



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

Department of Public Works

DATE: September 4, 2009
BOARD MEETING DATE: September 22, 2009
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: James C. Porter, Director of Public Works
SUBJECT: Agreement for Construction and Use of Sewer Facilities in the Emerald Lake Heights Sewer Maintenance District – Redwood City Area

RECOMMENDATION:

Acting as the governing board of the Emerald Lake Heights Sewer Maintenance District, adopt a resolution authorizing execution of an Agreement with Claus J. and Kimberly A. Berlin for reimbursement of certain engineering and construction costs incurred for the installation of sanitary sewer facilities accepted for maintenance by the Emerald Lake Heights Sewer Maintenance District.

BACKGROUND:

On February 8, 2000, your Board adopted Resolution No. 63402 accepting the offer of dedication for construction of a sewer main extension located at 593 California Way to the Emerald Lake Heights Sewer Maintenance District (District) as shown in Exhibit A of the attached agreement.

DISCUSSION:

Section 20793 of the California Public Contract Code authorizes the District to contract for the joint construction or use of sewer facilities, and for the repayment of the proportionate part of the cost of the acquisition, construction or maintenance of such sewers.

Claus J. and Kimberly A. Berlin (Berlins) paid the costs associated with the engineering and construction of approximately 175 linear feet of sewer main on California Way within the boundaries of the District. The work was inspected by the District and completed in accordance with the plans reviewed and approved by the District in 1999.



In 2000, the Berlins requested an Agreement for Construction and Use of Sewer Facilities (Agreement) by the District. The Agreement will provide that as a condition of permission for additional users of the system to connect to the system the Berlins constructed and dedicated to the District, the additional property owners will be required to reimburse the Berlins for their proportional costs of construction. Staff provided a draft Agreement to the Berlins for their review and execution at the time. However, the signed Agreement was not returned and the District believed that the Berlins no longer wished to proceed with the agreement process.

Recently, the Berlins requested to resume the process to have the Board approve the Agreement. The District agreed to accommodate the Berlins' request but with the provision that the Agreement would have a 10-year term with the beginning date retroactive to February 8, 2000, the date that sewer facilities were accepted by your Board. The terms of buy-back agreements are limited to 10 years per County Ordinance Section 4.24.180.

The proposed Agreement provides for the reimbursement of a proportionate share of the costs as additional properties connect to the sewer facilities the Berlins have constructed. It also ensures that all users will share in the cost of engineering and construction during the term of the Agreement according to a formula that depends on how many properties eventually connect to the sewer line the Berlins have installed (Exhibit B of the Agreement).

County Counsel has reviewed and approved the Agreement and the Resolution as to form.

Your Board's authorization to execute the Agreement for Construction and Use of Sewer Facilities contributes to the Shared Vision 2025 outcome of a Healthy Community by providing effective sewage conveyance facilities to parcels in a suburban area that have or may, in the future, have failing on-site wastewater systems which could impact neighboring properties.

FISCAL IMPACT:

The District will collect a buy-in fee for new sewer connections along the sewer main installed by the Berlins during the term of the Agreement. The fee (Exhibit C of the Agreement) shall be indexed annually to the construction cost index and distributed in accordance with the Agreement. These charges shall be in addition to the District connection fees and annual sewer service charges for property owners connected to the sewer facilities. The estimated cost of administering the Agreement is anticipated to be minimal.

There is no impact to the General Fund.

Attachment: Agreement for Construction and Use of Sewer Facilities
(with Exhibits A, B, and C)