

BILL NO. 2041

SPECIAL ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CUBA, MISSOURI, ON BEHALF OF SAID CITY, TO ENTER INTO AN AGREEMENT WITH SAK CONSTRUCTION, LLC FOR WASTEWATER COLLECTION SYSTEM IMPROVEMENT & REHABILITATION**

**WHEREAS**, the Board of Aldermen of the City of Cuba, Missouri (City), has determined that it is in the best interests of the City to enter into an agreement with SAK Construction, LLC for improvements and rehabilitation work on the wastewater collection system.

**BE IT ORDAINED**, by the Board of Aldermen of the City of Cuba, Missouri, as follows:

**Section 1:** The City of Cuba, Missouri, shall enter into an agreement with SAK Construction, LLC for improvements and rehabilitation work on the wastewater collection system. A copy of said Agreement is attached hereto as Exhibit "A".

**Section 2:** The Mayor of the City of Cuba, Missouri, is authorized to execute the Agreement on behalf of the City.

**Section 3:** All ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

**Section 4:** This ordinance shall be in full force and effect from and after its passage and approval.

**READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF CUBA, MISSOURI, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

\_\_\_\_\_  
CODY LEATHERS, MAYOR

Attest:

\_\_\_\_\_  
LAINIE GARBO, CITY CLERK

(City Seal)

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
CODY LEATHERS, MAYOR

Attest:

\_\_\_\_\_  
LAINIE GARBO, CITY CLERK

(City Seal)

Approved as to the form.  
WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: \_\_\_\_\_  
Lance B. Thurman, #51214  
901 North Pine Street, Fourth Floor  
Post Office Box 47  
Rolla, Missouri 65402  
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA, MISSOURI

Alderman	Vote on First Reading On _____, 2022	Vote on Second Reading On _____, 2022
Kevin Copling		
Sam Black		
Dave Honea		
Warren Graddy		
Curtis Holt		
Jeff Bouse		

00500 AGREEMENT

2021 WASTEWATER COLLECTION SYSTEM REHABILITATION  
FOR  
CITY OF CUBA, MISSOURI

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ City of Cuba, Missouri \_\_\_\_\_, Party of the First Part and hereinafter called the Owner, and \_\_\_\_\_ SAK Construction, LLC \_\_\_\_\_ a \_\_\_\_\_ Limited Liability Company \_\_\_\_\_ of \_\_\_\_\_ 864 Hoff Road, O'Fallon, County of \_\_\_\_\_ St. Charles \_\_\_\_\_ and State of \_\_\_\_\_ Missouri \_\_\_\_\_, Party of the Second Part and hereinafter called the "Contractor".

WITNESSETH:

THAT WHEREAS, the OWNER has caused to be prepared, in accordance with law, specifications, plans, and other contract documents for the work herein described and has approved and adopted said documents, and has caused to be published, in the manner and for the time required by law, an advertisement for and in connection with the construction of the improvements, complete, in accordance with the CONTRACT documents and the said plans and specifications; and

WHEREAS, the Contractor, in response to such advertisement, has submitted to the OWNER, in the manner and at the time specified, a sealed bid in accordance with the terms of said advertisement;

WHEREAS, the OWNER, in the manner prescribed by law, has publicly opened, examined and canvassed the bids submitted in response to the published advertisement therefore, and as a result of such canvass has determined and declared the aforesaid Contractor to be the lowest responsive and responsible Bidder for the said work and has duly awarded to the said Contractor a CONTRACT therefore, for the sum or sums named in the Contractor's bid, a copy thereof being attached to and made a part of this CONTRACT.

NOW, THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreements herein contained, the Parties to these presents have agreed and hereby agree, the OWNER for itself and its successors, and the Contractor for its, his, or their executors and administrators, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services and facilities; (b) furnish all materials, supplies and equipment specified and required to be incorporated in and form a permanent part of the completed work except the items specified to be furnished by the OWNER; (c) provide and perform all necessary labor; and (d) in a good, substantial, and workmanlike manner and in accordance with the provisions of the General Conditions and Supplementary Conditions of this CONTRACT which are attached hereto and make a part hereof, and in conformance with the CONTRACT plans and specifications designated and identified therein, execute, construct, and complete all work included in and covered by the OWNER'S official award of this CONTRACT to the said Contractor, such award being based on the acceptance by the OWNER of the Contractor's bid for the construction of the improvements.

It is further stipulated that not less than the prevailing rate of wages as found by the Department of Labor and Industrial Relations of the State of Missouri or determined by the courts of appeal shall be paid to all workmen performing work under this CONTRACT.

ARTICLE II. That the Contractor shall construct, complete as designated and described in the foregoing Bid Form, this Agreement, Bonds, General Conditions, Supplementary Conditions, specifications, drawings, addenda, and other CONTRACT modifications (change orders) of the CONTRACT documents, all of which documents form the CONTRACT and are fully a part hereto as if repeated verbatim here, the project, Cuba 2021 Wastewater Collection System Improvements, hereafter referred to as the work and as also defined in the General Conditions.

ARTICLE III. That the OWNER shall pay to the Contractor for the performance of the work described as follows: Cuba 2021 Wastewater Collection System Improvements and the Contractor will accept as full compensation thereof, the sum (subject to adjustment as provided by the CONTRACT) of TWO HUNDRED FORTY NINE THOUSAND NINE HUNDRED EIGHTY FOUR DOLLARS AND 50/100 Dollars (\$ 249,984.50) for all work covered by and included in the contract award and designated in the foregoing Article I. Payment therefore shall be made in the manner provided in the General Conditions and Supplementary Conditions attached hereto.

ARTICLE IV. That the Contractor shall begin assembly of materials and equipment within ten (10) days after receipt from the OWNER of executed copies of the CONTRACT and that the Contractor shall complete said work within 90 consecutive calendar days from the thirtieth day after the Effective Date of the Agreement, or if a Notice to Proceed is given, from the date indicated in the Notice to Proceed.

OWNER and Contractor recognize time is of the essence of this agreement and that OWNER will suffer financial loss if the work is not completed within the time specified above, plus any extensions thereof allowed in allowance with Article 12 of the General Conditions. OWNER and Contractor agree that as liquidated damages for delay, but not as a penalty, Contractor shall pay OWNER Five Hundred dollars (\$ 500) each consecutive calendar day of each section that expires following the time specified above for completion of the work .

Liquidated damages will be waived for any one period of time covered by a time extension granted by the OWNER.

In case of joint responsibility for any delay in the final completion of the Work covered by the Agreement; where two or more separate Agreements are in force at the same time and cover work on the same project and at the same site, the total amount of liquidated damages assessed against all contractors under such Agreement for any one day of delay in the final completion of the Work will not be greater than the approximate total of the damages sustained by the OWNER by reason of such delay in completion of the Work, and the amount assessed against any Contractor for such one day of delay will be based upon the individual responsibility of such Contractor for the aforesaid delay as determined by and in the judgment of the OWNER.

The OWNER shall have the right to deduct said liquidated damages from any moneys in its hands, otherwise due or to become due to said Contractor, or sue for and recover compensation for damages for nonperformance of the Agreement at the time stipulated herein and provided for.

ARTICLE V. This Agreement will not be binding and effective until signed by the OWNER.

IN WITNESS WHEREOF, the parties to these presents have executed this CONTRACT in (6) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

SIGNATURE:

ATTEST:

Owner, Party of the First Part

Name and Title

By \_\_\_\_\_  
(Name and Title)

(SEAL)

\*\*\*\*\*

LICENSE or CERTIFICATE NUMBER, if applicable \_\_\_\_\_

SIGNATURE OF CONTRACTOR:

IF AN INDIVIDUAL OR PARTNERSHIP

Contractor, Party of the Second Part

By \_\_\_\_\_  
(Name and Title)

\*\*\*\*\*

LIMITED LIABILITY COMPANY  
IF A CORPORATION

Contractor, Party of the Second Part  
Boyd Hirtz, President

(Name and Title)

ATTEST:

Secretary

(CORPORATE SEAL)

STATE OF Missouri  
COUNTY OF St. Charles

On This 20 day of December, 2021, before me appeared Boyd Hirtz to me personally known who, being by me duly sworn, did say that he is the President of SAK Construction, LLC and that the seal affixed to said instrument is the corporate seal of said corporation by authority of its board of directors, and said Boyd Hirtz acknowledged said instrument to be the free act and deed of said corporation.

(SEAL)

My Commission Expires

12/19/22

Barbara Marler  
Notary Public Within and For Said  
County and State

BARBARA MARLER  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for St. Charles County  
My Commission Expires: December 19, 2022  
Commission Number: 14126252

**NOTE:** Secretary of the OWNER should attest. If Contractor is a corporation, Secretary should attest.