

**AGREEMENT**

**AGREEMENT BETWEEN THE FAIR OAKS SEWER MAINTENANCE DISTRICT AND  
THE COUNTY OF SAN MATEO FOR SANITARY SEWER REPLACEMENT WORK IN  
CONJUNCTION WITH THE MIDDLEFIELD ROAD IMPROVEMENT PROJECT IN  
THE NORTH FAIR OAKS AREA OF SAN MATEO COUNTY  
COUNTY PROJECT NO.: E4931  
PROJECT FILE NO.: OD420**

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**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021, by and between the **COUNTY OF SAN MATEO**, a  
political subdivision of the State of California, hereinafter called “County”, and the **FAIR  
OAKS SEWER MAINTENANCE DISTRICT**, hereinafter called “District.”

**W I T N E S S E T H :**

**WHEREAS**, the County is reconstructing an approximately 2,900-foot stretch of  
Middlefield Road from south of Douglas Avenue to north of Sixth Avenue in the  
Unincorporated Fair Oaks Area of San Mateo County as detailed in the Plans and  
Specifications for the Middlefield Road Improvement Project (Project) [County Project  
No. OD420; Project File No. E4931]; and

**WHEREAS**, the Project consists of roadway improvements, pedestrian and  
bicycle improvements, utility undergrounding, public Wi-Fi along the project corridor,  
replacing the existing streetlights, and sanitary sewer replacement work; and

**WHEREAS**, the District and the County agree that the County shall act as lead  
agency in project management and construction administration and inspection; and

**WHEREAS**, the District requested that certain District facilities be rehabilitated or

replaced as part of the Project; and

**WHEREAS**, the Project includes construction of the following elements on behalf of the District: replacement of existing sewer pipes with 6,155 LF of 8" PVC pipes, 425 LF of 24" PVC pipe, reconstruction of 28 sanitary sewer manholes, removal and relocation of 2 sanitary sewer manholes, reconnection of 181 sanitary sewer laterals, closed circuit television (CCTV) inspection of new sewer lines, and other appurtenances as shown on the Project Plans and described in the Project Specifications; and

**WHEREAS**, the District has reviewed and approved the Project Plans and Specifications for the work to be completed by the County on the District's behalf.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. The District grants the necessary permission to the County to do work within the District limits as herein described and as described in the Project Plans and Specifications.
2. The County has included in contract, for the above-described Project, work as requested and approved by the District within the Project limits. The work shall be completed by the County's Contractor.
3. The County will award the contract to the lowest responsible bidder for the completion of this Project including work on District's facilities as described above.
4. The County agrees to notify the District of the successful bidder to whom the construction contract is to be awarded.
5. The District agrees to reimburse the County, on demand, for the construction contract costs (including contract Change Order costs) incurred by the County for work on the District's facilities, and ten percent (10%) of the actual construction contract costs (including Change Order costs) for overhead expenses,

including project administration, construction management and any other incidental expenses, incurred by the County for work on said District facilities. It is understood that the total sum to be reimbursed to County is to be determined from actual bid prices received and the estimate given is for informational purposes only.

6. The estimated maximum fiscal obligation for work on said District facilities is **\$1,656,100** unless authorized by the Director of Public Works in writing on behalf of the District. Any Contract Change Orders on the District's portion of the construction work will be subject to written approval by the District. It is understood that the total sum to be reimbursed to the County is to be determined from approved contract change orders by the District, and invoices submitted to the District from the County.

7. The County shall furnish primary construction inspection services for all phases of the Project work. The County's Director of Public Works or his appointed representative shall be solely responsible for all phases of construction and inspection functions and liaison with the Project Contractor. In this regard, all communications and directions of the District and the County's Contractor shall be directed through the County's representative. District representatives shall have access to the work on the District's facilities at all times, and without restriction, for the purposes of inspection of such facilities. County and District representatives shall cooperate and confer to facilitate the performance of inspection duties incident to expeditious completion and acceptance of work performed by County's Contractor on District's facilities.

8. The County and District shall inspect work performed by the County's Contractor and, upon agreement that work has been satisfactorily completed by the County's Contractor on the District's behalf, as specified under this Agreement, the County and the District shall accept the work and the total cost incurred by the County

for administration and construction of the District's facilities, as described herein, shall be determined and billed to the District. Payment from the District shall be due within thirty (30) days of the invoice date.

**9.** The County and the District agree that upon completion of the work contemplated by this Agreement, the District shall continue to have all ownership and maintenance responsibilities for its facilities hereto under this Agreement located within the Project area.

**10.** The County shall only accept the work accomplished within the limits of the Project on District's facilities after receiving written approval from the District's representative. The District's disapproval of County work shall only be for non-conformance with the County's adopted Project Plans and Specifications for the County's contract. Said approval or disapproval, if any, by the District shall be provided as to not cause the County to sustain any claims from the Contractor for delays.

**11.** To the full extent permitted by law, the District shall defend, indemnify and hold harmless the County, its officers, agents and employees from all claims, damages, suits, or actions of every name, kind, and description, arising out of or relating to the matters covered by this Agreement to the extent that such claims, damages, suits or actions are due to the negligence or willful misconduct of the District or the District's failure to perform obligations required of the District under this Agreement.

Likewise, to the full extent permitted by law, the County shall defend, indemnify and hold harmless the District, its officers, agents and employees from all claims, damages, suits or actions of every name, kind, and description, arising out of or relating to the matters covered by this Agreement to the extent such claims, damages, suits or actions are due to the negligence or willful misconduct of the County or the

County's failure to perform obligations required of the County under this Agreement.

The duty to defend, indemnify and hold harmless includes the obligations as set forth in California Civil Code 2778. The County shall require the Contractor to name the County and the District, their officers, agents, and employees as additional insureds on all insurance documents, which Contractor is required to provide for this Project, and to include all work performed on behalf of the District in the bonds, warranties and guaranties to be furnished by the County's Contractor according to the specifications. The benefits arising under this Section 11 shall apply to the respective directors, officers, employees and agents of the parties thereto.

**12.** Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by written amendment to this Agreement, the term of this Agreement shall be two (2) years, beginning on the Effective Date of this Agreement, or two (2) years, beginning on the Effective Date of the construction contract for said work, whichever occurs later.

**13.** This Agreement shall be binding upon the respective successors and assigns of the parties hereto.

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year first above written.

**"County"**

**COUNTY OF SAN MATEO**  
A Political Subdivision of the  
State of California

By: \_\_\_\_\_  
David J. Canepa  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

**"District"**

**Fair Oaks Sewer Maintenance District**  
A Political Subdivision of the  
State of California

By: \_\_\_\_\_  
David J. Canepa  
President, Board of Supervisors, San Mateo County