

Hem #4-SE

**City of Carson City
Agenda Report**

Date Submitted: 01/23/07

Agenda Date Requested: 02/01/07

Time Requested: Consent

To: Mayor and Supervisors
From: Development Services

Subject Title: Action to rescind and cancel Ordinance #1993-21, a Waterline Reimbursement Agreement between Carson City and Jose Cervantes Jr. regarding assessor's parcel number 008-293-03 located at 2319 Darla Way, Carson City, Nevada; which benefitted the owners of APNs: 008-292-08 at 2232 Darla Way, 008-292-07 at 2298 Darla Way, Carson City, Nevada; and authorize the Mayor to sign the Cancellation.

Staff Summary: Staff is requesting that the Board of Supervisors approve the cancellation of the Waterline Reimbursement Agreement between Carson City and Jose Cervantes Jr.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to rescind and cancel Ordinance #1993-21, a Waterline Reimbursement Agreement between Carson City and Jose Cervantes Jr. regarding assessor's parcel number 008-293-03 located at 2319 Darla Way, Carson City, Nevada; which benefitted the owners of APNs: 008-292-08 at 2232 Darla Way, 008-292-07 at 2298 Darla Way, Carson City, Nevada; and authorize the Mayor to sign the Cancellation.

Explanation for recommended Board Action: The requirements set forth in the Waterline Reimbursement Agreement no longer apply and will not be pursued at this time. This Agreement became null and void on May 17, 2003 which was ten (10) years from the date of Board approval; therefore, we will record the Waterline Reimbursement Agreement Release and Cancellation to void the original Waterline Reimbursement Agreement.

Applicable Status, Code, Policy, Rule or Regulation: Section 12.01.210, of the Carson City Municipal Code.

Fiscal Impact: None

Funding Source: N/A

Explanation of Impact: N/A

Alternatives: None

Supporting Materials: Recorded Waterline Reimbursement Agreement, Ordinance #1993-21 and Waterline Reimbursement Agreement Release and Cancellation

Prepared By: Eva Chwalisz, Management Assistant

Reviewed By: John S. P. (Deputy City Engineer) **Date:** 1/22/07

Concurrences: John S. P. (Department Head) **Date:** 1/22/07
John S. P. (City Manager) **Date:** 1-23-07
Melanie Puketla (District Attorney) **Date:** 1-23-07

Board Action Taken:

Motion: _____ 1) _____ **Aye/Nay** _____
2) _____

(Vote Recorded By)

WATERLINE REIMBURSEMENT AGREEMENT RELEASE AND CANCELLATION

PROJECT: Waterline Reimbursement Agreement between Carson City and Jose Cervantes Jr. regarding assessor's parcel number 008-293-03 located at 2319 Darla Way, Carson City, Nevada; which benefitted the owners of APNs: 008-292-08 at 2232 Darla Way, 008-292-07 at 2298 Darla Way, Carson City, Nevada.

RECORDING INFORMATION: Recorded #143903, May 17, 1993

This document confirms that all of the requirements set forth in Waterline Reimbursement Agreement no longer apply and will not be pursued at this time. This Agreement became null and void on May 17, 2003, which was ten (10) years from the date of Board Supervisors approval. There has been no reimbursement from owners benefitted by this Agreement within the ten (10) year period. CURRENT OWNER is no longer eligible to receive reimbursement.

Accordingly, the CITY hereby approves the above-referenced Waterline Reimbursement Agreement for release. Both the CITY and the CURRENT OWNER or the heirs, executors, administrators, successors and assigns consent to the cancellation of the Waterline Reimbursement Agreement. In addition, the CITY and the CURRENT OWNER or the heirs, executors, administrators, successors and assigns agree that this release and cancellation shall be recorded in Carson City Clerk Recorder Office.

CITY:

Marv Teixeira, Mayor

APPROVED AS TO FORM:

District Attorney's Office

ATTEST:

Alan Glover, Clerk/Recorder

1 ORDINANCE NO. 1993-21

2 BILL NO. 118

3 AN ORDINANCE APPROVING A WATERLINE
4 REIMBURSEMENT AGREEMENT BETWEEN CARSON CITY AND
5 JOSE CERVANTES JR. REGARDING ASSESSOR'S PARCEL
6 NO. 008-293-03 LOCATED AT 2319 DARLA WAY,
7 CARSON CITY, NEVADA.

8 Fiscal effect: None

9

10 THE CARSON CITY BOARD OF SUPERVISORS DOES HEREBY ORDAIN:

11 SECTION I:

12 WHEREAS, Carson City desires to enter into a waterline
13 reimbursement agreement with Jose Cervantes Jr. concerning the
14 development of land known as Assessor's Parcel No. 008-293-03,
15 located at 2319 Darla Way, Carson City, Nevada; and

16 WHEREAS, Carson City Board of Supervisors finds that the
17 contents of the waterline agreement conform with Carson City
18 Municipal Code (CCMC) 12.01.210, Paragraph 6; and

19 WHEREAS, the Board of Supervisors finds that the provisions of
20 the waterline reimbursement agreement are consistent with Carson
21 City's water plan.

22 NOW, THEREFORE, the Board of Supervisors hereby approves by
23 ordinance a waterline reimbursement agreement between Carson City
24 and Jose Cervantes Jr., for Assessor's Parcel No. 008-293-03,
25 located at 2319 Darla Way, Carson City, Nevada, said agreement
26 being attached and incorporated herein as Exhibit "A".

27 The Board of Supervisors further directs that the City Clerk
28 shall cause a certified copy of this ordinance and the original

1. waterline reimbursement agreement to be filed with the Carson City
2. Recorder.

3
4 PROPOSED this 15th day of April, 1993

5 PROPOSED by Supervisor Greg Smith

6 PASSED on the 6th day of May, 1993

7
8 VOTE: AYES: Greg Smith

9 Janice Ayres

10 Tom Tatro

11 Mary Teixeira, Mayor

12
13 NAYES: None

14 ABSENT: Kay Bennett

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20 ATTEST:
21 
22 Kiyoshi Nishikawa
23
24 This ordinance shall be in force and effect from and after the
25 17th day of May, 1993.

1 EXHIBIT "A"

2 WATER LINE REIMBURSEMENT AGREEMENT

3 Assessor's Parcel No. 8-293-03 for 2319 Darla Way,
4 Carson City, Nevada

5

6 THIS AGREEMENT, dated this 6th day of May,

7 1993, between JOSE CERVANTES JR., hereinafter referred to as

8 "APPLICANT", and CARSON CITY, NEVADA, a municipal corporation.

9 hereinafter referred to as "CITY".

10 WITNESSETH:

11 WHEREAS, APPLICANT desires to construct a new waterline to the
12 site; and

13 WHEREAS, APPLICANT is front-ending such waterline improvements
14 which will benefit the owners of Assessor's Parcel Number (APN)
15 8-292-08 at 2232 Darla Way to the extent of 33.99% and the owners
16 of Assessor's Parcel Number 8-292-07 at 2298 Darla Way to the
17 extent of 32.68%, required reimbursement to APPLICANT upon
18 connection to the extended waterline; and

19 WHEREAS, the CCNC, Section 12.01.210, places the following
20 requirements upon the APPLICANT:

21 12.01.210 Main Extensions.

22 1. General Requirements. Water main lines shall be extended
23 by the applicant from the City's existing system to the proposed
24 place of water use if:

25 A. Adequate fire protection can only be provided by
26 connection to the City system, in the judgement of the City; or

27 B. The proposed place of use is an industrial or
28 commercial type of development that is within four hundred feet of

1. the existing water system; or

2. C. The proposed place(s) of residential use is (are)

3. within the following distance(s) from the existing water system:

4. (1) If development is within four hundred feet of an
5. existing water line; or

6. (2) If development contains over ten units and is
7. within one thousand feet of an existing water line.

8. 2. Location. Wherever possible, the line shall be located in

9. public rights-of-way and as directed by the City. Where it is not
10. possible to locate the line in a public right-of-way, the applicant
11. shall provide all necessary easements for the proper operation and
12. maintenance of the line. The location and dimensions of such
13. easements shall be as determined by the City.

14. 3. Size. The size of the line shall be as determined by the

15. City, but in no case shall the line be less than that necessary to
16. provide adequate fire protection for the property being served. At
17. the option of the City, the applicant may be required to have his
18. proposal analyzed to determine system capability to provide such
19. fire protection. Any costs for such analysis shall be borne by the
20. applicant. In any case, the minimum water main size shall be no
21. less than six inches in diameter.

22. 4. System Capability. Where an analysis of the system shows

23. that existing portions of the system are not capable of providing
24. adequate flow or storage, the applicant may be required to correct
25. the deficiencies as part of the main line extension.

26. 5. Participation. The applicant shall be responsible for the

27. construction of the water line system (or the water line system
28. costs) along any of the property sides or frontages of the property

1 along which a water line is needed for the overall completeness and
2 continuity of the City's water main system. The applicant shall
3 also be responsible for the necessary and required system of water
4 lines within the interior of the tract of land.

5 The applicant shall construct all needed water lines (as
6 approved sizes) within and along all sides or frontages of any
7 piece of property prior to final approval of the development and/or
8 the issuance of any certificate of occupancy. "Phase II"
9 construction of the water line system may also be specifically
10 allowed if provided for in a development agreement between the
11 applicant and the City. In lieu of actually constructing said
12 required water line system, the applicant shall obtain a bond in a
13 form acceptable to the City to fully cover one hundred and fifty
14 percent of the estimated cost of the water line system. The
15 applicant may also present a cash deposit, Letter of Credit, or
16 similar method of financing the costs, but in that event the
17 estimated costs shall be based upon one hundred fifty percent of
18 City's cost of construction which would include statutorily
19 required wage rates.

20 Whenever an applicant is required to construct a water line
21 from the applicant's respective property to the nearest water line
22 outside of the applicant's respective property, and where, in the
23 opinion of the Public Works Director, it is necessary that a water
24 line be constructed of a larger size than the minimum size needed
25 to serve such property and that such extended water line will be or
26 can be used in the transmission of water from adjacent properties.

27 the Public Works Director shall require the applicant to construct
28 the larger size water line in accordance with the plans and

1 specifications as submitted and approved by the Director. Should
2 the City require an oversized water line, the City will reimburse
3 the applicant for the costs of the additional water line size, as
4 long as said line is greater than eight inches in diameter, as set
5 forth in water line extension agreement or a development agreement.

6 When the City agrees to pay for an increase in water line
7 size, at least three (3) proposals, signed and prepared by
8 contractor, shall be required which show the comparable cost of the
9 incremental increase requested by the City. The City shall select
10 the proposal most beneficial to it. In no event shall City pay
11 more than the lowest proposal presented.

12 6. Extension. If the applicant must extend the water line
13 system through another's property or along the frontages of various
14 intermediate property owners, and if said properties are not
15 currently served by the City's water system, then said
16 intermediate and benefitting property owners shall be responsible
17 when development commences or connection is made for a pro rata
18 share of the costs of the water line extension.

19 When the applicant is required to extend a water line, he
20 shall "front-end" the entire cost of the water line construction
21 and shall be responsible for the actual construction of said water
22 line. Any owners of properties to be served by the extended water
23 line will thereafter be responsible for reimbursing the first
24 property owner for a pro rata share of the costs of the water line
25 system, at the time said subsequent owners begin to plat, parcel,
26 develop or build upon their parcels.

27 The pro rata shares for the applicant and all subsequent
28 owners benefitted by the extended water line shall be determined

1 prior to the City entering into the reimbursement agreement. The
2 City shall collect a fifteen percent administrative fee from the
3 applicant who front-ended the water line construction upon
4 reimbursement.

5 In no event shall any owners of property to be served by such
6 extended water lines be permitted to connect thereto without first
7 paying to the applicant or the City the pro rata share of the costs
8 described above as well as all other fees required by the City.

9 7. Any facilities installed pursuant to this section become
10 the property of the City upon inspection and approval of the City.

11 8. In the event that provisions of this chapter required the
12 owner to extend the city water main, then the owner shall extend
13 the main along the entire frontage of his parcel unless it is found
14 by the Director to be physically improper to do so.

15 NOW, THEREFORE, the parties to this Agreement, in
16 consideration of the provisions herein contained and other good and
17 valuable consideration, do hereby agree as follows:

18 1. APPLICANT shall install all required water line
19 improvements at this time from the existing CITY waterline to and
20 including all of their frontage along Darla Way at the time of the
21 construction with all the costs front-ended by the APPLICANT.

22 2. APPLICANT agrees that he will totally front-end the cost
23 of the waterline improvements and in no case pay less than 33.33%
24 of the final invoice after receiving reimbursements, plus upon the
25 first reimbursement from subsequent owners benefitting from the
26 waterline extension pay to the CITY 15% administrative fee based on
27 the subsequent owner's share of the final invoice total.

28 3. APPLICANT agrees that if no reimbursement has occurred

1 within a ten year period following the date of this Agreement, said
2 Agreement shall become null and void thereafter.

4. Reimbursement Assessment Schedule:

4 Total approved project costs to be prorated = \$8,560.00.

Percent of Total Reimbursement 100 Admin.

	<u>Parcel Number</u>	<u>Cost Assessment*</u>	<u>to Applicant</u>	<u>Fee to City</u>
7	8-293-03 Applicant	30.33		
8	8-292-08	33.99	\$2,909.54	\$436.43
9	8-292-07	32.68	2,797.41	419.51
10			TOTAL CITY FEES =	\$856.04

11 * Based on prorated share of benefitting land area.

12 Each subsequent owner benefitted by the water line shall pay
13 the amount in the Reimbursement and 15% columns above to the CITY.
14 CITY will then deduct the amount in the 15% column for its
15 administrative fee and will pay the remainder to the APPLICANT.

16 5. This Agreement shall bind the heirs, executors
17 administrators, successors, and assigns of the respective parties.

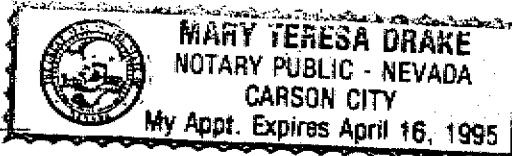
1 IN WITNESS WHEREOF, the parties hereto have caused their
2 Agreement to be executed as of the day and year first above
3 written.

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APPLICANT:

Jose Cervantes

JOSE CERVANTES JR.

3 On the 5 day of April, 1993, personally
9 appeared before me a Notary Public, Jose Cervantes Jr., who
10 acknowledged to me that he executed the within document.



11
12 *Mary Teresa Drake*
13 NOTARY PUBLIC

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CARSON CITY:

BY:

Marv Teixeira

MARV TEIXEIRA, Mayor

ATTEST:

Kiyoshi Nishikawa

KIYOSHI NISHIKAWA, Clerk/Recorder

APPROVED AS TO FORM:

M. Scott Syl

Deputy District Attorney

APPROVED:

Daniel K. O'Brien

DANIEL K. O'BRIEN
Public Works Director

CARSON CITY PUBLIC WORKS DEPARTMENT

TITLE: WATERLINE REIMBURSEMENT
Agreement for Jose Cervantes Jr.
at 2319 Darla Way APN 8-293-03

DIRECTOR: Daniel K. O'Brien
DRAWN BY: R.E. Kronenberg
DATE: March 11, 1993

SCALE NTS
SHEET 8 OF 8

