



Folsom City Council Staff Report

MEETING DATE:	1/10/2023
AGENDA SECTION:	Consent Calendar
SUBJECT:	Resolution No. 10971 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 To The Agreement (Contract No. 172-21 22-033) for the Sewer Easement And Maintenance Agreement Between 9900 Greenback Lane LLC and the City of Folsom for the Construction of the Greenback Sewer And Lift Station No.3 Project
FROM:	Environmental and Water Resources Department

RECOMMENDATION / CITY COUNCIL ACTION

The Environmental and Water Resources Departments recommends that the City Council pass and adopt Resolution No. 10971 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 To The Agreement (Contract No. 172-21 22-033) for the Sewer Easement And Maintenance Agreement Between 9900 Greenback Lane LLC and the City of Folsom for the Construction of the Greenback Sewer And Lift Station No.3 Project.

BACKGROUND / ISSUE

The Environmental and Water Resources Department (EWR) identifies sewer infrastructure rehabilitation and replacement projects through sewer master plans and ongoing sewer condition assessment programs. As a condition of the City’s State permit for its wastewater collection systems, EWR is required to perform ongoing condition assessments on the wastewater system and correct any defects/deficiencies identified through this process. Through these efforts, City staff identified the Greenback Sewer and Lift Station No. 3 Project as needing rehabilitation or replacement.

In November of 2022, through Resolution No. 10943, City Council authorized an agreement between 9900 Greenback Lane LLC and the City of Folsom to execute a Sewer Easement and Maintenance Agreement. As part of the agreement, the City agreed to pay reasonable legal fees and expenses incurred by the Owner for reviewing the Agreement and all related documents for a

not to exceed sum of \$1,000. The owner of 9900 Greenback Lane LLC has incurred \$1,960 additional legal fees during the easement review process resulting in total costs and fees of \$2,960. Amendment No. 1 is to cover the additional \$1,960.00 of legal fees for 9900 Greenback Lane LLC during the easement acquisition process as part of the Greenback Sewer and Lift Station No.3 Project for a revised not-to-exceed amount of \$2,960.

This Resolution will Authorize the City Manager to Execute Amendment No. 1 To The Agreement (Contract No. 172-21 22-033) for the Sewer Easement And Maintenance Agreement Between 9900 Greenback Lane LLC and the City of Folsom for the Construction of the Greenback Sewer And Lift Station No.3 Project.

POLICY / RULE

Acquisition of property rights by the City of Folsom requires City Council approval. Resolution No. 2435, adopted on July 18, 1988, authorizes the City Manager to execute an Easement Deed.

ANALYSIS

Expansion of the City's wastewater collection system has reduced the demand on Lift Station No. 3 (near Greenback) below the design demand, requiring the City to re-examine the facility to more efficiently align the station operation with the revised demands. Additionally, the City recently completed a condition assessment of Lift Station No. 3 near Greenback, in which there were multiple recommendations for updating the aging facility. Major improvements to the existing lift station requires upgrades to the pumps, the wet well, mechanical equipment, electrical components and structural improvements.

The Greenback Sewer and Lift Station No.3 Project requires some improvements to be completed on the property located at 9900 Greenback Lane in Folsom. Through this agreement, the owner of this property, 9900 Greenback Lane LLC, grants to the City a sewer easement and agrees to the necessary improvements on the property.

The Easement Deed from 9900 Greenback Lane LLC to the City and the Agreement between 9900 Greenback Lane LLC and the City will allow the City to proceed with construction of the Greenback Sewer and Lift Station No.3 Project. Construction of the Greenback Sewer and Lift Station No.3 Project cannot commence without approval of this Resolution.

FINANCIAL IMPACT

There are no costs for the transfer of easement to the City, however Amendment No.1 to the agreement would result in repayment of legal fees and expenses incurred by the Owner for reviewing the Agreement and all related documents for a new not to exceed sum of \$2,960. In addition, the City shall pay a not to exceed sum of \$5,200 for the Sewer Easement as identified in the "Memorandum of Appraisal Update" prepared by Bender Rosenthal Incorporated. Funds are budgeted and available in the Sewer Operating Fund (Fund 530) in Fiscal Year 2022-23.

ENVIRONMENTAL REVIEW

This project is a rehabilitation project of existing infrastructure; and therefore, is categorically exempt from environmental review under the California Environmental Quality Act as noted in Title 14 – California Code of Regulations, Chapter 3 – Guidelines for Implementation of the California Environmental quality Act, Article 19 – Categorical Exemptions, Section 15302 – Replacement or Reconstruction.

ATTACHMENTS

1. Resolution No. 10971 – A Resolution Authorizing the City Manager to Execute Amendment No. 1 To The Agreement (Contract No. 172-21 22-033) for the Sewer Easement And Maintenance Agreement Between 9900 Greenback Lane LLC and the City of Folsom for the Construction of the Greenback Sewer And Lift Station No.3 Project
2. Legal Invoices for Easement Review Associated with 9900 Greenback Lane

Submitted,

Marcus Yasutake, Director
ENVIRONMENTAL AND WATER RESOURCES DEPARTMENT

ATTACHMENT 1

RESOLUTION NO. 10971

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT (CONTRACT NO. 172-21 22-033) FOR THE SEWER EASEMENT AND MAINTENANCE AGREEMENT BETWEEN 9900 GREENBACK LANE LLC AND THE CITY OF FOLSOM FOR THE CONSTRUCTION OF THE GREENBACK SEWER AND LIFT STATION NO.3 PROJECT

WHEREAS, to comply with the State's Waste Discharge Requirement Order, the City is currently implementing its Sanitary Sewer Management Plan (SSMP) which consists of condition assessment, as well as operational and system improvements; and

WHEREAS, the City of Folsom has identified this project as a priority to maintain integrity and operation of the sanitary sewer collection system; and

WHEREAS, the City of Folsom desires to obtain an Easement over property owned by 9900 Greenback Lane LLC that is required for construction of the Greenback Sewer and Lift Station No.3 Project; and

WHEREAS, the Sewer Easement Deed from 9900 Greenback Lane LLC was developed between the City of Folsom and 9900 Greenback Lane LLC; and

WHEREAS, through Resolution No 10943, City Council approved the City to pay reasonable legal fees and expenses incurred by the Owner for reviewing the Agreement and all related documents for a not to exceed sum of \$1,000; and

WHEREAS, the owner of 9900 Greenback Lane LLC has incurred additional legal fees of \$1,960 during the easement review process resulting in total costs and fees of \$2,960; and

WHEREAS, the City shall pay reasonable legal fees and expenses incurred by the Owner for reviewing the Agreement and all related documents for a revised not to exceed sum of \$2,960; and

WHEREAS, sufficient funds are available in the Sewer Operating Fund (Fund 530) in Fiscal Year 2022-23 for the City to pay legal fees and expenses incurred by the Owner for reviewing the Agreement and all related documents for a new not to exceed sum of \$2,960; and

WHEREAS, the City shall pay a not to exceed sum of \$5,200 for the Sewer Easement as identified in the "Memorandum of Appraisal Update" prepared by Bender Rosenthal Incorporated; and

WHEREAS, the Easement Deed and Agreement are in a form acceptable to the City Attorney:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to execute Amendment No. 1 To The Agreement (Contract No. 172-21 22-033) for the Sewer Easement And Maintenance Agreement Between 9900 Greenback Lane LLC and the City of Folsom for the Construction of the Greenback Sewer And Lift Station No.3

Project.

PASSED AND ADOPTED this 10th day of January 2023, by the following roll-call vote:

AYES: Councilmember(s):
NOES: Councilmember(s):
ABSENT: Councilmember(s):
ABSTAIN: Councilmember(s):

Rosario Rodriguez, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2



Jeffer Mangels
Butler & Mitchell LLP

Los Angeles
San Francisco
Orange County

jmbm.com

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

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C.H. Folsom, Inc.
Attn: Timothy McDonnell
14 Phyllis Court
Belmont, CA 94002

March 18, 2022
Invoice 1845484
Tax ID 95-3669194
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PLEASE INDICATE INVOICE AND MATTER # WITH REMITTANCE

Our Matter # **75925-0001**

For Services Through February 28, 2022

General Corporate

02/10/22	Review easement documents. Randolph Harris	0.80 hrs. 925.00/hr	\$	740.00
02/24/22	Review materials. Prepare for and telephone conference with Tim McDonnell regarding sewer easement. Revise agreement. Randolph Harris	1.40 hrs. 925.00/hr		1,295.00
Total Fees for Professional Services for this Matter for this Invoice				\$ 2,035.00
Total Fees and Costs for this Matter for this Invoice.....				\$ 2,035.00
Please Remit Total Balance Due.....				\$ 2,035.00



Jeffer Mangels
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San Francisco
Orange County

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C.H. Folsom, Inc.
Attn: Timothy McDonnell
14 Phyllis Court
Belmont, CA 94002

November 9, 2022
Invoice 1869339
Tax ID 95-3669194
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PLEASE INDICATE INVOICE AND MATTER # WITH REMITTANCE

Our Matter # **75925-0001**
General Corporate

For Services Through October 31, 2022

10/12/22	Review link. Email to Tim McDonnell. Randolph Harris	0.30 hrs. 925.00/hr	\$	277.50
10/13/22	Review easement. Email to Tim McDonnell. Randolph Harris	0.70 hrs. 925.00/hr		647.50
	Total Fees for Professional Services for this Matter for this Invoice			\$ 925.00
	Total Fees and Costs for this Matter for this Invoice.....			\$ 925.00
	Please Remit Total Balance Due.....			\$ 925.00

Calendar year cash basis taxpayers may want to pay this invoice by December 31, 2022 if it is tax deductible.

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to facilitate double-sided printing.*



CITY OF
FOLSOM
DISTINCTIVE BY NATURE