



NOTICE AND CALL OF THE SPECIAL MEETING OF THE MADERA CITY COUNCIL

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Wednesday, June 12, 2024
5:50 p.m.

Council Chambers
City Hall

The Madera City Council meetings are open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may also observe the live-streamed meeting on the City's website at www.madera.gov/live. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 815 8856 1404#. Comments will also be accepted via email at citycouncilpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER:

ROLL CALL: Mayor Santos Garcia
Mayor Pro Tem Cece Gallegos, District 1
Councilmember Jose Rodriguez, District 2
Councilmember Steve Montes, District 3
Councilmember Anita Evans, District 4
Councilmember Elsa Mejia, District 5
Councilmember Artemio Villegas, District 6

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

PUBLIC COMMENT:

Members of the public shall have an opportunity to address the City Council regarding matters on this Agenda at the time the agenda item is called. Speakers should limit their comments to three (3) minutes.

A. PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS:

A-1 Ratify declaration of a local emergency and approve emergency procurement of response and repairs to Avenue 13 sewer trunk main due to multiple failure sites

Recommendation: Adopt Resolutions:

1. Ratifying the declaration of a local emergency by the City Manager as Director of Emergency Services due to additional failure of the City's sewer trunk line on June 10, 2024; and
2. Making a finding of emergency relating to emergency response and repairs to the sanitary sewer main and ratifying the award of emergency contracts without competitive bidding for the emergency repairs on the sewer main (Report by Wendy Silva)

A-2 Contract Award for the Avenue 13 Sewer Interceptor Rehabilitation, City Project No. SS-00014

Recommendation: Adopt a Resolution:

1. Adopting a Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction) Categorical Exemptions under CEQA Guidelines Sections 15301 and 15302; and
2. Approving the Contract Award for the Avenue 13 Sewer Interceptor Rehabilitation Project, City Project No. SS-00014 in the amount of \$8,328,452.00 to SAK Construction, LLC, as to its material terms;and
3. Authorizing a Contingency of 20 percent of the Contract amount; and
4. Authorizing the City Manager to Execute the Agreement on behalf of the City (Report by Keith Helmuth)

ADJOURNMENT:

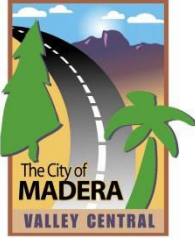
- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in this public meeting may be made by calling the City Clerk's Office at (559) 661-5405 or emailing cityclerkinfo@madera.gov. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be made as soon as practicable as additional time may be required for the City to arrange or provide the requested accommodation. Requests may also be delivered/mailed to: City of Madera, Attn: City Clerk, 205 W. 4th Street, Madera, CA 93637. At least seventy-two (72) hours' notice prior to the meeting is requested but not required. When making a request, please provide sufficient detail that the City may evaluate the nature of the request and available accommodations to support meeting participation. Please also provide appropriate contact information should the City need to engage in an interactive discussion regarding the requested accommodation.
- The services of a translator can be made available. Please contact the City Clerk's Office at (559) 661-5405 or emailing cityclerkinfo@madera.gov to request translation services for this meeting. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be submitted in advance of the meeting to allow the City sufficient time to provide or arrange for the requested services. At least seventy-two (72) hours' notice prior to the meeting is requested but not required.
- Please silence or turn off cell phones and electronic devices while the meeting is in session.
- Regular meetings of the Madera City Council are held the 1st and 3rd Wednesday of each month at 6:00 p.m. in the Council Chambers at City Hall.

- A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (559) 661-5405 or by email at cityclerkinfo@madera.gov.
 - Questions regarding the meeting agenda or conduct of the meeting, please contact the City Clerk's Office at (559) 661-5405.
 - Para asistencia en español sobre este aviso, por favor llame al (559) 661-5405.
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I, Alicia Gonzales, City Clerk for the City of Madera, declare under penalty of perjury that I posted the above agenda for the Special Meeting of the Madera City Council for June 12, 2024, near the front entrances of City Hall and on the City's website www.madera.gov at 5:40 p.m. on June 11, 2024.



Alicia Gonzales, City Clerk



REPORT TO CITY COUNCIL

Approved by:

Wendy Silva

Wendy Silva, Department Director

Keith Helmuth

Keith Helmuth, City Engineer

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: June 12, 2024

Agenda Number: A-1

SUBJECT:

Ratify declaration of a local emergency and emergency repairs to Avenue 13 sewer trunk main due to multiple failure sites

RECOMMENDATION:

Adopt Resolutions:

1. Ratifying the declaration of a local emergency by the City Manager as Director of Emergency Services due to additional failure of the City sewer trunk line on June 10, 2024; and
2. Making a finding of emergency relating to emergency response and repairs to the sanitary sewer main and ratifying the award of emergency contracts without competitive bidding for the emergency repairs on the sewer main

SUMMARY:

The City of Madera (City) experienced an unexpected, significant failure of the sewer trunk line in Avenue 13, approximately 100 feet west of Granada drive on Monday, June 10, 2024. The City Manager as Director of Emergency Services issued a declaration of local emergency due to conditions of extreme peril to the health and safety of persons and property within Madera. Staff immediately mobilized emergency work efforts to respond to the collapse and provide sanitary sewer services to City residents, as well as residents of the areas of Parksdale and Parkwood that connect to the City's sewer line. The requested action is twofold: (1) to ratify the declaration of local emergency, and (2) to make a finding of emergency relating to the emergency response and repairs pursuant to Public Contract Code 22050 allowing staff to continue with accelerated repair and construction at the failure site without a formal competitive bidding process.

DISCUSSION:

On Monday, June 10, 2024, at approximately 10:30 AM, City staff was informed of a roadway collapse approximately 100 feet to the west of the intersection of Avenue 13 (Pecan Avenue) and Road 25 (Granada Drive). The rear trailer of a truck pulling two (2) trailers had fallen into a hole in the roadway directly above the City's sewer trunk line. The sewer trunk line is the main collection line for the City's sewer system that carries the flow of sewage from City residents and businesses to the Waste Water Treatment Plant (WWTP).

It was determined that the sewer trunk line had collapsed at this location and flow was impeded. The health and safety of residents was at risk due to the imminent backup of raw sewage in the system if the collapse was not addressed immediately. The City Manager as Director of Emergency Services declared a local emergency, calling on residents to take immediate actions to limit the introduction of flow to the sewer system. The first resolution contemplated with this report ratifies the declaration of a local emergency.

Due to the critical nature of the repair at the failure site and the potential disastrous impact to the community from the complete loss of sewer collection infrastructure and the potential for the backup of raw sewage, immediate action was taken by the City to secure the site, implement a bypass pumping operation, stabilize the collapsed roadway and risk to adjacent utilities, and plan for emergency repairs to the sewer line.

The City engaged several contractors under Public Contract Code section 22050, which allows the City Council to authorize the City Manager to enter into contracts for emergency work without engaging in competitive bidding. This allowed the City to begin work on the site immediately to protect the health and safety of the public. The second resolution contemplated with this report ratifies the award of emergency contracts under the referenced Public Contract Code section. It should be noted that the second resolution requires a 4/5 vote of the City Council.

Previously, on June 3, 2024, at approximately 2:30 PM, County staff was notified by a resident of a significant failure in Avenue 13 near Mission Bell winery. County crews notified City staff of a likely sewer failure at the location. City crews confirmed by visual inspection that the sewer trunk main had experienced a failure causing a large void in the road and partially obstructing the flow. This event resulted in a declaration of emergency by the City Manager as Director of Emergency Services. The City Council ratified the declaration and emergency contracts for the June 3, 2024, collapse at its June 5, 2024, meeting. The resolution from this action is provided as Exhibit 2 to the first resolution for reference.

FINANCIAL IMPACT:

It is difficult to provide a cost estimate at this time due to the unknown conditions and early stages of the situation. The City Council will be provided regular reports relating to the emergency contracts and expenditures to address the June 10, 2024, sewer line failure.

ALTERNATIVES:

Staff does not recommend any alternatives than proceeding with emergency repairs to ensure the health and safety of the public.

ATTACHMENTS:

1. Resolution Ratifying the declaration of a local emergency by the city Manager as Director of Emergency Services due to additional failure of the City Sewer trunk line on June 10, 2024
 - Exhibit 1: Declaration proclaiming the existence of a local emergency for the June 10, 2024, sewer trunk failure
 - Exhibit 2: City Council Resolution 24-80 ratifying the existence of a local emergency

2. Resolution Making a finding of emergency relating to emergency response and repairs to the sanitary sewer main, and ratifying the award of emergency contracts without competitive bidding for the emergency repairs on the sewer main

Attachment 1

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA,
RATIFYING THE DECLARATION OF A LOCAL EMERGENCY BY THE CITY MANAGER
AS THE DIRECTOR OF EMERGENCY SERVICES DUE TO ADDITIONAL FAILURE OF
THE CITY'S SEWER TRUNK LINE ON JUNE 10, 2024**

WHEREAS, Section 3-2.04 of the Madera Municipal Code designates the City Manager as the Director of Emergency Services for the City of Madera; and

WHEREAS, California Government Code Sections 8558 and 8630, et seq., and Section 3-2.04 (A) of the Madera Municipal Code authorizes the Director of Emergency Services to proclaim the existence of a local emergency within the City of Madera when the City Council is not in session and the City of Madera is affected or likely to be affected by the existence or threatened existence of conditions of emergency or of extreme peril to the health and safety of persons and property within the territorial limits of the City of Madera; and

WHEREAS, a local emergency declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council; and

WHEREAS, the health, safety, and welfare of City residents, businesses, visitors, and staff are of utmost importance to the City and additional future measures may be needed to protect the community. The mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to the present state of emergency. The City may require additional assistance in the future, and proclamation of local emergency allows additional resources to flow to the City in a timely manner; and

WHEREAS, on June 3, 2024, the City Council was not in session and the City Manager as Director of Emergency Services declared a local emergency due to the existence of conditions of extreme peril to the health and safety of persons and property within the City of Madera caused by failure of the main sewer trunk line in Avenue 13 between Granada Drive and Road 24 in Madera, California; and

WHEREAS, the City Council of the City of Madera ratified this action at its meeting on June 5, 2024; and

WHEREAS, additional sewer trunk line failure occurred on or about Monday, June 10, 2024, causing significant impact to the sanitary sewer system serving all residents and businesses within the City of Madera and the Parksdale and Parkwood areas of Madera County; and

WHEREAS, on June 10, 2024, the City Council was not in session and the City Manager as Director of Emergency Services declared a local emergency for response and repairs to the additional sewer trunk line collapse to protect the health and safety of persons and property

within the City of Madera; and

WHEREAS, The Director of Emergency Services requests that the City Council ratify the declaration of a state of local emergency for the City of Madera as impacts from the sewer trunk collapses are evaluated, repaired, and or mitigated; and

WHEREAS, after consideration of all facts reasonably available for review and all items, the City Council of the City of Madera now desires to ratify the proclamation and affirm the existence of a state of emergency throughout the City to make additional resources available to address the impacts of the above-described sewer trunk line failures, ratify the proclamation of the Director of Emergency Services made on June 10, 2024, and affirm the existence of a state of local emergency for the City of Madera as of the date June 3, 2024 when the first collapse was discovered.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

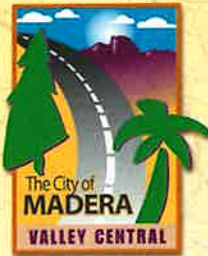
1. Recitals. The above recitals are true and correct and incorporated herein as findings by the City Council.
2. Proclamation of Local Emergency. The actual existence of conditions of extreme peril to the safety of persons and property have arisen within the City of Madera, caused by the effects of the above-described sewer trunk line failures. The City Council, based upon the foregoing, now does proclaim, declare and affirm the continuing existence of a local emergency throughout the City.
3. Ratification. The aforementioned conditions of extreme peril warranted and necessitated the extension of the proclamation of the existence of a local emergency throughout the City of Madera by the City's Director of Emergency Services on June 10, 2024. The City Council of the City of Madera does hereby ratify and affirm the need to continue the proclamation of a local emergency throughout the City of Madera by the City's Director of Emergency Services on June 10, 2024, attached hereto as Exhibit 1 and incorporated herein by reference.
4. Effective Date of Local Emergency. The City Council of the City of Madera does hereby extend and affirm the existence of a state of local emergency for the City of Madera as of the date of June 3, 2024, when the City's Director of Emergency Services originally declared the existence of a state of emergency for the City of Madera as affirmed by City Council Resolution No. 24-80 (attached hereto as Exhibit 2 and incorporated herein by reference), for the reasons articulated herein, and for the additional reasons in the proclamation of a local emergency throughout the City of Madera by the City's Director of Emergency Services proclaimed on June 10, 2024.

5. Authority. During the existence of said local emergency, the powers, authority, functions and duties of the Director of Emergency Services and the City's emergency services organizations shall be those prescribed by state law, City ordinances, resolutions, and approved plans of the City in order to mitigate the effects of said local emergency. In this regard, the Council desires to make clear the powers, functions, and duties include:
 - a. As necessary for the public health, life, and property, entering into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the significant sewer trunk failures. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, as well as any City procurement or related policy, are suspended to the extent reasonably necessary to address the effects of the significant sewer system failure.
 - b. The Emergency Services Director is expressly authorized to assist with any lawful order, including the enforcement of an order issued by the State of California.
 - c. The designation and authorization of Arnolando Rodriguez, City Manager and Emergency Services Director, or his designee, as the Local Hazard Mitigation Coordinator of the City of Madera is reaffirmed, including for the purposes of i) assessing damage within the City of Madera and consulting with federal/state survey teams about hazard mitigation actions; and ii) authorized representative for individual assistance of the City of Madera for purposes of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance
6. Duration. Per Government Code Section 8630, this ratification of the proclamation of local emergency shall expire in sixty (60) days unless extended by the City Council. At the direction of the Emergency Services Director, City Staff are directed to return this item for Council review of the need for continuing the local emergency prior to the expiration of the sixty (60) day period.
7. Notice to Agencies. In accordance to the California Disaster Assistance Act and the Stafford Act, the Emergency Services Director is authorized to send a copy of this ratification of a proclamation of local emergency be forwarded to the Director of California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs. A copy of this Resolution shall be forwarded to the Madera County Office of Emergency Services.

8. Severability. If any subsection, sentence, clause, phrase, or word of this Resolution or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Resolution.
9. Effective Date of Resolution. This Resolution shall be effective immediately upon passage and adoption. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.
10. Publication. This Resolution and its contents will be published and promulgated in as widespread a manner as is reasonably feasible under the conditions prevailing during this local emergency.

* * * * *

Exhibit 1



**DECLARATION PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY
JUNE 10, 2024, SEWER TRUNK FAILURE**

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril to the health and safety of persons and property have arisen within the City of Madera, caused by failure of the main sewer trunk line in Avenue 13, east of Granada Drive, in Madera, California, on or about Monday, June 11, 2024; and

WHEREAS, this failure of the pipe significantly impacted the sanitary sewer system serving all residents and businesses within the City of Madera and the Parksdale and Parkwood areas of Madera County, placing the entire sewer system at risk of raw sewage backup, and included significant failure of the transportation infrastructure in the immediate vicinity of the sewer trunk failure; and

WHEREAS, all users of the sewer system were ordered to take immediate actions to limit the introduction of flow to the sewer system; and

WHEREAS, strict compliance with certain Madera Municipal Code (“MMC”) and other City regulations would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the significant sewer failure, which issues cannot be timely addressed absent a declaration of emergency; and

WHEREAS, the mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future participation by the county, state and federal governments will be critical to successfully responding to the failed sewer infrastructure; and

WHEREAS, local resources have been deployed by the City of Madera to mitigate and recover from this significant failure, thereby depleting strained public safety resources such as Law Enforcement, Public Works, and Engineering services; and

WHEREAS, Section 3-2.04 of the Madera Municipal Code designates the City Manager as the Director of Emergency Services for the City of Madera; and

WHEREAS, California Government Code Sections 8558 and 8630, et seq., and Section 3-2.04 (A) of the Madera Municipal Code authorizes the Director of Emergency Services to proclaim the existence of a local emergency within the City of Madera when the City Council is not in session and the City of Madera is affected or likely to be affected by the existence or threatened existence of conditions of emergency or of extreme peril to the health and safety of persons and

property within the territorial limits of the City of Madera; and

WHEREAS, a local emergency declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council; and

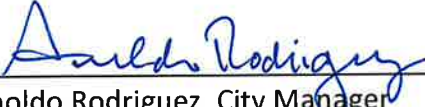
WHEREAS, the health, safety, and welfare of City residents, businesses, visitors, and staff are of utmost importance to the City and additional future measures may be needed to protect the community. The mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to the present state of emergency. The City may require additional assistance in the future, and proclamation of local emergency allows additional resources to flow to the City in a timely manner; and

WHEREAS, after consideration of all items the Director of Emergency Services now desires to proclaim the existence of a state of emergency to make additional resources available to address the effects of the sewer trunk failure.

NOW, THEREFORE, the Director of Emergency Services for the City of Madera does hereby find and proclaim as follows:

1. The above recitals are true and correct and incorporated herein as findings by the Director of Emergency Services.
2. The Director of Emergency Services finds that conditions of extreme peril to the health and safety of persons and property have arisen within the City of Madera, caused by a second significant failure of the sewer trunk line on or about June 10, 2024.
3. The Director of Emergency Services further finds that the City Council is not currently in session.
4. The aforementioned conditions of extreme peril caused by additional sewer trunk line failure warrant and necessitate the proclamation of the existence of a local emergency by the City's Director of Emergency Services. Pursuant to the authority granted by City ordinance, I hereby proclaim that a local emergency now exists throughout the City as of the date of June 10, 2024, when the collapse was discovered for the reasons articulated herein.
5. It is further proclaimed and ordered that during the existence of said local emergency, the powers, functions, and duties of the Emergency Services Director and the Madera Disaster Council shall be those prescribed by State Law, City ordinances, resolutions, and approved plans of the City in order to mitigate the effects of said local emergency.
7. It is further proclaimed and ordered that in accordance with the California Disaster

- Assistance Act and the Stafford Act, a copy of this proclamation be forwarded to the Director of the California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs. It is further proclaimed and ordered that a copy of this Declaration be forwarded to the Madera County Office of Emergency Services.
8. It is further proclaimed and ordered that Arnolando Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the Local Hazard Mitigation Coordinator of the City of Madera for the purpose of assessing damage within the City of Madera and consulting with federal/state survey teams about hazard mitigation actions.
 9. It is further proclaimed and ordered that Arnolando Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the authorized representative for public assistance, and Arnolando Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the authorized representative for individual assistance of the City of Madera for purposes of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance.
 10. This proclamation and its contents will be published and promulgated in as widespread a manner as is reasonable feasible under the conditions prevailing during this local emergency.
 11. This proclamation of a local emergency shall take effect immediately as of the date first set forth below. Consistent with Subsection 3-2.04(A) of the MMC and California Government Code Section 8630(b) the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the City Council.



Arnolando Rodriguez, City Manager
Director of Emergency Services

6/10/2024
Date

Exhibit 2

RESOLUTION NO. 24-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, MAKING A FINDING OF EMERGENCY RELATING TO SEWER FAILURES ON THE SEWER MAIN AT AVENUE 13 BETWEEN GRANADA DRIVE AND ROAD 24, AFFIRMING THE EMERGENCY ACTIONS TAKEN BY THE CITY MANAGER TO MAKE EMERGENCY REPAIRS ON THE SANITARY SEWER MAIN, AND RATIFYING THE AWARD OF EMERGENCY CONTRACTS WITHOUT COMPETITIVE BIDDING FOR THE EMERGENCY REPAIRS ON THE SEWER MAIN

WHEREAS, Public Contract Code Section 220250 provides that in the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

WHEREAS, Public Contract Code further provides that before a governing body takes any action as set in the recital hereinabove, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

WHEREAS, pursuant to Public Contract Code Section 1102 an “emergency,” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

WHEREAS, the sewer main located at Avenue 13 between Granada Drive and Road 24 is the sole sewer main that conveys all City sewerage to the City’s Wastewater Treatment Plant; and

WHEREAS, the sewerage main collapsed on June 3, 2024 resulting in a large void in the roadway and sewerage flows temporarily backing up into the City system requiring operators to install temporary by-pass pumps in order to pump the sewerage past the localized line break and to maintain by-pass pumping continuously on a 24-hr basis at all hours until the repair is complete; and

WHEREAS, the sewer main services the entire City and community of Parkwood and failure of the pipeline, without the by-pass pumping, would result in a large sanitary sewer overflow; and

WHEREAS, sanitary sewer overflows over 1,000 gallons will result in a Notice of Violation from the California Water Board per Water Quality Order 2006-0003-DWQ; and

WHEREAS, the repairs necessary are described as follows: provide traffic control, pump out and bypass the area of main collapse, remove and replace the main at the line break, make repairs and rehabilitation to potential failure conditions upon further discovery and investigation, secure all utilities in conflict at the location, backfill and around sewer main and trench, repair damage to street and demobilize; and

WHEREAS, the City of Madera has secured several contractors and specialty trades to remedy the situation including Floyd Johnston Construction to make the necessary repairs and investigation, Rain for Rent to provide temporary pumps to provide by-pass pumping of the sewage; Safety Network to provide traffic control for the road closure and site protection; and

WHEREAS, additional goods, trades and services may be required including but not limited to sewer video inspection, pipe cleaning, geotechnical engineering, materials and appurtenances for repairs; and

WHEREAS, the City crews also worked overtime to maintain the sewer pumps and to provide Construction Management for this project; and

WHEREAS, in accordance with Madera City Code Section 3-2.04, the City Manager has provided a detailed staff report setting forth the specific facts establishing the emergency, why the emergency did not permit a delay resulting from a competitive solicitation for bids, and why his actions were necessary to respond to the emergency associated with the aforementioned repairs as well as on the costs associated with the repairs; and

WHEREAS, it is highly likely that failure to immediately make the required repairs will result in danger to the health, safety, and welfare of the City residents, members of the public, and/or public facilities; and

WHEREAS, the City Council has considered the written report and verbal report of the City Manager at a regular meeting and determined that the facts and circumstances are such that emergency repairs were and are needed.

NOW, THEREFORE the City Council resolves as follows:

1. The staff report regarding this resolution and the recitals herein are incorporated herein by reference.
2. The repairs described in the recitals and staff report constitute an emergency requiring the need to take immediate action and require procurement of necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.
3. The "emergency" described in this resolution meets the requirements as set forth in the Public Contract Code as it constitutes a sudden, unexpected occurrence that posed a clear

and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

4. The Council finds the emergency will not permit a delay resulting from a competitive solicitation for bids and that the action was and is necessary to respond to the emergency.
5. The City Council ratifies the emergency action taken by the City Manager, including the award of an emergency purchase orders and contracts without competitive bidding for the emergency repairs.
6. Upon completion of the aforementioned emergency repairs and stabilization work, any other work shall be made through a competitive bid process as required by the Madera City Code and Public Contract Code.
7. The City Council hereby directs the City Manager to make status reports at each regularly scheduled Council meeting, pursuant to Section 22050 of the Public Contracts Code until the repairs have been completed.
8. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Madera this 5th day of June 2024 by the following vote:

- AYES: Mayor Garcia, Councilmembers Rodriguez, Montes, Evans, Mejia and Villegas.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: Mayor Pro Tem Gallegos.

APPROVED:



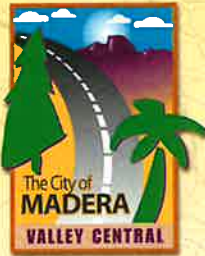
SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk





**DECLARATION PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY
JUNE 3, 2024, SEWER TRUNK FAILURE**

WHEREAS, the Director of Emergency Services does hereby find that conditions of extreme peril to the health and safety of persons and property have arisen within the City of Madera, caused by failure of the main sewer trunk line in Avenue 13 between Granada Drive and Road 24 in Madera, California, on or about Monday, June 3, 2024; and

WHEREAS, this failure of the pipe significantly impacted the sanitary sewer system serving all residents and businesses within the City of Madera and the Parksdale and Parkwood areas of Madera County, placing the entire system at risk of raw sewage backup; and

WHEREAS, all users of the sewer system were ordered to take immediate actions to limit the introduction of flow to the sewer system; and

WHEREAS, strict compliance with certain Madera Municipal Code ("MMC") and other City regulations would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the significant sewer failure, which issues cannot be timely addressed absent a declaration of emergency; and

WHEREAS, the mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future participation by the county, state and federal governments will be critical to successfully responding to the failed sewer infrastructure; and

WHEREAS, local resources have been deployed by the City of Madera to mitigate and recover from this significant failure, thereby depleting strained public safety resources such as Law Enforcement, Public Works, and Engineering services; and

WHEREAS, Section 3-2.04 of the Madera Municipal Code designates the City Manager as the Director of Emergency Services for the City of Madera; and

WHEREAS, California Government Code Sections 8558 and 8630, et seq., and Section 3-2.04 (A) of the Madera Municipal Code authorizes the Director of Emergency Services to proclaim the existence of a local emergency within the City of Madera when the City Council is not in session and the City of Madera is affected or likely to be affected by the existence or threatened existence of conditions of emergency or of extreme peril to the health safety of persons and property within the territorial limits of the City of Madera; and

WHEREAS, a local emergency declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven (7) days unless it has been ratified by the City Council; and

WHEREAS, the health, safety and welfare of City residents, businesses, visitors and staff are of utmost importance to the City and additional future measures may be needed to protect the community. The mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to the present state of emergency. The City may require additional assistance in the future, and proclamation of local emergency allows additional resources to flow to the City in a timely manner; and

WHEREAS, after consideration of all items the Director of Emergency Services now desires to proclaim the existence of a state of emergency to make additional resources available to address the effects of the sewer trunk failure.

NOW, THEREFORE, the Director of Emergency Services for the City of Madera does hereby find and proclaim as follows:

1. The above recitals are true and correct and incorporated herein as findings by the Director of Emergency Services.
2. The Director of Emergency Services finds that conditions of extreme peril to the health and safety of persons and property have arisen within the City of Madera, caused by a significant failure of the sewer trunk line on or about June 3, 2024.
3. The Director of Emergency Services further finds that the City Council is not currently in session.
4. The aforementioned conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency by the City's Director of Emergency Services. Pursuant to the authority granted by City ordinance, I hereby proclaim that a local emergency now exists throughout the City as of the date of June 3, 2024, when the collapse was discovered for the reasons articulated herein.
5. It is further proclaimed and ordered that during the existence of said local emergency, the powers, functions, and duties of the Emergency Services Director and the Madera Disaster Council shall be those prescribed by State Law, City ordinances, resolutions, and approved plans of the City in order to mitigate the effects of said local emergency.
7. It is further proclaimed and ordered that in accordance with the California Disaster Assistance Act and the Stafford Act, a copy of this proclamation be forwarded to the Director of the California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs. It is further proclaimed and ordered that a copy of this Declaration be forwarded to the Madera County Office of Emergency Services.
8. It is further proclaimed and ordered that Arnoldo Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the Local Hazard Mitigation

Coordinator of the City of Madera for the purpose of assessing damage within the City of Madera and consulting with federal/state survey teams about hazard mitigation actions.

9. It is further proclaimed and ordered that Arnoldo Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the authorized representative for public assistance, and Arnoldo Rodriguez, City Manager and Emergency Services Director, or his designee, is hereby designated as the authorized representative for individual assistance of the City of Madera for purposes of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance.
10. This proclamation and its contents will be published and promulgated in as widespread a manner as is reasonable feasible under the conditions prevailing during this local emergency.
11. This proclamation of a local emergency shall take effect immediately as of the date first set forth below. Consistent with Subsection 3-2.04(A) of the MMC and California Government Code Section 8630(b) the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the City Council.


Arnoldo Rodriguez, City Manager
Director of Emergency Services

6/3/2024
Date

ATTACHMENT 2

RESOLUTION NO. 24-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, MAKING A FINDING OF CONTINUING EMERGENCY
RELATING TO SEWER FAILURES ON THE SEWER MAIN AT AVENUE 13
WEST OF GRANADA DRIVE , AFFIRMING THE EMERGENCY ACTIONS
TAKEN BY THE CITY MANAGER TO MAKE EMERGENCY REPAIRS ON THE
SANITARY SEWER MAIN, AND RATIFYING THE AWARD OF EMERGENCY
CONTRACTS WITHOUT COMPETITIVE BIDDING FOR THE EMERGENCY
REPAIRS ON THE SEWER MAIN**

WHEREAS, Public Contract Code Section 22050 provides that in the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

WHEREAS, Public Contract Code further provides that before a governing body takes any action as set in the recital hereinabove, it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

WHEREAS, pursuant to Public Contract Code Section 1102 an “emergency,” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

WHEREAS, the sewer main located at Avenue 13 west of Granada Drive is the sole sewer main that conveys all City sewerage to the City’s Wastewater Treatment Plant; and

WHEREAS, in addition to the current emergency as a result of the sewer collapse on June 3, 2024, the sewer main has a secondary collapsed on June 10, 2024 resulting in a large void in the roadway and sewerage flows temporarily backing up into the City system requiring operators to install temporary by-pass pumps in order to pump the sewerage past the localized line break and to maintain by-pass pumping continuously on a 24-hr basis at all hours until the repair is complete; and

WHEREAS, the sewer main services the entire City and community of Parkwood and failure of the pipeline, without the by-pass pumping, would result in a large sanitary sewer overflow; and

WHEREAS, sanitary sewer overflows over 1,000 gallons will result in a Notice of Violation from the California Water Board per Water Quality Order 2006-0003-DWQ; and

WHEREAS, the repairs necessary are described as follows: provide traffic control, pump out and bypass the area of main collapse, remove and replace the main at the line break, make repairs and rehabilitation to potential failure conditions upon further discovery and investigation, secure all utilities in conflict at the location, backfill and around sewer main and trench, repair damage to street and demobilize; and

WHEREAS, the City of Madera has secured several contractors and specialty trades to remedy the situation including Floyd Johnston Construction to make the necessary repairs and investigation, MPS to provide temporary pumps to provide by-pass pumping of the sewage; Safety Network to provide traffic control for the road closure and site protection; and

WHEREAS, additional goods, trades and services may be required including but not limited to sewer video inspection, pipe cleaning, geotechnical engineering, materials and appurtenances for repairs; and

WHEREAS, the City crews also worked overtime to maintain the sewer pumps and to provide Construction Management for this project; and

WHEREAS, in accordance with Madera City Code Section 3-2.04, the City Manager has provided a detailed staff report setting forth the specific facts establishing the emergency, why the emergency did not permit a delay resulting from a competitive solicitation for bids, and why his actions were necessary to respond to the emergency associated with the aforementioned repairs as well as on the costs associated with the repairs; and

WHEREAS, it is highly likely that failure to immediately make the required repairs will result in danger to the health, safety, and welfare of the City residents, members of the public, and/or public facilities; and

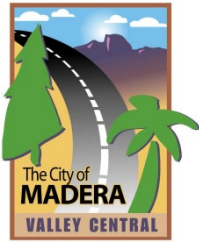
WHEREAS, the City Council has considered the written report and verbal report of the City Manager at a regular meeting and determined that the facts and circumstances are such that emergency repairs were and are needed.

NOW, THEREFORE the City Council resolves as follows:

1. The staff report regarding this resolution and the recitals herein are incorporated herein by reference.
2. The repairs described in the recitals and staff report constitute an emergency requiring the need to take immediate action and require procurement of necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.
3. The “emergency” described in this resolution meets the requirements as set forth in the Public Contract Code as it constitutes a sudden, unexpected occurrence that posed a clear

and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

4. The Council finds the emergency will not permit a delay resulting from a competitive solicitation for bids and that the action was and is necessary to respond to the emergency.
5. The City Council ratifies the emergency action taken by the City Manager, including the award of an emergency purchase orders and contracts without competitive bidding for the emergency repairs.
6. Upon completion of the aforementioned emergency repairs and stabilization work, any other work shall be made through a competitive bid process as required by the Madera City Code and Public Contract Code.
7. The City Council hereby directs the City Manager to make status reports at each regularly scheduled Council meeting, pursuant to Section 22050 of the Public Contracts Code until the repairs have been completed.
8. This Resolution shall become effective upon adoption.



REPORT TO CITY COUNCIL Late Distribution Notice

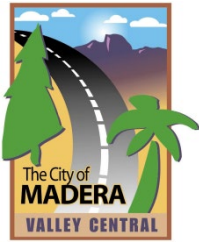
DATE: June 11, 2024

TO: Mayor and City Councilmembers

FROM: Wendy Silva, Director of Human Resources

SUBJECT: June 12, 2024 City Council Meeting
Late Distribution Report for Item A-1

Additional time is needed to complete, review, and finalize the report for Item A-1: Ratify declaration of a local emergency and approve emergency procurement of response and repairs to Avenue 13 sewer trunk main due to multiple failure sites, the report will be distributed as soon as it is available. Thank you for your understanding.



REPORT TO CITY COUNCIL Late Distribution Notice

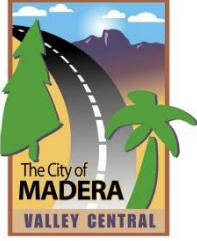
DATE: June 11, 2024

TO: Mayor and City Councilmembers

FROM: Keith Helmuth, City Engineer

SUBJECT: June 12, 2024 City Council Meeting
Late Distribution Report for Item A-2

Additional time is needed to complete, review, and finalize the report for Item A-2: Contract Award for the Avenue 13 Sewer Interceptor Rehabilitation, City Project No. SS-00014, the report will be distributed as soon as it is available. Thank you for your understanding.

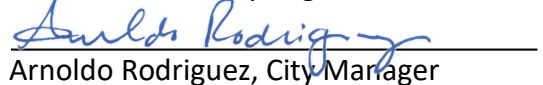


REPORT TO CITY COUNCIL

Approved by:



Keith Helmuth, City Engineer



Arnaldo Rodriguez, City Manager

Council Meeting of: June 12, 2024

Agenda Number: A-2

SUBJECT:

Contract Award for the Avenue 13 Sewer Interceptor Rehabilitation, City Project No. SS-00014

RECOMMENDATION:

Adopt a Resolution:

1. Adopting a Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction) Categorical Exemptions under California Environmental Quality Act (CEQA) Guidelines Section 15301 and 15302; and
2. Approving the Contract Award for the Avenue 13 Sewer Interceptor Rehabilitation Project, City Project No. SS-00014 in the amount of \$8,328,452.00 to SAK Construction, LLC, as to its material terms; and
3. Authorizing a Contingency of 20 percent of the Contract amount; and
4. Authorizing the City Manager to Execute the Agreement on behalf of the City.

SUMMARY:

As part of a prior condition assessment project, the City has inspected its sewer lines using closed-circuit television (CCTV). During a CCTV inspection, the City learned that several lines were in need of maintenance, one of which was an approximate 4.6-mile portion of the sewer interceptor along Schnoor Avenue and Avenue 13 between Granada Avenue and Road 21 ½ at the Waste Water Treatment Plant (WWTP). The City hired MKN Associates (MKN) for professional engineering and construction management services for this Project. Consistent with State and industry requirements, MKN engaged in assessment, design, engineering, etc. The project was divided into three phases, prioritized by assessed need. Phases 1 and 2 collectively combine to rehabilitate the sewer interceptor along Avenue 13 from Granada to the WWTP. Phase 3 will include rehabilitation of the sewer interceptor upstream of Phases 1 and 2. Due to additional funding availability, Phases 1 and 2 were combined into one bid package to facilitate a more cost-effective rehabilitation project. An advertisement for bids for the combined Phases 1 and 2, the Avenue 13 Sewer Interceptor Rehabilitation Project (Project), resulted in four (4) bids being

received, including from SAK Construction, LLC, (SAK) deemed the lowest responsive and responsible bidder. The requested action is to award the bid to SAK, with authorized contingencies up to twenty percent (20%).

DISCUSSION:

As a result of a CCTV condition assessment, the City has planned as part of its Capital Improvement Project (CIP) budget rehabilitation of the sewer interceptor along Schnoor Avenue and Avenue 13 between Granada Avenue and Road 21 ½ at the WWTP. MKN was retained for professional engineering and project management services in November 2021. Since being retained, MKN has conducted an assessment and provided design and general engineering services. These services resulted in a recommended three-phase project for the rehabilitation of the line. The phases were based on the assessed condition of the pipe, with Phase 1 receiving the highest priority. The general scope of the project under consideration of award for Phases 1 and 2 includes rehabilitation of the existing pipeline from Granada Avenue to Road 21 ½ at the WWTP. The project includes the rehabilitation of approximately 18,680 linear feet of 42-inch and 48-inch pipeline by installation of Cured in Place Pipeline (CIPP) liner.

On April 17, 2024, an “Advertisement for Bids” was published in the Madera Tribune as well as released for public bidding on the City’s PlanetBids web portal. On May 22, 2024, four (4) bids were received. The bids were checked for accuracy against bidding requirements, validity of licenses, and bid security. To determine the low bidder, bids were compared to the Bid Schedule and are summarized by the Bid Overview in Table 1.

Table 1: Bid Overview	
<i>Bidder</i>	<i>Total Base Bid</i>
1. SAK Construction	\$8,328,452.00
2. Insituform Technologies, LLC	\$10,291,186.00
3. Lamassu Utility Services, Inc	\$11,377,197.49
4. Spinello Infrastructure West, Inc	\$12,187,830.00
<i>Engineer’s Opinion of Cost</i>	
Phases 1 and 2	\$11,250,960.00

At the conclusion of this comparison SAK Construction was deemed to have submitted the lowest-cost, responsive and responsible bid that meets the contract requirements.

The date of contract award is not part of the project timeline as advertised, nor does it have bearing on the award of agreement. Due to recent unanticipated failures in the line, staff expedited processing the contract documents to prepare them for Council’s consideration.

ENVIRONMENTAL:

City staff performed a preliminary environmental assessment and determined that a Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction) set forth in CEQA Guidelines Sections

15301 and 15302 apply to this project, as the rehabilitation applies to existing City sewer distribution pipeline facilities used to provide sewerage and public utility services involving negligible or no expansion to those existing facilities beyond that existing at the time of the City's determination and will be located on the same site and have the same purpose and capacity. Further, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines 15300.2 apply to this project.

FINANCIAL IMPACT:

The project recommended for award was included in the City's adopted FY 2023-2024 Capital Improvement Projects budget. There is no fiscal impact on the City's General Fund. Funding sources will be the American Rescue Plan Act and monies received from the State of California specifically for this rehabilitation project.

The recommended project budget includes the SAK project construction bid amount of \$8,328,452.00; a twenty percent (20%) contingency as approved by the City Engineer; plus an estimated ten percent (10%) for various construction management, administration, testing, and inspection services; for a total project budget of \$10,826,987.60. The project budget is outlined in Table 2.

Table 2. Project Budget	
<i>Line Item</i>	<i>Amount</i>
SAK construction contract	\$8,328,452.00
Project contingency	\$1,665,690.40
Various related services	\$832,845.20
Total Project Budget	\$10,826,987.60

ALTERNATIVES:

The Council may reject all bids and rebid the project. This will delay rehabilitation of the sewer line by several months.

ATTACHMENTS:

1. Resolution approving Contract
 - a. Exhibit A – Contract (Contract Document attachments are located at <https://www.madera.gov/wp-content/uploads/2024/06/Contract-Documents-SAK-Construction.pdf>)

Attachment 1

Resolution

RESOLUTION NO. 24-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA ADOPTING A CALIFORNIA ENVIRONMENTAL QUALITY
ACT (CEQA) CLASS 1 AND CLASS 2 CATEGORICAL EXEMPTIONS AND
APPROVING THE CONTRACT AWARD FOR THE AVENUE 13 SEWER
INTERCEPTOR REHABILITATION PROJECT IN THE AMOUNT OF
\$8,328,452.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE
THE AGREEMENT ON BEHALF OF THE CITY**

WHEREAS, on April 17, 2024, the City of Madera (City) Engineering Department advertised a solicitation for construction bids for the Avenue 13 Sewer Interceptor Rehabilitation, City Project SS-00014, hereinafter referred to as “the Project;” and

WHEREAS, four sealed bids were received on May 29, 2024, and opened by the City Engineer as follows:

1.	SAK Construction	\$8,328,452.00
2.	Insituform Technologies, LLC	\$10,291,186.00
3.	Lamassu Utility Services, Inc	\$11,377,197.49
4.	Spinello Infrastructure West, Inc	\$12,187,830.00

; and

WHEREAS, SAK Construction, LLC, was selected as the lowest responsive and responsible bidder; and

WHEREAS, funding for the Project is programmed in the Capital Improvement Projects Budget for Fiscal Year 2023/24 under CIP Projects Avenue 13 Sewer Interceptor Rehabilitation; and

WHEREAS, the City has performed a preliminary environmental assessment of the Project, and has determined that a Class 1 and Class 2 Categorical Exemptions set forth in the California Environmental Quality Act (CEQA) Guidelines, Sections 15301 and 15302, applies to the Project; and

WHEREAS, the City desires to award the bid to SAK Construction, LLC, and enter into an agreement to construct the City of Madera Avenue 13 Sewer Interceptor Rehabilitation, City Project No. SS-00014.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY finds, orders and resolves as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth in

full.

2. The City Council finds and determines that a Class 1 (Existing Facilities) and Class 2 (Replacement or Reconstruction) as set forth in CEQA Guidelines Sections 15301 and 15302 apply to the Project, as the rehabilitation applies to existing City sewer distribution pipeline facilities used to provide sewerage and public utility services involving negligible or no expansion to those existing facilities beyond that existing at the time of the City's determination and will be located on the same site and have the same purpose and capacity. Further, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines 15300.2 apply to the Project.
3. The City Council (Council) has reviewed and considered all of the information presented including the report to Council from the Engineering Department.
4. The City Council finds that SAK Construction, LLC, is the lowest qualified responsible and responsive bidder, and does hereby accept the bid of SAK Construction, LLC.
5. The City Council awards the bid to SAK Construction, LLC, with the finding it is in the best interests of the City. The City Council approves an Agreement for the project, attached as Exhibit "A," in the amount of \$8,328,452.00 with SAK Construction, LLC, and authorizes the City Manager to execute the same on behalf of the City. The City Manager is further authorized to make any non-material, technical, and clerical edits and corrections to the Agreement, including performance and payment bonds completed after the award, subject to approval as to form by City Attorney.
6. Council authorizes construction contingencies of up to 20 percent as approved by the City Engineer.
7. This Resolution is effective immediately upon adoption.

Exhibit A

Contract Agreement

AGREEMENT

THIS AGREEMENT, made this 10th day of June 2024, between the City of Madera, hereinafter called "**OWNER**", and **SAK Construction, LLC**, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called "**CONTRACTOR**".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The **CONTRACTOR** shall commence and complete all **WORK** required for the
**"CITY OF MADERA AVENUE 13 SEWER INTERCEPTOR REHABILITATION,
CITY PROJECT NO. SS-00014"**
2. The **CONTRACTOR** shall furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the **WORK** described herein.
3. The **CONTRACTOR** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** within 10 calendar days after the date of the **NOTICE TO PROCEED** and will complete the same within the time period set forth in the **CONTRACT DOCUMENTS**. The **CONTRACTOR** shall submit a Payment Bond and Performance Bond in the amount of \$8,328,452.00, each and Insurance Certificates as specified in the **CONTRACT DOCUMENTS** prior to commencing any **WORK**.
4. The **CONTRACTOR** agrees to perform all of the **WORK** described in the **DOCUMENTS** for the unit and lump sum prices set forth in the Bid Schedule.
5. The term "**CONTRACT DOCUMENTS**" means and includes the following:
 - (A) Advertisement for Bids
 - (B) Information for Bidders
 - (C) Bid Proposal
 - (D) Bid Bond
 - (E) Agreement
 - (F) Payment Bond
 - (G) Performance Bond
 - (H) Insurance Requirements for Contractors
 - (I) Section 1, General Conditions
 - (J) Section 2, Special Conditions
 - (K) Section 3, City of Madera Standard Specifications and Drawings
 - (L) Section 4, Bid Items
 - (M) Section 5, Technical Specifications
 - (N) State Standard Plans and Specifications
 - (O) Plans and Specification prepared or issued by City of Madera entitled "**CITY OF MADERA AVENUE 13 SEWER INTERCEPTOR REHABILITATION**" dated **April, 2024**

Addenda No. 1, dated May 9, 2024

Addenda No. 2, dated May 21, 2024

6. In the event the **CONTRACTOR** does not complete the **WORK** within the time limit specified herein or within such further time as authorized, the **CONTRACTOR** shall pay to the **OWNER** liquidated damages in the amount of **Two Thousand and Five Hundred Dollars (\$2,500.00)** per day for each and every calendar day delay in finishing the **WORK** beyond the completion date so specified.

7. The **OWNER** will pay to the **CONTRACTOR** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**. For any moneys earned by the **CONTRACTOR** and withheld by the **OWNER** to ensure the performance of the Contract, the **CONTRACTOR** may, at his request and expense, substitute securities equivalent to the amount withheld in the form and manner and subject to the conditions provided in Division 2, Part 5, Section 22300 of the Public Contract Code of the State of California.

8. In the event of a dispute between the **OWNER** and the **CONTRACTOR** as to an interpretation of any of the specifications or as to the quality or sufficiency of material or workmanship, the decision of the **OWNER** shall for the time being prevail and the **CONTRACTOR**, without delaying the job, shall proceed as directed by the **OWNER** without prejudice to a final determination by negotiation, arbitration by mutual consent or litigation, and should the **CONTRACTOR** be finally determined to be either wholly or partially correct, the **OWNER** shall reimburse him for any added costs he may have incurred by reason of work done or material supplied beyond the terms of the contract as a result of complying with the **OWNER'S** directions as aforesaid. In the event the **CONTRACTOR** shall neglect to prosecute the work properly or fail to perform any provisions of the **CONTRACT**, the **OWNER**, after three days written notice to the **CONTRACTOR**, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to the **CONTRACTOR**, subject to final settlement between the parties as in this paragraph herein above provided.

8A. CLAIMS RESOLUTION PROCESS FOR DISPUTES.

It is the intent of this Contract that disputes regarding the Contract be resolved promptly and fairly between the Contractor and the Owner. However, it is recognized that some disputes will require detailed investigation and review by one or both parties before a determination and resolution can be reached. For the protection of the rights of both the Contractor and the Owner, the following provisions are provided for the resolution of disputes which cannot be resolved by the Owner and the Contractor within three business days after either party gives verbal notice of dispute or potential dispute to the other's attention and prior to the commencement of such work.

The following provisions are intended by Contractor and Owner to comply with Public Contract Code Sections 9204 and 20104 et. seq.

A. Claims:

The term "claim" refers to a separate demand by Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

1. A time extension, including, without limitation, for relief from damages or penalties for delay assessed by Owner under this Contract.
2. Payment by the Owner of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled.
3. Payment of an amount that is disputed by the Owner.

B. The Claim Must Be Timely and in Writing:

For all claims the claim must be in writing and include the documents necessary to substantiate the claim. A notice of potential claim must be filed within five (5) business days of Contractor's completion of work that is a potential claim. Notice of an actual claim must be filed on or before the date of final payment.

C. Receipt of Claim by Owner:

Upon receipt of a claim pursuant to this section, the Owner will conduct a reasonable review of the claim and, within a period not to exceed 45 days from the date of receipt, will provide the Contractor with a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, Owner and Contractor may, by mutual agreement, extend the time period provided in this section.

The Contractor shall furnish reasonable documentation to support the claim. If additional information is thereafter required, it shall be requested and provided upon mutual agreement by the Owner and the Contractor. The District's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation.

D. City Council Approval:

If the Owner needs approval from the City Council to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the City Council does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the Owner shall have up to three days following the next duly publicly noticed regular meeting of the City Council after the 45-day period or extension expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

E. Payment of Claim:

Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. If the Owner fails to issue a written statement, paragraph F below shall apply.

F. Meet and Confer:

If the Contractor disputes the Owner's written response, or if the Owner fails to respond to a claim issued pursuant to this section within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the Owner shall schedule a meet and confer conference within 30 days for settlement of the dispute.

Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the Owner shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the Owner and the Contractor sharing the associated costs equally. The Owner and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those

mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

Under this Contract, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

Unless otherwise agreed to by the Owner and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

If mediation as set forth above does not resolve the parties' dispute, the parties will proceed to arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program.

G. Filing a Government Code Written Claim Notice:

Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim under the Torts Claims Act as provided in Chapter 1 (commencing with Section 900) and Chapter 2 commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code Section 900.

H. Owner's Failure to Respond to Claim:

Failure by the Owner to respond to a claim from Contractor within the time periods described above or to otherwise meet the time requirements set forth above shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the Owner's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the Contractor.

I. Interest:

Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

J. Subcontractor Claims:

If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against Owner because privity of contract does not exist, the Contractor may present to the Owner a claim on behalf of a subcontractor or lower tier subcontractor. For purposes of this paragraph, the term "subcontractor" means any type of subcontractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the Contractor or is a lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the Owner shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the Owner and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

K. Filing of Action on Unresolved Claims:

The parties shall follow the procedures set forth in Public Contracts Code Section 20104.4 if an action is filed to resolve claims under the foregoing provisions. Any action shall be filed in Madera County.

9. Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical conditions, marital status, or sex of such persons except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for by violation of this chapter".

10. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the **CONTRACTOR** is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Worker's Compensation Insurance.

The undersigned **CONTRACTOR** is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against Liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the **WORK** of this Agreement.

11. The **CONTRACTOR** shall comply with Part 7, Chapter 1, Article 2, Section 1775 of the Labor Code of the State of California. The **CONTRACTOR** shall, as a penalty to the **OWNER**, forfeit fifty dollars (\$50.00) for each calendar day, or portion thereof, for each workman paid less than the prevailing rates for such work or craft in which such workman is employed for any public work done under the Contract by him or by any **SUBCONTRACTOR** under him. The difference between such prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than a prevailing wage rate, shall be paid to each workman by the **CONTRACTOR**.

12. The **CONTRACTOR** shall comply with Part 7, Chapter 1, Article 2, Section 1776 of the Labor Code of the State of California. The **CONTRACTOR** shall keep and require that all **SUBCONTRACTORS** keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice worker or other employee employed by him in connection with public work. Such payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of the **CONTRACTOR** by the **OWNER**, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. In the event of non-compliance with the requirements of Section 1776, the **CONTRACTOR** shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the **CONTRACTOR** must comply. Should non-compliance still be evident after the ten (10) day period, the **CONTRACTOR** shall, as a penalty to the **OWNER** forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

13. Attention is directed to the provisions in Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the **CONTRACTOR** or any **SUBCONTRACTOR** under him. It is the **CONTRACTOR'S** responsibility to ensure compliance by both itself and all **SUBCONTRACTORS**.

Section 1777.5 provides, in part, as follows:

The **CONTRACTOR** or **SUBCONTRACTOR**, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeyman stipulated in the apprenticeship standards. Upon proper showing by the **CONTRACTOR** that he employs apprentices in the craft or trade in the State on all of his/her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeyman, the Division of Apprenticeship Standards may grant a certification exempting the **CONTRACTOR** from the one (1) to five (5) hourly ratio as set forth in this section. This section shall not apply to contracts of general **CONTRACTORS** or to contracts of specialty contractors not bidding for work through a general or prime **CONTRACTOR**, when the contracts of general **CONTRACTORS**, or those specialty **CONTRACTORS** involve less than thirty thousand dollars (\$30,000). Any work performed by a journeyman in excess of eight hours per day or forty (40) hours per week shall not be used to calculate the hourly ratio required by this section.

Apprenticeable craft or trade, as used in this section, shall mean a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a **CONTRACTOR** from the 1 to 5 ratio set forth in this section when it finds that any one of the following conditions is met:

- (a) In the event unemployment for the previous three-month period in such area exceeds an average of 15 percent, or
- (b) In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or
- (c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either (1) on a statewide basis, or (2) on a local basis, or
- (d) If assignment of an apprentice to any work performed under a public works contract would create a condition which should jeopardize his life or the life, safety, or property of fellow employees, or the public at large or if the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

When such exemptions are granted to an organization which represents **CONTRACTORS** in a specific trade from the 1 to 5 ratio on a local or statewide basis the member **CONTRACTORS** will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

The **CONTRACTOR** is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in apprenticeable trade on such contracts and if other **CONTRACTORS** on the public work site are making such contributions. The **CONTRACTOR**, and any **SUBCONTRACTOR** under him, shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices. Information relative to number of apprentices, identifications, wages, hours of employment and

standards of working conditions shall be obtained from the Division of Apprenticeship Standards. Consult the white pages of your telephone directory under California, State of, Industrial Relations, Apprenticeship Standards, for the telephone number and address of the nearest office. Willful failure by the **CONTRACTOR** to comply with the provisions of Sections 1777.5 will subject the **CONTRACTOR** to the penalties set forth in Section 1777.7 of the Labor Code.

14. Pursuant to California Labor Code Section 1813, eight hours in any one calendar day and forty (40) hours in any calendar week shall be the maximum hours any workman is required or permitted to work, except in cases of extraordinary emergency caused by fires, flood, or danger to life and property. The **CONTRACTOR** doing the work, or his duly authorized agent, shall file with **OWNER** a report, verified by his oath, setting forth the nature of the said emergency, which report shall contain the name of said worker and the hours worked by him on the said day, and the **CONTRACTOR** and each **SUBCONTRACTOR** shall also keep an accurate record showing the names and actual hours worked of all workers employed by him in connection with the work contemplated by this Agreement, which record shall be open at all reasonable hours to the inspection of the **OWNER**, or its officer or agents and to the Chief of all Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his deputies or agents; and it is hereby further agreed that said **CONTRACTOR** shall forfeit as a penalty to the **OWNER** the sum of Twenty-Five Dollars (\$25.00) for each laborer, workman or any **SUBCONTRACTOR** under him for each calendar day during which such laborer, workman or mechanic is required or permitted to labor more than eight (8) hours in violation of this stipulation.

Overtime and shift work may be established as a regular procedure by the **CONTRACTOR** with reasonable notice and written permission of the **OWNER**. No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 P.M. and 7:00 A.M. nor on Saturdays, Sundays or holidays except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

CONTRACTOR agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays and weekdays. Costs of overtime inspection will cover engineering, inspection, general supervision and overhead expenses which are directly chargeable to the overtime work. **CONTRACTOR** agrees that **OWNER** shall deduct such charges from payments due the **CONTRACTOR**.

15. The **CONTRACTOR** shall comply with Division 2, Chapter 4, Part 1 of the Public Contract Code relating to subletting and subcontracting, specifically included but not limited to Sections 4104, 4106, and 4110, which by this reference are incorporated into this Agreement as though fully set forth herein.

16. The **CONTRACTOR** and the **OWNER** agree that changes in this Agreement or in the work to be done under this Agreement shall become effective only when written in the form of a supplemental agreement or change order and approved and signed by the **OWNER** and the **CONTRACTOR**. It is specifically agreed that the **OWNER** shall have the right to request any alterations, deviations, reductions or additions to the contract or the plans and specifications or any of them, and the amount of the cost thereof shall be added to or deducted from the amount of the contract price aforesaid by fair and reasonable valuations thereof.

This contract shall be held to be completed when the work is finished in accordance with the original plans and specifications as amended by such changes. No such change or modification shall release or exonerate any surety upon any guaranty or bond given in connection with this contract.

17. **Contractor** shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees, and volunteers from and against all liability, loss, damage, expense, and cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with **Contractor's** negligence, recklessness, or willful misconduct in the performance of work hereunder, or its failure to comply with any of its obligations contained in this AGREEMENT, except such loss or damage caused by the sole active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and **Contractor**, or should City otherwise find **Contractor's** legal counsel unacceptable, then **Contractor** shall reimburse the City its costs of defense, including without limitation, reasonable legal counsel fees, expert fees, and all other costs and fees of litigation. The **Contractor** shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the **Contractor's** negligent, reckless, or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, **Contractor** shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of **Contractor** will be for that entire portion or percentage of liability not attributable to the active negligence of City.

Contractor agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this Section from each and every Subcontractor and Subconsultant, of every Tier. In the event the **Contractor** fails to do so, **Contractor** agrees to be fully responsible to provide such defense and indemnification according to the terms of this Section.

18. **Contractor** must comply with the insurance requirements as described in the section "INSURANCE REQUIREMENTS FOR CONTRACTOR", pages 39-40 of the Contract Documents.

19. Amendments- Any changes to this Agreement requested by either City or **SAK Construction, LLC** may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such writing.

20. Termination.

A. This Agreement may be terminated at any time by either party upon fifteen (15) calendar days written notice. In the event the Agreement is terminated by either party, **SAK Construction, LLC** shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized in writing by the City representative to wind up the work performed to date of termination.

B. City may immediately suspend or terminate this Agreement in whole or in part by written notice where, if in the determination of City, there is:

1. An illegal use of funds by **SAK Construction, LLC**;
2. A failure by **SAK Construction, LLC** to comply with any material term of this Agreement;

3. A substantially incorrect or incomplete report submitted by **SAK Construction, LLC** to City.

In no event shall any payment by City or acceptance by **SAK Construction, LLC** constitute a waiver by such party of any breach of this Agreement or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such breach or default. City shall have the right to demand of **SAK Construction, LLC** the repayment to City of any funds disbursed to **SAK Construction, LLC** under this Agreement which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Agreement.

Notice of termination shall be mailed to the City:

City of Madera
Engineering Department
428 E. Yosemite Avenue
Madera, Ca 93638

To the Contractor **SAK Construction, LLC**

Notices. All notices and communications from the **SAK Construction, LLC** shall be to City's designated Project Manager or Principal-In-Charge. Verbal communications shall be confirmed in writing. All written notices shall be provided and addressed as soon as possible, but not later than thirty (30) days after termination.

21. Compliance With Laws- City shall comply with all Federal, State and local laws, ordinances, regulations and provisions applicable in the performance of City's services.

Wherever reference is made in this Agreement to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

22. Attorneys' Fees/Venue- In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorneys' fees to the successful party in an amount to be fixed by the Court. The venue for any claim being brought for breach of this Agreement shall be in Madera County or as appropriate in the U.S. District Court for the Eastern District of California, located in the City of Madera.

23. Governing Law- The laws of the State of California shall govern the rights and obligations of the parties under the Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

24. City's Authority- Each individual executing or attesting to this Agreement on behalf of the City hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with a duly adopted resolution of the corporation's articles of incorporation or charter and bylaws; (ii) that this Agreement is binding upon such corporation; and (iii) that Contractor is a duly organized and legally existing municipal corporation in good standing in the State of California.

25. Contractor's Legal Authority - Each individual executing or attesting this Agreement on behalf of **SAK Construction, LLC** hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with such corporation's articles of incorporation or charter and by-laws; (ii) that this Agreement is binding upon such corporation; and (iii) that **SAK Construction, LLC** is a duly organized and legally existing corporation in good standing in the State of California.

26. Remedies for Default. Failure by a party to perform any term, condition or covenant required of the party under this Agreement shall constitute a "default" of the offending party under this Agreement. In the event that a default remains uncured for more than ten (10) days following receipt of written notice of default from the other party, a "breach" shall be deemed to have occurred. Any failure or delay by a party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

27. Independent Contractor. In performance of the work, duties, and obligations assumed by the Contractor under this Agreement, it is mutually understood and agreed that the City, including any and all of City's officers, agents and employees will, at all times, be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of City. Furthermore, City shall have no right to control or supervise or direct the manner or method by which City shall perform its work and functions. The City shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matter hereof.

Because of its status as an independent contractor, City shall have absolutely no right to employment rights and benefits available to City employees. City shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, City shall be solely responsible and hold City harmless from all matters relating to payment of City's employees, including compliance with Social Security, withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, City may be providing services to others unrelated to City or to this Agreement.

28. Sole Agreement- This instrument constitutes the sole and only Agreement between City and **SAK Construction, LLC** in connection to the Project and correctly sets forth the obligations of the City and **SAK Construction, LLC** to each other as of its date. Any Agreements or representations in connection with the Project, not expressly set forth in this instrument are null and void.

29. Assignment-Neither the **SAK Construction, LLC** nor City will assign its interest in this Agreement without the written consent of the other.

30. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in THREE copies, each of which shall be deemed an original on the date first above written.

City of Madera
Herein Called OWNER

By: _____
Arnoldo Rodriguez, City Manager

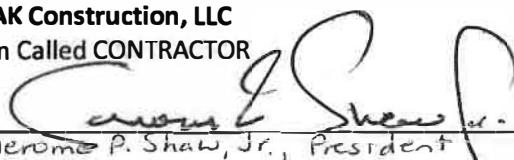
APPROVE AS TO FORM:

Shannon L. Chaffin, City Attorney

ATTEST:

Alicia Gonzales, City Clerk

BY: **SAK Construction, LLC**
Herein Called CONTRACTOR

BY: 

Jerome P. Shaw, Jr., President

20-4193988

Federal Tax I.D. No.

984560 A

Contractor License Number

100002435

DIR Registration Number

NOTE: This Notary Acknowledgment on the following page is required for verification of Contractor's signature.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

California Notary acknowledgement required to be attached.

State of ~~California~~ ^{Missouri} }
County of St. Charles } ss.

On 6/11/24 before me, Jerome P. Shaw Jr., President
Date Here Insert Name and Title of the Officer

Personally appeared Jerome P. Shaw, Jr.
Name(s) of Signer(s)

Who 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 signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

BARBARA MARLER
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Charles County
My Commission Expires: December 19, 2026
Commission Number: 14126252

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ ^{Missouri} that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Barbara Marler
Signature of Notary Public

Place Notary Seal/Stamp Above