



REPORT TO CITY COUNCIL

Approved by:

Handwritten signature of Keith Helmuth in blue ink.

Keith Helmuth, City Engineer

Handwritten signature of Arnaldo Rodriguez in blue ink.

Arnaldo Rodriguez, City Manager

Council Meeting of: November 3,

2021 Agenda Number: B-6

SUBJECT:

Request for connection to the City's water system

RECOMMENDATION:

Adopt a resolution Approving Agreement for Outside of City Water Service for Property Located at 28127 Mono Street

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. The property owner formally requested authorization to the connect to the City's water system for a single-family home. The City's water system is proximate to this home in the southeast quadrant of the City and the homeowner would burden the cost to connect.

DISCUSSION:

The property owner, Maletin Inc., has an existing single-family residence on a single parcel located on Mono Street, East of Tozer Street, south of Olive Avenue (generally southeast of the City). The owner has requested they be allowed to connect to the existing 12-inch City water main on Tozer Street, which borders the western property line, and has declared the request as an urgent matter as the property has a well that is failing.

The Madera County Local Agency Formation Commission (LAFCo) has approved the connection to City water service outside the current City limits.

FINANCIAL IMPACT:

Approving this request for outside of city water service 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 Service, the residents may face hardships and will have to seek other alternatives.

ATTACHMENTS:

1. Resolution
 Exhibit A - Agreement
2. Location Map

Attachment 1
Resolution

RESOLUTION NO. 21- _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, APPROVING THE AGREEMENT WITH MALETIN INC. FOR
OUTSIDE OF CITY WATER SERVICE FOR 28127 MONO STREET,
AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF
THE CITY AND DIRECTING STAFF TO RECORD THE AGREEMENT**

WHEREAS, Owner desires to connect the property located at 28127 Mono Street to the City water system; 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. The Council approves the agreement for a water system connection by and between the City and Maletin Inc., owner of the property located on Mono Street, east of Tozer Street, south of Olive Avenue, known as 28127 Mono Street, a copy of which is attached as Exhibit A.
3. Staff is hereby directed to record the Agreement
4. This resolution is effective immediately upon adoption.

* * * * *

Exhibit A
Agreement

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

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

Presented for Recordation by the City of Madera
Fee Waived Per Sections 27383 & 27388.1(a)(2)(D) of the Government Code.....No Fee Due _0_

Address: 28127 Mono Street, Madera, California
APN: 034-130-008

**AGREEMENT FOR OUTSIDE CITY LIMITS
WATER CONNECTION FOR 28127 MONO STREET**

This AGREEMENT FOR OUTSIDE CITY LIMITS WATER CONNECTION FOR 28127 Mono Street (“Agreement”), is made and entered into this 3rd day of November, 2021, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called “CITY”, and MALETIN INC., hereinafter called “OWNER”.

RECITALS

- A. OWNER is the record owner of that certain real property located at 28127 Mono Street in the County of Madera, California and more particularly described below.
- B. The Property consists of 1.67 acres, more or less, located on Mono Street, east of Tozer Street, south of Olive Avenue, known as 28127 Mono Street, in the unincorporated territory of Madera County (the “Subject Property”).
- C. OWNER desires a water connection to serve one dwelling on the Subject Property.
- D. CITY is willing to authorize said water connection subject to conditions as set forth in this Agreement.

AGREEMENT

In consideration of the recitals above, which are incorporated herein, and the mutual promises contained herein, the Parties agree as follows:

1. Authority to Connect to City Water. CITY hereby authorizes OWNER to connect to the 12-inch water main on Tozer Street to serve one dwelling on the Subject Property located at 28127 Mono Street, which property is more particularly described as follows:

PARCEL THREE (3) OF A SUBDIVISION OF LOTS NINE (9) AND TEN (10) OF LANKERSHIM COLONY IN SECTION TWENTY-NINE (29), TOWNSHIP ELEVEN (11) SOUTH. RANGE EIGHTEEN (18) EAST. M. D. B. & M.. ACCORDING TO MAP OF SAID SUBDIVISION. RECORDED FEBRUARY 21. 1946 IN VOLUME 5 OF MAPS, AT PAGE 137.

EXCEPTING THEREFROM A PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SAID PARCEL 3, WHICH POINT BEARS SOUTH 89 DEGREES 41' EAST 30 FEET, NORTH 0 DEGREES EAST 676.45 FEET, AND SOUTH 89 DEGREES 40' EAST 78 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 29. THENCE NORTH 0 DEGREES EAST 72.76 FEET, THENCE SOUTH 89 DEGREES 40' EAST 299.35 FEET, THENCE SOUTH 0 DEGREES 0' EAST 72.76 FEET TO THE SOUTH LINE OF THE SAID PARCEL 3, THENCE ALONG SAID SOUTH LINE NORTH 89 DEGREES 40' WEST 299.35 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM A PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS SOUTH 89 DEGREES 41' EAST 30 FEET AND NORTH 0 DEGREES EAST 841.56 FEET FROM THE WEST QUARTER CORNER OF THE SAID SECTION 29. THENCE ALONG THE NORTH LINE OF THE SAID PARCEL 3, SOUTH 89 DEGREES 39' 45" EAST 107 FEET. THENCE SOUTH 0 DEGREES EAST 74.7 FEET. THENCE NORTH 89 DEGREES 39' 45" WEST 107 FEET TO THE WEST LINE OF SAID PARCEL 3, THENCE ALONG THE SAID LINE NORTH 0 DEGREES EAST 74.7 FEET TO THE POINT OF BEGINNING.

AND ALSO EXCEPTING THEREFROM A PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS SOUTH 89 DEGREES 41' EAST 30 FEET AND NORTH 0 DEGREES EAST 676.45 FEET FROM THE WEST QUARTER CORNER OF THE SAID SECTION 29, THENCE ALONG THE WEST LINE OF SAID PARCEL 3, NORTH 0 DEGREES EAST 55.11 FEET, THENCE SOUTH 89 DEGREES 40' EAST 78 FEET, THENCE SOUTH 0 DEGREES EAST 55.11 FEET, TO THE SOUTH LINE OF THE SAID PARCEL 3, THENCE ALONG SAID SOUTH LINE NORTH 89 DEGREES 40' WEST 78 FEET TO THE POINT OF BEGINNING.

APN: 034-130-008

2. Payment of Fees. Prior to any such water connection, APPLICANT shall pay to CITY water impact fees which total \$845.00. Impact fees are based on one single family residence on a single parcel. Any additional development on the Subject Property will be subject to additional CITY impact fees. OWNERS shall also pay to CITY connection, permit, inspection or other fees as required, and 50% of the cost to install the 8-inch component of the 12-inch water main located in Tozer Street, in the amount of \$812.50. On and after connection of OWNERS' property to the CITY water system, OWNER shall pay to CITY the monthly water service charges as determined by the Director of Finance.

3. Municipal Service Application and Service Rates. In addition to this Agreement, OWNER agrees to complete a Municipal Service Application to apply for water and agree to pay the water rates applicable to City residents which will be billed in accordance with City billing of City residents. As a new water service connection, OWNER is required 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.

4. Discontinuance of Utilities. The parties acknowledge that one result of the utility billing method of payment is to allow City to use the non-judicial remedy of discontinuing all utility services in the event of a default by OWNER in the performance of its duties and obligations pursuant to the Agreement.

5. No Assignment; Agreement Runs with the Land. The rights and obligations of the parties shall not be assigned or transferred to others without the prior written consent of the other party. This Agreement shall be binding upon and insure to the benefit of the parties' successors or assigns. The burdens and benefits of this Agreement shall run with the land identified in Exhibit A attached hereto. This Agreement shall be executed in recordable form.

6. Notices. All notices to be given under this Agreement shall be in writing and either:

(a) Sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail,

(b) Sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with this courier, or

(c) By telecopy or similar means, if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by telecopier or other similar means provided that a transmission report is generated by reflecting the accurate transmission of the notices, as follows:

TO OWNER: Maletin, Inc.
1081 Miramonte Ave
Los Altos, CA 94024

TO CITY: CITY OF MADERA
Attn: City Manager
205 W. 4th Street
Madera, CA 93637

These addresses may be changed by written notice to the other party, provided that no notice of a change of address shall be effective until actual receipt by the parties of the notice.

Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

7. Limitation on Use of City Water. OWNER agrees that the water provided by the CITY shall be used only for domestic water service to the Subject Property. Any future water connection for property development purposes is subject to CITY approval.

8. LAFCo Approval. The Subject Property is located outside the corporate limits of the City of Madera but within the City's Sphere of Influence. Due to this, the CITY must obtain authorization from the Madera County Local Agency Formation Commission (LAFCo) to extend and/or connect utility services to the subject property. LAFCo authorization requires the submittal of an application for review and approval. The CITY has prepared and submitted the required application, and LAFCo has authorized the extension and/or connection of utility services to the Subject Property.

9. Annexation. In accordance with Government Code Section 56133 (b) and LAFCo's approval of the application to extend and/or connect utility services to the Subject Property, OWNER waives the right to protest the future annexation of the subject property into the City of Madera, and agrees to the same.

10. Attorney's Fees. If either party commences an action against the other to enforce this Agreement, or because of the breach by either party of this Agreement, the prevailing party in this action shall be entitled to recover attorney fees and costs incurred in connection with the prosecution or defense of this action, including any appeal of the action, in addition to all other relief. Prevailing party within the meaning of this Section shall include, without limitation, a party who successfully brings an action against the other party for sums allegedly due or performance of covenants allegedly breached, or that party who obtains substantially the relief sought in the action.

11. Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof. This Agreement shall not be construed to relieve OWNER from properly maintaining improvements on OWNERS' property as required by any existing site plan or conditional use permit, to excuse compliance with any law or regulation of general application, or to address any developmental requirements that may be applied to any future development of OWNERS' property. Without limitation of the foregoing, OWNER acknowledges that the Development Impact Fees paid as provided herein are for the existing residence only, and any additional residences or other uses or additional improvements will require the payment of additional Development Impact Fees as may be applicable to such additional residences, uses or improvements.

No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by either party. Each party has relied upon his own examination of this Agreement, the counsel of his own advisors, and the warranties, representations, and covenants in the Agreement itself. The failure or refusal of either party to read the Agreement or other documents, or to obtain legal or other advice relevant to this transaction constitutes a waiver of

any objection, contention, or claim that might have been based on such reading, inspection, or advice.

12. Time of the Essence. Time is of the essence for each condition, term, and provision in this Agreement.

13. Counterpart Signatures. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all taken together shall constitute one and the same instrument. The execution of this Agreement is deemed to have occurred, and this Agreement shall be enforceable and effective only on the complete execution of this Agreement by the parties.

14. Severance. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

15. No Waiver. A waiver or breach of a covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act.

16. Headings. Headings at the beginning of each section and subsection are solely for the convenience of the parties and are not a part of and shall not be used to interpret this Agreement. The singular form shall include the plural and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to it and incorporated to it by this reference.

17. Applicable Law. This Agreement shall be governed and construed in accordance with California law. This Agreement concerns real property located in Madera, California and each party agrees that a court of competent jurisdiction for the judicial district including Madera, California would be the most appropriate court for any litigation that might arise in connection with this Agreement.

18. Authority to Sign. Each party signing below certifies that he or she is authorized to execute this Agreement and thereby obligate the party on whose behalf such signature is made. The authority of each signer was, if necessary, granted by appropriate corporate action.

19. Amendments to Agreement. This Agreement may be modified or amended only by a writing duly authorized and executed by both parties. It may not be amended or modified by oral agreements or understanding between the parties. This Agreement and any modification or amendment thereto shall only be effective if authorized by the City Council of the City of Madera.

20. Limitation on Use of City Water. OWNER agrees that the water provided by the CITY shall be used only for domestic use and residential landscape irrigation use. No use of CITY water for agricultural irrigation or other use atypical of residential use shall be allowed.

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

CITY OF MADERA

OWNER

By: _____
Keith B. Helmuth, City Engineer

By: _____
Zarko Maletin, President
Maletin Inc.

By: _____
Santos Garcia, Mayor

ATTEST:

By: _____
Alicia Gonzales, City Clerk

APPROVED AS TO LEGAL FORM:

By: _____
Hilda Cantú Montoy, City Attorney

ATTACH NOTARY ACKNOWLEDGEMENT

Attachment 2
Location Map

LOCATION MAP



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

28127 MONO STREET
OUTSIDE CITY
WATER CONNECTION

DR BY: EP
CH BY: KH
DATE: 10/19/21
SCALE: NTS
SHT 1 OF 1