



# WASHOE COUNTY

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## STAFF REPORT

BOARD MEETING DATE: June 13, 2017

CM/ACM \_\_\_\_\_  
Finance LC  
DA SH  
Risk Mgmt DE  
HR N/A  
Comptroller CH

**DATE:** May 19, 2017  
**TO:** Board of County Commissioners  
**FROM:** Dwayne Smith, P.E., Division Director, Engineering and Capital Projects  
Community Services Department, 328-2043, [desmith@washoecounty.us](mailto:desmith@washoecounty.us)  
**THROUGH:** Dave Solaro, Arch., P.E., Director  
Community Services Department, 328-2040, [dsolaro@washoecounty.us](mailto:dsolaro@washoecounty.us)  
**SUBJECT:** Approve a Sanitary Sewer Infrastructure Reimbursement Agreement between Washoe County and DiLoreto South Truckee Meadows, Inc., for reimbursement of a portion of sanitary sewer interceptor oversizing [\$800,115.60]; and authorize up to \$50,000 of additional reimbursement from a force account. (Commission District 2.)

### SUMMARY

The purpose of this Agreement is to set forth the terms and conditions governing a sanitary sewer infrastructure reimbursement agreement between Washoe County (County) and DiLoreto South Truckee Meadows, Inc., (DiLoreto), for reimbursement to DiLoreto for project costs associated with the oversizing of a portion of a Washoe County sanitary sewer interceptor. The sewer interceptor is located in the South Truckee Meadows and will be used to convey sewer from the DiLoreto development (Caramella Ranch Estates) as well as additional upstream developments. The total estimated cost of the Project is \$971,500.00 and the Agreement identifies the County's responsibility to reimburse DiLoreto in the estimated amount of \$800,115.60. A force account in the amount of \$50,000 has been included as shown on Exhibit B and will only be used if agreed to by both parties. DiLoreto is solely responsible for the design, permitting and construction of the Project and will assume all responsibility for the Project and will offer it to Washoe County for dedication upon completion, review, and approval.

DiLoreto proposed a new residential development, Caramella Ranch Estates, which requires oversizing of portions of an existing sanitary sewer interceptor to convey sewer flows to Washoe County's South Truckee Meadows Water Reclamation Facility for treatment and disposal. In addition, Washoe County identified the need to further oversize the interceptor to accommodate additional growth upstream that will use the interceptor in the future.

Washoe County Strategic Objective supported by this item: Safe, Secure and Healthy Communities.

### PREVIOUS ACTION

There has been no previous action.

AGENDA ITEM # 5.F.3.

## **BACKGROUND**

Washoe County recently completed a Sanitary Sewer Facility Plan Update for the South Truckee Meadows service territory which updated the projected growth potentials and locations for the area. The plan identifies the necessary infrastructure improvements to accommodate the growth projections including the need for oversizing of several of the sanitary sewer interceptors that convey sewer flows to the South Truckee Meadows Water Reclamation Facility for treatment and disposal. Specific analysis determined that the DiLoreto development requires oversizing of portions of the existing interceptor to 14-inches. Recognizing the planned demands require an 18-inch diameter sewer, per the agreement, DiLoreto will oversize the necessary portions of the interceptor to 18-inches to accommodate the current and planned development needs, and Washoe County will pay for the oversizing portion above what DiLoreto requires. The project is scheduled to be constructed this calendar year.

## **FISCAL IMPACT**

Sufficient funds and budget authority for the reimbursement to DiLoreto exist in Fund 566, cost center 668600. Upon acceptance of dedication, Washoe County will own and assume all responsibilities including ongoing maintenance activities for the sanitary sewer interceptor improvements.

## **RECOMMENDATION**

It is recommended the Board of County Commissioners approve a Sanitary Sewer Infrastructure Reimbursement Agreement between Washoe County and DiLoreto South Truckee Meadows, Inc., for reimbursement of a portion of sanitary sewer interceptor oversizing [\$800,115.60]; and authorize up to \$50,000 of additional reimbursement from a force account.

## **POSSIBLE MOTION**

Should the Board agree with staff's recommendations, a possible motion would be: "Move to approve a Sanitary Sewer Infrastructure Reimbursement Agreement between Washoe County and DiLoreto South Truckee Meadows, Inc., for reimbursement of a portion of sanitary sewer interceptor oversizing [\$800,115.60]; and authorize up to \$50,000 of additional reimbursement from a force account"

## SANITARY SEWER INFRASTRUCTURE REIMBURSEMENT AGREEMENT

This Sanitary Sewer Infrastructure Dedication Agreement ("Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 2017, by and between the COUNTY OF WASHOE, a political subdivision of the State of Nevada ("County") and DI LORETO SOUTH TRUCKEE MEADOWS, INC., a Nevada corporation ("Developer").

### RECITALS

WHEREAS, County is the owner and operator of the South Truckee Meadows Water Reclamation Facility ("STMWRF") and certain existing sewer interceptor infrastructure located in the South Truckee Meadows area.

WHEREAS, Developer is the developer of record of certain master infrastructure for an approved residential project owned by Toll NV Limited Partnership consisting of 822 residential units known as the Caramella Ranch Estates master planned community ("Project") located on the property more fully depicted in Exhibit "A" attached hereto.

WHEREAS, the Project is required by the conditions of approval to sewer the Project to a municipal sewer system for treatment and disposal.

WHEREAS, it is anticipated that municipal sanitary sewer treatment and disposal of sewer flows from the Project will be provided by Washoe County.

WHEREAS, it is necessary to design and construct certain oversizing improvements to certain sections of the existing Washoe County owned and operated sanitary sewer interceptor infrastructure more particularly described in Exhibit "A" attached hereto ("Sewer Interceptor Improvements") in order to convey sanitary sewer flows from the project to the STMWRF for sewer treatment and disposal service.

WHEREAS, the Developer recognizes the need to make improvements to the sewer interceptor for the benefit of their project and is willing to undertake the design, permitting and construction of the Sewer Interceptor Improvements necessary to convey sanitary sewer flows from the Project to Washoe County facilities for treatment and disposal at STMWRF, in accordance with the terms and conditions of this Agreement.

WHEREAS, after due consideration of all relevant factors such as the location and nature of the Sewer Interceptor Improvements, the area to be serviced by the Sewer Interceptor Improvements, the developable areas potentially serviced by the Sewer Interceptor Improvements, it is found and determined that the Sewer Interceptor Improvements will service not only the Developer but also other lands which will be serviced by the Sewer Interceptor Improvements at a future date.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties agree as follows:

1. Construction of Sewer Interceptor Improvements. Developer agrees to design and construct, or cause its contractor(s) to design and construct, at Developer's expense the Sewer Interceptor Improvements, subject to County's performance of its obligations under this Agreement. Subject to the reimbursement as set forth in Paragraph 6, Developer agrees to pay its proportionate share for the costs of the Sewer Interceptor Improvements. Developer shall complete the Sewer Interceptor Improvements to the satisfaction of Washoe County. Subject to the foregoing, County and Developer acknowledge and agree that Developer shall be solely responsible for and shall have control over the construction timing and sequencing, and construction means, methods, techniques, and procedures in connection with the performance of the Sewer Interceptor Improvements work. In the event Sewer Interceptor Improvements are required prior to Developer initiating construction, the County and Developer agree to either modify or replace this Agreement upon the mutual agreement by both parties.

2. Plans and Design. Developer will select the design engineer and the contractor for the Sewer Interceptor Improvements. The plans and design of the Sewer Interceptor Improvements shall be subject to the County's prior approval, such approvals to include any necessary approvals by the Washoe County Community Services Department, the District Board of Health and the Nevada Division of Environmental Protection or others, if applicable, which County controlled approvals will not be unreasonably withheld. Prior to commencing the work, Developer will deliver plans and specifications to the County together with a proposed construction schedule. In the event the County disapproves such plans and specifications, it shall specify the reasons for such disapproval and County and Developer shall confer in good faith to resolve such differences and reach agreement on the plans and specifications. Developer agrees to permit inspection of the Sewer Interceptor Improvements during construction, at any and all reasonable times, by County officers or authorized agents in coordination with Developer and its contractor. County shall provide Quality Assurance inspection of the Sewer Interceptor Improvements during its construction and the Developer shall provide Quality Control inspection of the Sewer Interceptor Improvements following the minimum standards established in the most recent version of the Standard Specifications for Public Works Construction. The Sewer Interceptor Improvements shall be designed and constructed to County standards and specifications. The County and Developer will cooperate to insure the coordination and compatibility of the Sewer Interceptor Improvements with County's existing sanitary sewer infrastructure.

3. Permits. The Developer will obtain any required permits for the Sewer Interceptor Improvements. The County will be identified as the Applicant and will cooperate in obtaining any such approvals.

4. Completion and Dedication of Sewer Interceptor Improvements. Upon completion of the Sewer Interceptor Improvements as evidenced by a notice of completion, Developer agrees to dedicate all of the Sewer Interceptor Improvements to County in the form of a dedication instrument mutually acceptable to the parties. County shall review the Sewer Interceptor Improvements work within fifteen (15) days of request from Developer, and shall work in good faith with Developer to issue a Notice of Completion, and to not unreasonably withhold, condition or delay the issuance of a Notice of Completion. Upon acceptance by both the County and the Developer of the mutually accepted dedication instrument, all Sewer

Interceptor Improvements shall be deemed dedicated to and accepted by the County, and the County shall assume sole ownership and responsibility for the Sewer Interceptor Improvements. Concurrent with its dedication of the Sewer Interceptor Improvements, Developer shall assign to County all warranties given to Developer by subcontractors and suppliers engaged in performing the Sewer Improvement work. Developer also agrees to secure and record any additional easements located within the Project for the Sewer Interceptor Improvements, including but not limited to those easements for the sewer interceptor and access, in favor of the County and County agrees that the Developer may utilize all existing available County sanitary sewer easements.

5. Warranty. Developer, or its contractor, shall provide a one year warranty for the Sewer Interceptor Improvements to the County which warranty period shall commence upon the acceptance of the Sewer Interceptor Improvements.

6. Oversizing Reimbursement. As determined by the Caramella Ranch Estates Sewer Discovery, dated December 19, 2016, County and Developer acknowledges and agree the Project requires twenty-five (25%) of the capacity of the Sewer Interceptor Improvements, as identified on the project engineering drawings from Station 10+73.85 to Station 34+08.46 (first point of connection by Developer to the existing downstream connection point), to convey sewer flows from the Project to the STMWRF for treatment and disposal and that the County requires seventy-five (75%) of the Sewer Interceptor Improvements through the same portion to convey sewer flows from upstream projects to the STMWRF for treatment and disposal and that both parties agree that the Sewer Interceptor Improvements are necessary and eligible for reimbursement. Further, it is recognized that the County requires one hundred (100%) of the oversizing between Station 1+00 to Station 10+73.85 (first point of connection by Developer) to convey sewer flows from upstream projects to STMWRF.

As identified on Exhibit B, County agrees to pay to the Developer seventy-five percent (75%) of the actual costs incurred to design, construct and complete the Sewer Interceptor Improvements, including, but not limited to, engineering fees, construction management fees, inspection fees and permit fees ("Reimbursement Amount A") for the improvements identified on the project plans from Station 10+73.85 to Station 34+08.46, as identified in Exhibit B, which is incorporated by reference. County further agrees to pay to the Developer one-hundred percent (100%) of the actual costs incurred to design, construct and complete the Sewer Improvements, including but not limited to, engineering fees, construction management fees, inspection fees and permit fees ("Reimbursement Amount B") for the improvements from Station 1+00 to Station 10+73.85, as identified in Exhibit B, made a part of this Agreement. Developer shall submit certified paid invoices to the County for all of the actual costs associated with the Sewer Interceptor Improvements for review and approval. Supporting documentation shall include, but not be limited to, copies of material invoices, time sheets, vendor and/or contractor invoices and other such documents as may be deemed necessary by the County to support all costs of construction.

In the event the actual costs significantly exceed the costs estimates identified on Exhibit B, the Developer and County will confer in good faith to resolve such differences and reach agreement on the Project Costs. Upon approval County agrees to reimburse and pay Developer the Total Reimbursement Amount upon accepted progress payment invoices and full and final

payment shall be due and payable forty five (45) days after the acceptance of the Sewer Interceptor Improvements by the County and submission of final supporting documentation from Developer. It is understood that the Sewer Interceptor Improvements will utilize existing and acceptable easements and will not require additional land or easements, including but not limited to access easements. If the Developer desires to relocate all or portions of the Sewer Interceptor Improvements, including but not limited to access easements, thus requiring new or additional easements or property, the cost of the acquisition, development of such land will be at the sole cost of the Developer and will not be eligible for reimbursement under the terms of this agreement.

7. Sewer Service to Project. When the Sewer Interceptor Improvements have been completed by Developer and accepted by the County, County agrees that it will provide sewer service to the Project as it may be developed on a phase by phase basis when the required Sanitary Sewer Connection Privilege Fees and all other associated and required fees in the amounts identified in County Ordinance are paid.

8. Assignment. Developer shall have the right to sell, assign, and transfer all or any part of its rights under this Agreement, to any person, firm, corporation, or company, at any time; provided, however, that Developer' shall give the County written notice of any such sale, assignment or transfer. The sale, assignment or transfer of all or any part of the rights identified under this agreement does not alleviate the requirement to pay any and all connection privilege fees, facility plan fees, plan review fees, surcharge fees or other fees as identified in Washoe County Ordinance.

9. Miscellaneous.

9.1 Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, by United States mail or by United States express mail, electronic mail, or other established express delivery service, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below:

WASHOE COUNTY  
Attn: Dwayne Smith  
Community Services Department  
1001 E. 9th St.  
Reno, NV 89512

DI LORETO SOUTH TRUCKEE MEADOWS  
Attn: Perry M. Di Loreto  
985 Damonte Ranch Parkway, Ste. 310  
Reno NV 89521

9.2 Attorneys' Fees. In the event that it is necessary to commence any legal proceedings for enforcement of breach of any portion of this Agreement, the prevailing party shall be entitled to an award of all costs and expenses incurred in the prosecution of a contractual

cause of action, including reasonable attorney's fees. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise or judgment.

9.3 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties in respect to the subject matter hereof, and the parties intend for the literal words of this Agreement to govern and for all prior negotiations, drafts, letters-of-intent (both binding and non-binding), and other extrinsic communications, whether oral or written, to have no significance or evidentiary effect. The parties further intend that neither this Agreement nor any of its provisions may be changed, amended, discharged, waived or otherwise modified orally except only by an instrument in writing duly executed by the party to be bound thereby. Each party hereto acknowledges that this Agreement accurately reflect the agreements and understandings of the parties hereto with respect to the subject matter hereof and hereby waive any claim against the other party which such party may now have or may hereafter acquire to the effect that the actual agreements and understandings of the parties hereto with respect to the subject matter hereof may not be accurately set forth in this Agreement.

9.4 Governing Law. This Agreement shall be governed by the internal laws of the State of Nevada.

9.5 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

9.6 Partial Validity; Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

9.7 No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto and their respective permitted successors and assigns, and no third party is intended to, or shall have, any rights hereunder.

9.8 Development as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the County and Developer is that of a government entity regulating the development of private property and the owner of such property.

9.9 Force Majeure. Time is of the essence in the performance of the provisions of this Agreement. Any time period for performance of any party under this

Agreement shall be extended for a period of time of any force majeure, including Acts of God, war, strikes, or other cause not reasonably within the control of the affected party.

IN WITNESS WHEREOF, each party hereby approves this Agreement as of the date set forth by its respective signature below.

<p>“Developer” DI LORETO SOUTH TRUCKEE MEADOWS, INC., a Nevada corporation</p> <p>By: _____ Perry M. Di Loreto, President</p>	<p>“County” WASHOE COUNTY, a political subdivision of the State of Nevada</p> <p>By: _____ Bob Lucey, Chair</p> <p>Attest:</p> <p>_____ Nancy Parent Washoe County Clerk</p>
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May 21, 2017

# EXHIBIT A



## EXHIBIT B

### Sanitary Sewer Interceptor Infrastructure Caramella Ranch

#### ESTIMATED PROJECT COSTS

Legal	\$7,500
Engineering – Test and Inspections	\$95,000
<b>HARD COSTS</b>	
Clear and Grub	\$12,000
Bypass Pumping	\$249,735
18" Sanitary Sewer Interceptor	\$444,680
8" Sanitary Sewer Laterals	\$4,360
Sanitary Sewer Manholes	\$64,400
Raise Manholes	\$14,250
Abandon Existing Sewer Manholes	\$6,650
Abandon Existing Sewer Main	\$16,500
12' Wide Aggregate Base Access Road	<u>\$56,425</u>
<b>TOTAL</b>	<b>\$971,500</b>
Cost for Station 10+73.85 to Station 34+08.46	\$685,537.57
Washoe County Portion – 75%	\$514,153.17
Developer Portion – 25%	\$171,384.40
<b>"REIMBURSEMENT AMOUNT A"</b>	<b><u>\$514,153.17</u></b>
Cost for Station 1+00 to Station 10+73.85	\$285,962.43
Washoe County Portion –100%	\$285,962.43
<b>"REIMBURSEMENT AMOUNT B"</b>	<b><u>\$285,962.43</u></b>
<b>TOTAL REIMBURSEMENT BY WASHOE COUNTY</b>	<b><u>\$800,115.60</u></b>

#### \*\* SPECIAL EXCLUSIONS

- 1) Bid reflects items as listed. No other improvements are included.
- 2) Excludes onsite inspections.
- 3) No provisions have been made for the removal of hazardous or toxic materials if they are encountered.
- 4) This job is bid with regular standard rates. If prevailing wages are necessary additional costs will be incurred.

FORCE ACCOUNT

\$50,000