the normal District sewer connection fees and annual sewer service charges collected by the District.

There is no impact to the General Fund

Honorable Board of Supervisors

**Subject: Resolutions Accepting an Offer of Dedication of a Sewer Main Extension,
and Reimbursement for Construction of Sewer Facilities – Burlingame Hills
Sewer Maintenance District - Burlingame Area**

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Forms of resolutions and agreement have been approved by County Counsel and the Owner has executed the agreement



Neil R. Cullen
Director of Public Works

NRC WDC.JSD cda

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F:\USERS\UTILITY\SEWERAD\BUYBACKS\2000\Bacigalupi\Buyback Agreement2.doc

cc Milt Mares, County Counsel
Mr and Mrs Louis Bacigalupi, Jr
6081 Skyline Boulevard
Burlingame, CA 94010

Resolution No. _____

Board of Supervisors, County of San Mateo, State of California

* * * * *

**Resolution Accepting Offer of Dedication for
Construction of a Sewer Main Extension in the
Burlingame Hills Sewer Maintenance District**

RESOLVED, by the Board of Supervisors, County of San Mateo, State of California, that

WHEREAS, this Board of Supervisors, as the governing body of the Burlingame Hills Sewer Maintenance District, a Sewer District of the County of San Mateo, State of California, hereinafter called District , is authorized to accept sewer system facilities constructed by private Owners for operation and maintenance of said District, and

WHEREAS, Mr Louis and Dora D Bacigalupi, Jr , hereinafter called Owners , have constructed approximately 386 Lineal Feet (L F) of 6" diameter PVC sewer line, manholes and appurtenances connecting from an existing City of Burlingame 6" Sewer Main located on Loma Vista Drive for the purposes of providing sewer system service to properties on Skyline Boulevard, and

WHEREAS, Owners have submitted a written offer of dedication of said sewer facilities for operation and maintenance by District, and upon acceptance by District, Owners relinquish all further claim in said facilities, and

WHEREAS, the Director of Public Works of the County of San Mateo has recommended that said offer of dedication of sewer facilities be accepted by District, and

WHEREAS, this Board has considered the recommendation of the Director of Public Works

NOW, THEREFORE, BE IT RESOLVED, that said Offer of Dedication by Mr Louis and Mrs Dorothy Bacigalupi, Jr of sanitary sewer facilities constructed by them in the vicinity of Skyline Boulevard is hereby accepted on behalf of the Burlingame Hills Sewer Maintenance District, and said facilities shall become a part of the District's facilities and shall be operated and maintained by said District

* * * * *

REQUESTED BY:
COUNTY OF SAN MATEO
DEPARTMENT OF PUBLIC WORKS

OFFER OF DEDICATION OF SEWER MAIN EXTENSION

WITNESSETH

THAT Mr. and Mrs. Louis Bacigalupi, Jr., hereinafter called Developers having participated in constructing an extension of a sewer main facility for transporting sewage from portions of Skyline Boulevard in the Burlingame Hills Sewer Maintenance District, and;

THAT Developers having completed construction of said facilities in compliance with the Standards of construction required by the District,

NOW, Therefore Mr. and Mrs. Louis Bacigalupi, Jr. hereby offers approximately 386 LF of said sewer construction, located in the public right-of-way between Loma Vista Drive, and 6081 Skyline Boulevard, Burlingame Hills Sewer Maintenance District, as plant improvements for operation and maintenance, and, upon acceptance by District, Developer relinquishes all further claims in said facilities.

This Dedication shall be binding upon the undersigned, their heirs, executors, administrators, successors, transferees and assignees, with respect to said above described facilities.

Executed this 12 day of JAN, 2001, at Loma Vista DALY CITY, California

Developers:

BY: Louis Bacigalupi, Jr. 1-12-2001 BY: Dora D. Bacigalupi, Jr. 1-12-2001
Louis Bacigalupi, Jr. Date Dora D. Bacigalupi, Jr. Date

County of San Mateo

STATE OF CALIFORNIA

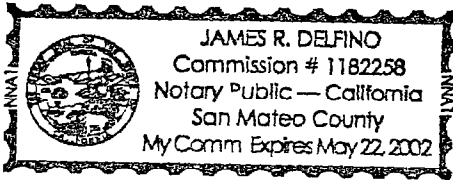
NOTARY ACKNOWLEDGMENT ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Mateo } ss

On Jan 12, 2001, before me JAMES R. DELFINO, NOTARY PUBLIC
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")
personally appeared Louis Bacigalupi, Jr. & Dora D. Bacigalupi
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.

James R. Delfino
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document offer of Dedication of Sewer Main extension

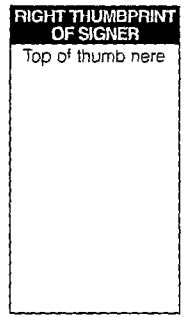
Document Date Jan 12, 2001 Number of Pages one

Signer(s) Other Than Named Above _____

Capacity(ies) Claimed by Signer

- Signer's Name _____
- Individual
 - Corporate Officer — Title(s) _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other _____

Signer Is Representing _____



Resolution No. _____

Board of Supervisors, County of San, Mateo, State of California

* * * * *

Resolution Authorizing Execution of a Cost Reimbursement Agreement – Burlingame Hills Sewer Maintenance District

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the San Mateo County Board of Supervisors is the governing body for the Burlingame Hills Sewer Maintenance District, and

WHEREAS, Louis and Dora D Bacigalupi, Jr (Owners) did incur construction and engineering costs to install a sanitary sewer main extension to serve several properties on Skyline Boulevard in the Burlingame Hills area, and

WHEREAS, the District agrees to collect from property owners wishing to connect to said extension, a refundable fee to the Owners for a portion of their construction and engineering costs for said sewer main extension, and

WHEREAS, said refundable fee to be collected on behalf of the Owners by the District shall be in addition to all normal District fees collected for connection to District facilities

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors is hereby authorized to execute said agreement on behalf of the District and the Clerk of the Board shall attest his signature thereto

* * * * *

**AGREEMENT FOR CONSTRUCTION
AND USE OF SEWER FACILITIES**

THIS AGREEMENT, entered into this ____ day of _____, 2001, by and between Louis and Dora D. Bacigalupi, Jr., hereinafter called "Owners" and BURLINGAME HILLS SEWER MAINTENANCE DISTRICT, of the County of San Mateo, State of California, hereinafter called "District".

WITNESSETH:

WHEREAS, this Board acts as the governing board of the BURLINGAME HILLS SEWER MAINTENANCE DISTRICT, and

WHEREAS, Section 4888 of the Health and Safety Code authorizes said District to contract with any person, firm or corporation for the joint use of sewer facilities, and for the construction, maintenance and payment for said facilities as stipulated by terms and conditions which may be agreed upon by the parties; and

WHEREAS, under the terms of said agreement, Owners agree to construct, or cause to be constructed, the sewer facilities described therein at their own expense and thereafter to convey said facilities to said District for the joint use by the Owners and the District; and

WHEREAS, the District in return for construction of said sewer facilities by the Owners shall attempt to cause reimbursement to be made to Owners by future users of said system as a condition for granting permission to connect to the new sewer facilities pursuant to the terms and conditions set forth in said agreement:

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO as follows:

1. Construction of Sewer Facilities by Owners

Owners shall furnish or cause to be furnished, at their own expense, all labor, materials, tools, and equipment and all incidental work and services required for the construction of a sanitary sewer consisting of approximately 386 L.F. of 6 diameter PVC sewer line, manholes and appurtenances connecting from an existing City of Burlingame 6" Sewer Main located on Loma Vista Drive, and extending in accordance with plans and specifications prepared by Herbert Frahm, CE 7548, 703 Woodside Road, Redwood City, CA 94061 dated December 12, 1991; and on file in the office of the Director of Public Works. The construction of said sanitary sewer facilities have been done under the supervision of, and to the complete satisfaction of the District.

2. Conveyance of Sewer Facilities to District by Developer

Upon the completion of said sanitary sewer in the manner herein provided, and upon the acceptance of said facilities by District, Owners shall convey all rights, title and interest in said sanitary sewer free and clear of all costs, liens, encumbrances, or liabilities in connection therewith, except for reimbursement from future connection charges to said sanitary sewer as hereinafter provided. It is expressly understood that unless and until said sanitary sewer is constructed in the

manner herein provided, is accepted by District, and is conveyed by Owners to District, title to said sanitary sewer shall remain with Owners, and District shall have no obligation whatsoever with respect to the maintenance of said sanitary sewer.

3. **Reimbursement to Developer**

The Owners shall be reimbursed a portion of the total construction cost, to include engineering, by each property owner desiring to connect their property to the portion of sewer main constructed by the Owners.

The property owners of property desiring connection after January 1, 2001, shall pay all fees in accordance with the schedule in Exhibit A. Fees shall be calculated annually from the Construction Cost Index (CCI) as determined for the San Francisco Bay Area and listed in the Engineering News-Record on January 1, 2001. Upon receipt of said payment of fees from the property owner, the District shall attempt to refund the Owners within (60) days.

Owners shall transmit annually to the District their current mailing address in order that funds collected on their behalf may be dispersed properly. Failure on the part of the Owners to provide a current and complete address may result in delay for the delivery of any refund. The District shall not be held financially liable or responsible for the failure of the Owners to receive said refunds once transmitted by the District or for failure on the part of the District to collect all sums which may be due the Owners.

It is understood that any funds collected on behalf of Owners by the District shall be in addition to the District connection fees in effect at the time application is made by the property owner. It is further understood that the District has no obligation to collect reimbursement monies under this agreement.

4. **Termination**

This agreement shall terminate on December 31, 2010.

5. **Hold Harmless**

Owners shall indemnify and save harmless the County, District, its officers, agents, employees and servants from all claims, suits or actions of every name, kind and description including those to which injunctive or declaratory relief is sought based whole or in part on the District's entering into this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date first hereinabove written.

"DISTRICT"

BURLINGAME HILLS
SEWER MAINTENANCE DISTRICT

Michael D. Nevin, President
Board of Supervisors
County of San Mateo
the Governing Board of said District

ATTEST:

John L. Maltbie, County Manager/
Clerk of the Board

"Owners"

BY Louis Bacigalupi, Jr.
Louis Bacigalupi, Jr. Date
1-12-2001

BY Dora D. Bacigalupi 1-12-2001
Dora D. Bacigalupi, Jr. Date

EXHIBIT A

BUY-BACK AGREEMENT

Schedule of Payment

Owners: Louis and Dora D Bacigalupi, Jr.

Louis and Dora D. Bacigalupi, Jr., hereinafter called 'Owners', extended the existing sewer main approximately 386 LF in the Burlingame Hills Sewer Maintenance District (BHSMD).

A. DESCRIPTION

The Bacigalupi sanitary main extension begins approximately 42 LF northeast of a Burlingame manhole commonly referred to as MH # G2006 located at the southern end of Loma Vista Drive, and extends approximately 92 LF to a manhole on Skyline Boulevard, and then in a southerly direction on Skyline Boulevard approximately 294 LF to a flushing inlet in front of 6081 Skyline Boulevard.

B. AGREEMENT TERMS

Owners have TEN (10) years to receive a prorated reimbursement from property owners connecting to the extension **Term is through December 31, 2010.**

C. TOTAL COST OF CONSTRUCTION

Construction Distance: 386 LF

ITEMIZED COSTS RELATED TO THE SEWER MAIN CONSTRUCTION

Geologist:	\$1,875.00
Survey:	4,030.00
Sewer Report:	2,395.95
Blue Prints:	182.80
Sewer Line Inspection Fees:	667.82
Casey Construction Company:	<u>33,952.00</u>

CONSTRUCTION COSTS \$43,103.57

The total cost of construction for this project is: \$43,103.57.

D. REIMBURSEMENT TO OWNERS

Reimbursements to the original owners shall be in accordance with the formulas described below. Buy-in costs will be updated by the County Department of Public Works whenever a new property owner connects to the Bacigalupi sewer line extension. Base Construction Cost Index or CCI is established as 6293.15, published in Engineering News-Record for January 1, 1993.

Sanitary Main Extension.

Consists of one section held in original sole ownership by the Bacigalupi Family. Reimbursement for future connections to the Bacigalupi sewer main extension after January 1, 2001, will be the amounts derived from the buy-in formulas specified for original Owners of the Main Extension.

Buy-in Formula

Anyone connecting to the Bacigalupi sewer main extension after January 1, 2001, is required to Buy-in to the sewer main extension through the ten year Agreement Term Period.

First Buy-in

Family A - Formula: To recalculate the buy-in for Family A.

1. Begin with the original total construction and engineering costs (\$43,103 57)
2. Adjust #1 above for the Construction Cost Index to compute adjusted costs;
3. Divide #2 above by 2 to yield the buy-in cost for Family A.;
4. Divide the adjusted buy-in cost (item 3) by 1 to yield the distribution to the Bacigalupi Family

Second Buy-in

Family B - Formula: To recalculate the buy-in for Family B.

1. Begin with the original total construction and engineering costs (\$43,103.57)
2. Adjust #1 above for the Construction Cost Index to compute adjusted costs;
3. Divide #2 above by 3 to yield the buy-in cost for Family B.
4. Divide the adjusted buy-in cost (item 3) by 2 to yield the distribution to Family A and the Bacigalupi Family.

Third Buy-in

Family C - Formula: To recalculate the buy-in for Family C

1. Begin with the original total construction and engineering costs (\$43,103.57)
2. Adjust #1 above for the Construction Cost Index to compute adjusted costs;
3. Divide #2 above by 4 to yield the buy-in cost for Family C.
4. Divide the adjusted buy-in cost (item 3) by 3 to yield the distribution to Families A, B and the Bacigalupi Family.

Fourth and successive Buy-in's

Repeat the model for successive buy-in's.
