

**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **MARCH 20, 2007**

From: *JD* **JAMES DURFEE / WILL DICKINSON**

Subject: **REIMBURSEMENT AGREEMENT WITH JOSEPH BERGH, SEWER
MAINTENANCE DISTRICT NO. 2**

ACTION REQUESTED/RECOMMENDATION: Adopt the attached Resolution approving a reimbursement agreement for sewer improvements with Joseph Bergh and authorize the Chairman to execute said agreement.

BACKGROUND: Pursuant to Chapter 13 of the Placer County Code, a property owner that constructs sewer improvements that benefit other properties may be eligible for reimbursement of the direct costs of making those improvements. The County is responsible for negotiating a reimbursement agreement, collecting a fair share of the cost from any benefiting property owner that purchases a sewer permit within ten years after execution of the agreement, and transmitting those funds to the property owner that constructed the improvements. A reimbursement fee is due only if a benefiting property owner chooses to connect to the sewer system or is forced to connect when seeking building permits for a major remodel or new construction.

Joseph Bergh constructed 1,426 lineal feet of six-inch gravity sewer line along Olive Ranch and Barton Roads, and 460 lineal feet of three-inch force main along an unnamed private road, all in the Granite Bay area. This public sewer will benefit the Bergh property, consisting of five parcels, and has the potential to benefit thirteen additional parcels. Please see the attached site map. Pursuant to the County Code, Mr. Bergh requested a reimbursement agreement.

On October 30, 2006, a copy of the proposed reimbursement agreement was sent to the property owners who could be affected by the agreement. Staff was contacted by four of the property owners, three of whom expressed concern regarding the total cost of construction and the proposed method of division. Please see a copy of the letters and Public Inquiry form attached hereto. To address these concerns, on December 13, 2006, County staff conducted a public meeting. The meeting was attended by eight of the property owners, Mr. Bergh and his contractor. A discussion was held regarding various ways of dividing the costs. The property owners were generally unhappy with all of the proposals, partly due to the high cost of construction, and no agreement was reached on a method for dividing the costs.

Staff has reviewed the contractor's statement of costs, a copy of which is attached hereto, and supports a total cost of sewer construction in the amount of \$558,911. The total cost for this project is higher than usual due to the underlying stratum of solid granite and high ground water encountered during the construction process.

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Additionally, Staff has reviewed the various methods proposed for dividing up the cost of the construction and recommends an equal division of the total construction cost by the 18 benefited parcels, which calculates to a reimbursement fee of \$31,050.61 per parcel. This is the methodology used in the proposed reimbursement agreement.

ENVIRONMENTAL CLEARANCE: Approval of this agreement is not a project as defined in CEQA.

FISCAL IMPACT: Approval of this agreement does not result in any fiscal impact to SMD No. 2

Attachments: Resolution and Agreement
Site Map
Letters and Public Inquiry Form
Contractor's Statement

cc: COUNTY EXECUTIVE OFFICE

JD:WD:kk

T:\FAC\BSMEMO2007\SD REIMBURSEMENT_ Bergh

Before the Board of Supervisors County of Placer, State of California

In the matter of: **A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF SUPERVISORS TO EXECUTE THE ATTACHED REIMBURSEMENT AGREEMENT WITH JOSEPH BERGH**

Resolution No. _____
Ordinance No. _____
First Reading _____

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman
Board of Supervisors

Attest:
Clerk of said Board

BE IT HEREBY RESOLVED by the Board of Supervisors, County of Placer, State of California, that this Board approves the attached Reimbursement Agreement with Joseph Bergh, and

BE IT FURTHER RESOLVED that the Chairman of the Board is hereby authorized and directed to execute said Reimbursement Agreement on behalf of the County of Placer.

CONTRACT NO:

REIMBURSEMENT AGREEMENT
BETWEEN THE COUNTY OF PLACER, and
JOSEPH BERGH

THIS AGREEMENT made and entered into this _____ day of _____ 2006 by and between Joseph Bergh, hereinafter referred to as "OWNER" and the COUNTY OF PLACER, hereinafter referred to as "COUNTY".

W I T N E S S E T H

WHEREAS, OWNER has constructed, at his own cost and expense, sanitary sewer facilities which consist of a six inch sanitary sewer on, over and across his and other properties as shown on as-built plans for sanitary sewer prepared by MSA Engineers for the Bergh Parcel Map No. P-76096, dated 2004 (the "Improvements"), and;

WHEREAS, said Improvements have been inspected and approved by the County as having been constructed of the size, depth and dimensions and placed according to the requirements of COUNTY, and are also designed and constructed to be capable of providing sewer service to other properties, and;

WHEREAS, COUNTY is willing to reimburse OWNER for part of the cost of construction of the Improvements on the terms set forth herein:

NOW, THEREFORE, in consideration of the covenants and conditions set forth below, it is hereby agreed:

1. OWNER conveys to COUNTY all of his right, title and interest to the Improvements.
2. COUNTY hereby accepts said Improvements, all of which shall become a part of COUNTY'S system in Sewer Maintenance District No. 2, and shall thereafter be used, operated, maintained and managed by COUNTY to provide sanitary sewer service to OWNER's property, among others.
3. In consideration of the construction of the Improvements by the OWNER and the conveyance thereof to the COUNTY, COUNTY agrees to use its best efforts to the extent allowed by law to collect amounts to reimburse the OWNER for a portion of the cost of the Improvements. Reimbursement shall be made solely from fees collected when additional connections occur in the future, and only to the extent provided herein.

4. A. OWNER and COUNTY agree that the total cost to OWNER for the construction of the Improvements is **\$558,911**. It is further agreed that when the total cost of the improvements is divided up among the 18 benefited parcels, the pro rata share of the Improvements is \$31,051.61 per parcel. As Owner is developing 5 parcels, his total share of the cost of the improvements is **\$155,253.06**. This leaves a remainder of **\$403,657.94** that will be reimbursed to Owner on a parcel by parcel basis should the remainder of the benefited parcels develop within the term of this Agreement. The benefited parcels are shown below and also on Exhibit A1 & A2, attached hereto and incorporated herein by reference (the "Benefited Properties").

B. Benefited Properties

APN	Reimbursement
046-131-016	\$31,050.61
046-131-038	\$31,050.61
046-131-040	\$31,050.61
046-131-041	\$31,050.61
046-131-042	\$31,050.61
046-131-043	\$31,050.61
048-082-017	\$31,050.61
048-082-019	\$31,050.61
048-082-036	\$31,050.61
048-082-037	\$31,050.61
048-082-047	\$31,050.61
048-082-048	\$31,050.61
048-082-074	\$31,050.61

C. COUNTY agrees that, as a condition of issuing a sewer connection permit or will serve letter to the Benefited Properties should the owner of said property require or request sewer service, COUNTY shall endeavor to collect the amount noted above from each of the Benefited Properties.

D. Upon collection, if and only if said collection has been accomplished, COUNTY shall pay said amounts to OWNER. It is expressly agreed that the maximum reimbursement collected by County shall be **\$403,657.94**, and that the COUNTY shall have no obligation to pay OWNER except from monies collected as set forth herein. No interest shall accrue on said amount.

E. Nothing in this Agreement shall be construed to otherwise relieve an owner of the Benefited Properties from paying all other connection and

inspection fees required by COUNTY or otherwise complying with all COUNTY requirements.

5. The County's obligation to obtain reimbursement from the Benefited Properties shall expire ten (10) years after the date set forth above.
6. This Agreement shall be binding on the assigns, heirs and successors-in-interest of the parties hereto. In the event OWNER assigns her right to receive any reimbursement that may come due under this Agreement, OWNER shall provide written notice to COUNTY of said assignment. OWNER shall be responsible for providing COUNTY with his address at all times.

COUNTY OF PLACER

Approved:

By: _____
Chairman,
Board of Supervisors

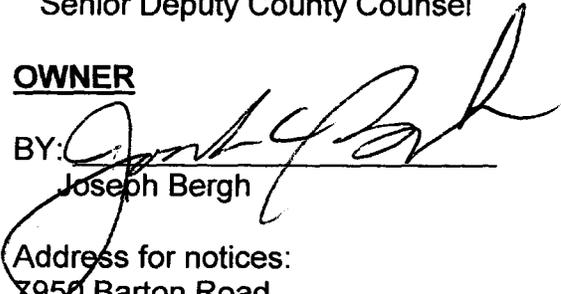
Recommended:

BY: _____
James Durfee, Director
Department of Facility Services

Approved as to Form:

BY: _____
Scott Finley
Senior Deputy County Counsel

OWNER

BY: 
Joseph Bergh

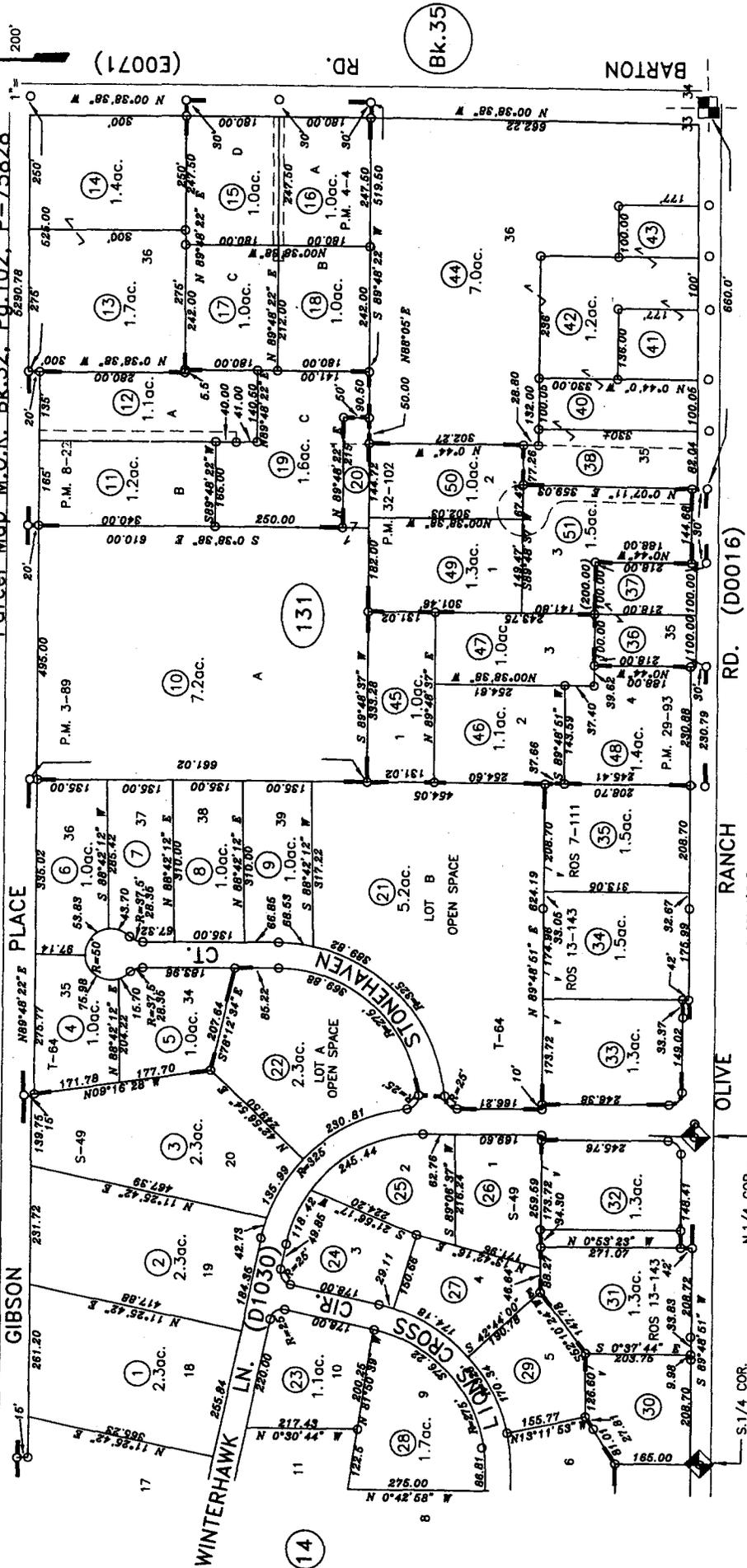
Address for notices:
7950 Barton Road
Granite Bay, CA 95746

Exhibit A1

46-13

S.1/2,S.E.1/4 SEC.33, T.11N.,R.7E.,M.D.B.&M

Rosedale Colony No. 2, M.O.R. Bk. C., Pg. 70
 Parcel Map M.O.R. Bk.3, Pg.89
 Parcel Map M.O.R. Bk.4, Pg.4
 Survey M.O.R. Bk.5, Pg.49
 Parcel Map M.O.R. Bk.8, Pg.22
 Winterhawk Phase 1, M.O.R. Bk.S, Pg.49
 Survey M.O.R. Bk.13, Pg.143
 Parcel Map M.O.R. Bk.29, Pg.93
 Winterhawk Phase 1, M.O.R. Bk.T, Pg.3
 Survey M.O.R. Bk.14, Pg.77
 Winterhawk Phase II & III, M.O.R. Bk.T, Pg.64
 Survey M.O.R. Bk.7, Pg.111
 Parcel Map M.O.R. Bk.7, Pg.86
 Parcel Map M.O.R. Bk.32, Pg.102, P-75828



Assessor's Map Bk.46 Pg.13
 County of Placer, Calif.

Bk.48

NOTE
 Assessor's Block Numbers Shown in Ellipses.
 Assessor's Parcel Numbers Shown in Circles.

NOTE
 This map was prepared for assessment purposes only and is not intended to illustrate legal building sites or establish precedence over local ordinances. Official information concerning size or use of any parcel should be obtained from recorded documents and local governing agencies.

NOTE
 All distances on curved lines are chord measurements.

11-17-2005 BMA
 03-05-09
 PAGE REDRAWN FROM BASE MAP INFORMATION

167

LEGEND

- - - PROPOSED LOTS
- DISTRICT BOUNDARY



NOT TO SCALE

McKINNEY
046-131-016

18

427'

16

15

17

BERGH

046-131-044

14

286'

BARTON ROAD

359'

ALWAY
046-131-038

1

CONTRAMAN
046-131-040

3

5

WHITNEY
046-131-041

HASKELL
046-131-042

7

9

GOEBEL
046-131-043

13

341'

OLIVE RANCH ROAD

386'

MIDTLYNG
048-082-017

2

MIDTLYNG
048-082-037

4

ROHRER
048-082-036

6

PANIGHETTI
048-082-019

8

McKEAN
048-082-048

10

SIMMONS
048-082-074

11

12

MOSS EQUITY
048-082-047

169

Inquiry Form

APN:	048-082-047-000
Property Address:	Olive Ranch Road
Sewer District:	SMD #2
Name of requestor:	Kelvin Moss
Date:	11/03/2006
Phone #:	916-791-7200 ext. 204
Email:	
Fax #:	
Telephone call from Mr. Moss regarding proposed Bergh reimbursement agreement. Does not think the equal division is the appropriate way to divide the costs. He had questions about using a lineal foot basis. Requested a copy of the lots and area which was faxed to him.	

APN:	
Property Address:	
Sewer District:	
Name of requestor:	
Date:	
Phone #:	
Email:	
Fax #:	

APN:	
Property Address:	
Sewer District:	
Name of requestor:	
Date:	
Phone #:	
Email:	
Fax #:	

November 6, 2006

County of Placer Facility Services Department
Kathy Kane Staff Services Analyst
11476 C Avenue
Auburn, Ca 95603

RECEIVED
FACILITY SERVICES
NOV 15 PM 1:52

Re: Your letter dated October 30, 2206

Dear Ms. Kane:

According to the referenced letter, it is being proposed that I and numerous neighbors pay for the sewer that was installed on Olive Ranch Road to benefit Mr. Bergh's property on Barton Road.

Mr. Bergh made the decision to install the sewer at his expense. I was never consulted before or during the construction but now am being told I must pay for it. This is totally unacceptable.

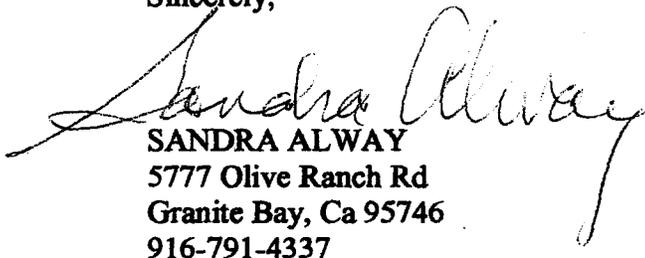
The letter indicates that the reimbursement is for "sewer improvements they construct across parcels owned by other parties when such construction is necessary to reach the subject property". This line was constructed within the County right-of-way. It is not on, over or across my property.

Mr. Bergh could have installed septic systems for his property, which he is developing for sale. If this was not allowed by the County then it is the responsibility of the County to furnish the sewer to the property or disallow building on that property.

I strongly protest this extra "assessment" which in effect penalizes me in the future while Mr. Bergh reaps the benefits.

If necessary, we will obtain legal consul as we do not intend to pay this penalty.

Sincerely,


SANDRA ALWAY
5777 Olive Ranch Rd
Granite Bay, Ca 95746
916-791-4337

046-131-038

November 20, 2006

Mr. Will Dickinson
Deputy Director
Facilities Services
11476 "C" Avenue
Auburn, CA 95603

Re: Proposed Reimbursement Agreement

Dear Mr. Dickinson:

I have reviewed the proposed Reimbursement Agreement between Placer County and Joseph Bergh along with the October 24, 2006 Warren Tellefson Memorandum. For several reasons I feel that simply dividing the cost equally over the 18 qualifying parcels is not appropriate and this feeling is shared by all of the affected property owners that I have been in contact with. The following are a couple of different ways to look at proportioning the costs:

- 
- Based on the footage of system installed approximately half of the sewer line serves 12 parcels along Olive Ranch Road. On the basis of the parcels being served by the improvement along Olive Ranch Road it seems more reasonable that 50% of the cost be proportioned over 12 parcels at the unit rate of \$23,288 per parcel ($\$558,911/2 = \$279,456$; $\$279,456/12 = \$23,288$). The balance of the cost would be distributed over parcels north of Olive Ranch Road able to utilize that portion of the sewer.
 - Another way to look at the situation is with consideration that a good portion of the cost incurred in constructing the sewer line could have been avoided by exercising a reasonable amount of pre-planning. As an example it was known that rock is present in the area of the improvement yet no exploratory work was done in advance of designing the line or in advance of constructing the line; in the end rock was a significant contributor to the high cost of the line and it could have been avoided. A reasonable valuation of the sewer line without complications brought on by the rock is in the \$250,000 range. Following the same logic as applied above and distributing 50% of \$250,000 over 12 parcels would amount to

\$10,417 per parcel ($\$250,000/2 = \$125,000$; $\$125,000/12 = \$10,417$).

Along the way of designing and constructing the sewer improvement, decisions were made that may have an adverse impact on uninvolved potential reimbursement participants. The project was not put out to public bid and no in-put was solicited from those that are now expected to pay to connect to the line. If I am not mistaken the proposed reimbursement of \$31,051 is one of the highest if not the highest in the history of Placer County and for most of us it should be much less.

Please consider the points presented in this letter and respond at your earliest convenience.

Sincerely,

John Haskell

Frank Frisella
300 El Camino Real
San Carlos, CA 94070
(650) 261-6413

November 8, 2006

Kathy Kane
Staff Service Analyst
County of Placer
Facilities Service Dept.
11476 C Street
Auburn, CA 95603

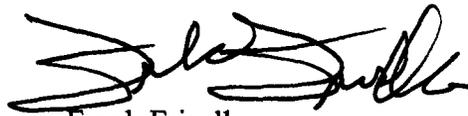
RECEIVED
KATHY KANE
NOV 13 PM 3:09

Dear Ms. Kane:

I received a letter from you dated October 30th, concerning a piece of property that we own in Placer County, APN #046-131-040-00.

The letter apparently is a request by Joseph Bergh to be reimbursed for sewer work he has done to improve his own five parcels of property, to make them saleable and is attempting to spread the cost to the other eighteen parcels that happen to be along the route. I would appreciate direction on this from you, but initially it looks as if the monies would be due from each parcel only if they agree to this and also if they request a hookup to the sewer Mr. Bergh has installed. I would appreciate a letter back from you confirming these facts and/or any others I might need to consider in making a determination o this matter. I thank you in advance for your attention to this matter and would appreciate a response at your earliest convenience. Thank you.

Sincerely,



Frank Frisella

L.N. CRAIG CONSTRUCTION INC.

Utility Construction

Contractor's Lic. No. 448814

M.S.K. Engineering

2-1-6

Dave Spanguel

Re: Bench Parcel - Sanitary Sewer

3- 60" M.H.	12,000.00	36,000.00
1- 48" M.H.	3,000.00	3,000.00
1- Concrete Encasement of 6" VCP @ Q.T.P.	2,000.00	2,000.00
1- M.H. Tunn out.	5,000.00	5,000.00
1426 LF 6" V.C.P.	316.92 LF	451,927.9
460 LF 3" P.V.C. Force Main	30 ⁰⁰ LF	13,800.00
2 EA 3" Pressure Services	2,200.00	4,400.00
1 EA Type A. Clean out	4,003.27	4,003.27
1 EA Type B. Inline Valve	1,805.07	1,805.00
2 EA 4" VCP Service w/ Cleanout	1,200.00	2,400.00
1 EA Grind and Pave Olive Road Rd.	33,000.00	33,000.00
9 EA 6" X 4" VCP wyes	175 ⁰⁰	1,575.00
		558,911.2

Jan Craig Price

175

