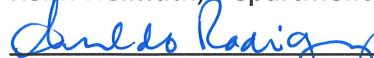


REPORT TO CITY COUNCIL

Approved by:



Keith Helmuth, Department Director



Arnaldo Rodriguez, City Manager

Council Meeting of: June 19, 2019

Agenda Number: B-10

SUBJECT:

Consideration of a Resolution Approving Agreement for Outside of City Water and Sewer Service for Property Located at 28261 Avenue 14 1/2, Approving Covenant to Annex, Authorizing the Mayor to Execute the Agreement and Covenant on Behalf of the City and Directing Staff to Record the Agreement and Covenant

RECOMMENDATION:

Staff recommends that the City Council (Council) adopt a resolution:

1. Approving the request by Josefina Mejia and Luis Martinez for connection to the City's water and sewer systems
2. Authorizing the Mayor to execute the agreement and covenant on behalf of the City
3. Directing staff to record the agreement and covenant

SUMMARY:

The City has a policy wherein properties located outside the City Limits and adjacent to the City water and sewer systems, may under certain conditions, apply for and receive City utility services.

DISCUSSION:

The property owners, Josefina Mejia and Luis Martinez, have two existing single-family residences on a single parcel located on the north side of Avenue 14 1/2 (Sunrise Avenue), and east of Tozer Street. The owners have requested they be allowed to connect to existing 8-inch City water and sewer mains on Avenue 14 1/2 and have declared their request as an urgent

matter as the property has a small, unreliable septic system for sanitary sewer. The property owner has stated that they recently drilled a new well and are proposing to install the water stub-outs for a future connection at such time as their domestic well fails.

Prior to water and sewer connection, the owner(s) agrees to sign the attached "COVENANT TO ANNEX TO THE CITY OF MADERA AND WAIVE THE RIGHT TO PROTEST THERETO".

The Local Agency Formation Commission (LAFCO) has approved the connection to City water and sewer services outside the current City limits.

FINANCIAL IMPACT:

Approving this request for outside of city water and sewer services imposes no additional expense to the City or the General Fund.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The installation of an outside the City Limits water service connection to the site is not specifically addressed in the vision or action plans.

ALTERNATIVES:

If Council does not approve the Agreement for Outside of City Water and Sewer Service, the residents may face hardships and will have to seek other alternatives.

ATTACHMENTS:

1. Resolution
2. Agreement
3. Covenant
4. Location Map

ATTACHMENT 1
RESOLUTION

RESOLUTION NO. 19-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING THE AGREEMENT WITH JOSEFINA MEJIA AND LUIS MARTINEZ FOR OUTSIDE OF CITY WATER AND SEWER SERVICE FOR 28261 AVENUE 14 1/2, APPROVING THE COVENANT TO ANNEX, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND COVENANT ON BEHALF OF THE CITY AND DIRECTING STAFF TO RECORD THE AGREEMENT AND COVENANT

WHEREAS, Owner desires to connect the property located at 28261 Avenue 14 1/2 to the City water and sewer systems; and

WHEREAS, the property is located in the unincorporated territory of the County of Madera; and

WHEREAS, the City Council is willing to authorize said connections to the City's water and sewer systems, subject to certain conditions.

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.
2. That certain agreement for water and sewer system connections by and between the City and Josefina Mejia and Luis Martinez, owners of the property located on the north side of Avenue 14 1/2 (Sunrise Avenue), and east of Tozer Street, known as 28261 Avenue 14 1/2, a copy of which is on file in the Office of the City Clerk and which reference is hereby made for full particulars as to terms and conditions thereof, is approved.
3. The Covenant to Annex to the City of Madera and Waive the Right to Protest Thereof, a copy of which is on file in the Office of the City Clerk and which

reference is hereby made for full particulars as to terms and conditions thereof, is approved.

4. The Mayor is authorized and directed to execute said Agreement and Covenant on behalf of the City.
5. Staff is hereby directed to record the Agreement and Covenant
6. This resolution is effective immediately upon adoption.

* * * * *

ATTACHMENT 2
AGREEMENT

Recording Requested By:
City of Madera
When Recorded Return To:
City of Madera, City Clerk
205 W. 4th Street
Madera, CA 93637

Fee Waived Per Sections 27383 & 27388.1(a)(2)(D) of the Government Code

No Doc. Tax Due

AGREEMENT FOR OUTSIDE CITY LIMITS
WATER AND SEWER CONNECTIONS FOR 28261 AVENUE 14 1/2

AGREEMENT MADE AND ENTERED INTO this ____ day of _____, 2019,
by and between the CITY OF MADERA, a municipal corporation of the State of California,
hereinafter called "CITY" and LUIS MARTINEZ AND JOSEFINA MEJIA, hereinafter called
"APPLICANT".

WITNESSETH

WHEREAS, APPLICANT is the owner of that certain property consisting of 9.5
acres, more or less, located on the north side of Avenue 14 1/2, east of Tozer Street,
known as 28261 Avenue 14 1/2, in the unincorporated territory of Madera County; and

WHEREAS, APPLICANT desires water and sewer connections to serve two
dwellings in the APPLICANT'S property at said address; and

WHEREAS, CITY is willing to authorize said water and sewer connections subject
to conditions agreeable to APPLICANT;

NOW, THEREFORE, the parties hereto agree as follows:

1. Subject to and in accordance with all of the conditions set forth in this
agreement, CITY hereby authorizes APPLICANT to connect to water main and sewer
main in Avenue 14 ½ to serve two dwellings in the APPLICANT'S property located on the
north side of Avenue 14 1/2, east of Tozer Street, which property is more particularly
described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

The East half of Lot 10 in Section 20, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, of Lankershim Colony, according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera &c.", according to the map thereof recorded in Book 4, Page 31 of Maps, Fresno County Record.

APN: 035-191-005

2. Prior to any such installations, APPLICANT (or representative on behalf of applicant) shall pay to CITY water impact fees which total \$1,691.34. and sewer impact fees which total \$7,051.02. Impact fees are based on two single family residences on a single parcel. Any additional development on site will be subject to additional CITY impact fees. On and after connection of APPLICANT'S property to the CITY water system, APPLICANT shall pay to CITY the monthly water service charges as determined by the Director of Finance.

3. APPLICANT agrees that connection at this time is for the purpose of providing domestic water service to property located on the north side of Avenue 14 1/2, east of Tozer Street. Any future water connection for property development purposes is subject to approval of CITY.

4. APPLICANT hereby agrees, prior to receipt of CITY water service, to install a water meter and a reduced pressure back flow prevention device at property line in accordance with City Standard Specifications and destroy any existing wells in accordance with the Madera County and California Department of Health Standards.

5. APPLICANT hereby agrees, prior to receipt of CITY sewer service, to install a sewer clean out at property line in accordance with City Standard Specifications.

6. APPLICANT hereby agrees to the annexation to the CITY of all of APPLICANT'S property described herein and agrees to pay any and all fees and charges associated therewith and hereby irrevocably consents to the annexation of said real property as soon as the Subject Property meets the standards for annexation as determined by the City and waives any right to protest such annexation.

7. APPLICANT agrees that water and sewer connection shall be subject to all City water and sewer regulations and fines as may be contained in Madera Municipal Code.

8. CITY reserves the right to terminate water and sewer service provided herein in the event of breach by APPLICANT of any of the terms of the agreement, including but not necessarily limited to the non-payment of monthly service charges. In no event shall APPLICANT'S consent to annexation, however, be considered revocable as a result of the terms of this paragraph.

9. This agreement shall be recorded and is considered a covenant running with the land and is binding upon APPLICANT, APPLICANT'S heirs, executors, administrators, assigns and successors in interest.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year hereinabove first written.

CITY OF MADERA

CITY OF MADERA

Accepted by:

By: _____

Keith B. Helmuth, City Engineer

By: _____

Andrew J Medellin, Mayor

ATTEST:

OWNERS/APPLICANTS

By: _____

Claudia Mendoza, Interim City Clerk

By: Luis Martinez

Luis Martinez
28261 Avenue 14 ½

By: Josefina Mejia

Josefina Mejia
28261 Avenue 14 ½

APPROVAL AS TO FORM:

By: _____

Hilda Cantu Montoy, Interim City Attorney

ATTACH NOTARY

ACKNOWLEDGEMENT

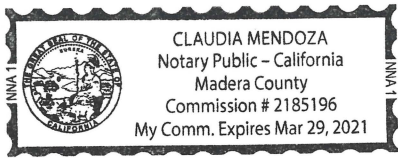
CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

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.

State of California }
County of MADERA }
On 6/11/2019 before me, CLAUDIA MENDOZA, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer
personally appeared LUIS MARTINEZ AND JOSEFINA MEJIA
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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature Claudia Mendoza
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____
 Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____
 Partner – Limited General Partner – Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian or Conservator Trustee Guardian or Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____

ATTACHMENT 3
COVENANT

Recording Requested By:
City of Madera
When Recorded Return To:
City of Madera, City Clerk
205 W. 4th Street
Madera, CA 93637

Fee Waived Per Sections 27383 & 27388.1(a)(2)(D) of the Government Code

No Doc. Tax Due

**COVENANT TO ANNEX TO THE CITY OF MADERA
AND WAIVE THE RIGHT TO PROTEST THERETO**

RECITALS

WHEREAS, the undersigned, Covenantors, hereby represent and warrant that they are the record owners of the real property (the "Subject Property") commonly known as 28261 Avenue 14 ½ (APN 035-191-005), situated in the County of Madera, State of California, and more particularly described as:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

The East half of Lot 10 in Section 20, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, of Lankershim Colony, according to the map entitled "Map of Lankershim Colony and Addition to the Town of Madera &c.", according to the map thereof recorded in Book 4, Page 31 of Maps, Fresno County Record.

APN: 035-191-005

WHEREAS, the Covenantors hereby warrant that any and all parties having record title interest in the Subject Property which may ripen into a fee have subordinated to this instrument; and

WHEREAS, all such instruments of Subordination, if any are attached hereto and made a part of this instrument; and

WHEREAS, Covenantor's property currently is located in unincorporated portion of Madera County and are seeking permission from the City to connect to the City water system located adjacent to Covenantor's property.

COVENANTS

NOW, THEREFORE, the Covenantors hereby covenant, promise and agree with the City of Madera, for the benefit of said City its public property and the Subject Property, as follows:

1. The Covenantors hereby agree to willingly participate in the annexation of the Subject Property to the City of Madera, including filing an application for annexation and paying all applicable fees related thereto as soon as the Subject Property meets the standards for annexation as determined by the City.
2. The Covenantors hereby agree to the annexation of the Subject Property and waive any right to protest the annexation thereof.
3. Whenever the context hereof requires, the neuter shall include the masculine or feminine, or both, the singular shall include the plural. It is the intention hereof that this document shall constitute a covenant running with the Subject Property owned by the Covenantors, jointly and severally binding upon the undersigned and each of their heirs, representatives, successors and assigns.
4. The Covenant shall be released and of no further effect upon a written determination by the City Engineer of the City of Madera that its continued existence and enforcement are no longer necessary.

CITY OF MADERA

CITY OF MADERA

Accepted by:

By: _____

Keith B. Helmuth, City Engineer

By: _____

Andrew J Medellin, Mayor

ATTEST:

By: _____

Claudia Mendoza, Interim City Clerk

OWNERS/APPLICANTS

By: Luis Martinez

Luis Martinez
28261 Avenue 14 ½

By: Josefina Mejia

Josefina Mejia
28261 Avenue 14 ½

APPROVAL AS TO FORM:

By: _____

Hilda Cantu Montoy, Interim City Attorney

ATTACH NOTARY
ACKNOWLEDGEMENT

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

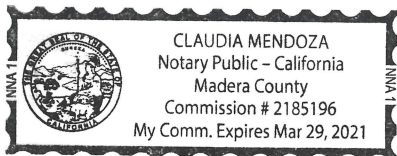
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of MADERA }
On 6/11/2019 before me, CLAUDIA MENDOZA, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer
personally appeared LUIS MARTINEZ AND JOSEFINA MEJIA
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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Claudia Mendoza
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

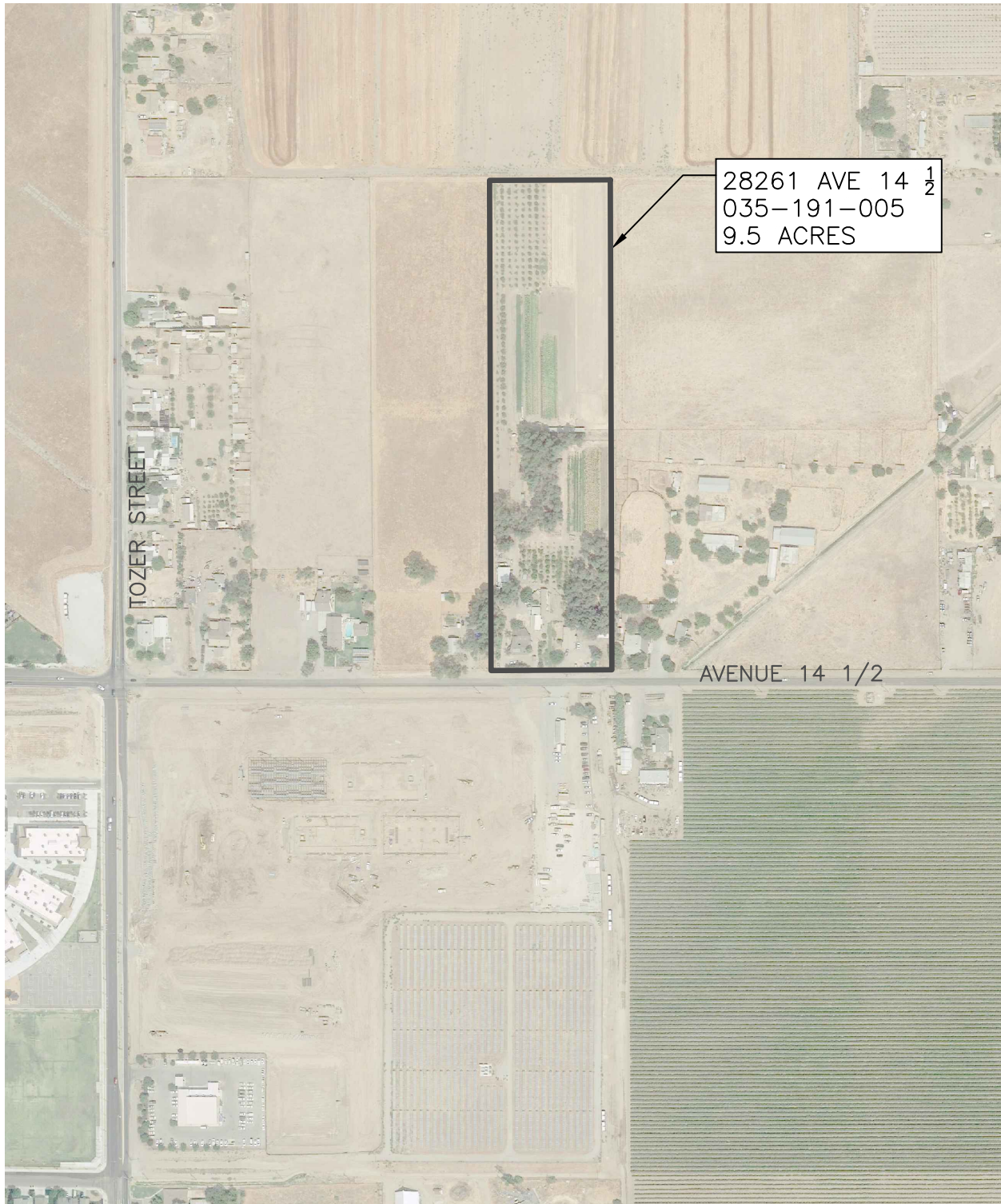
Trustee Guardian or Conservator

Other: _____

Signer is Representing: _____

ATTACHMENT 4
LOCATION MAP

LOCATION MAP



28261 AVE 14 1/2
035-191-005
9.5 ACRES

TOZER STREET

AVENUE 14 1/2



CITY OF MADERA
ENGINEERING DEPARTMENT
205 W. 4TH STREET
MADERA, CA 93637

28261 AVENUE 14 1/2
OUTSIDE CITY
WATER-SEWER CONNECTION

DR BY: EP
CH BY: KH
DATE: 05/22/19
SCALE: NTS
SHT 1 OF 1