



TriCo Regional Sewer Utility

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Board of Trustees Meeting Agenda

Monday, July 23, 2018 @ 5:30 p.m.

Clay Township Government Center

10701 N. College Avenue, Indianapolis, IN 46280

- 1. Roll Call**
- 2. Public Comment**
- 3. Sewer Service Agreement - Southwest Corner of 96th/Keystone**
- 4. New Business**
- 5. Adjourn**



MEMORANDUM

To: Board of Trustees

From: Wes Merkle

Date: July 18, 2018

**Subject: Sewer Service Agreement -
Southwest Corner of 96th/Keystone**

Attached is a draft agreement to provide sewer service at the subject location. Carmel must release the subject location from its service area. Property owners have said they are willing to each pay TriCo \$50,000 as a security for future repairs to the private sewer system with TriCo financing the rest through a monthly surcharge.

If approved, the private lift station will immediately connect to TriCo sewers. This will save property owners substantial relocation expenses, allow Carmel road improvements to proceed as planned and allow staff time to work with the other parties to plan a permanent solution for sewer service in this area.

Recommendation: Approve the Sewer Service Agreement allowing connection of the Haver Way lift station and private system to TriCo sewers.

SEWER SERVICE AGREEMENT

This AGREEMENT, made and entered into as of the date of execution by the last party signatory hereto (hereinafter referred to as "Effective Date") is by and between TriCo Regional Sewer Utility ("TRICO"), City of Carmel ("CARMEL"), DJ Reinbold Realty LLC, AZR Haver LLC, and Jordan KS LLC.

WITNESSETH THAT:

WHEREAS, TRICO is organized for the purpose of designing, constructing and operating sanitary sewers and related facilities to collect, convey, treat and dispose of wastewater from residences, businesses, industries and institutions located within the boundaries of TRICO; and

WHEREAS, DJ Reinbold Realty LLC, AZR Haver LLC, and Jordan KS LLC, hereinafter referred to as "PROPERTY OWNERS", own real estate in Marion County, Indiana, generally located along Haver Way at the southwest corner of Keystone Parkway and 96th Street. PROPERTY OWNERS real estate was originally developed in the 1980s and it is served by a privately owned and maintained sanitary sewer system, hereinafter referred to as "PRIVATE SYSTEM". PRIVATE SYSTEM includes gravity sewers and a lift station that pumps wastewater via force main approximately 4,000 feet to a CARMEL owned sanitary sewer near the intersection of 96th Street and Bauer Drive. CARMEL has reserved for PRIVATE SYSTEM 26,296 gallons per day of capacity at CARMEL's wastewater treatment facility. PRIVATE SYSTEM also serves real estate located along Haver Way that will be acquired by CARMEL to construct road improvements. Real estate is more particularly described in Exhibit A attached hereto; and

WHEREAS, PRIVATE SYSTEM force main is in conflict with CARMEL road improvements and must be relocated. To avoid a potentially expensive force main relocation project, CARMEL and PROPERTY OWNERS requested TRICO allow connection of PRIVATE SYSTEM to a TRICO owned sanitary sewer near the intersection of 96th Street and Day Drive, approximately 300 feet from the PRIVATE SYSTEM lift station, and TRICO is willing to do so upon the terms and conditions set forth herein; and

WHEREAS, due diligence performed by CARMEL and TRICO revealed the PRIVATE SYSTEM is in poor condition requiring substantial repairs to meet current standards for safety, reliability and performance. PROPERTY OWNERS desire a permanent solution that includes system repairs and relinquishes ownership of PRIVATE SYSTEM to TRICO. Executing such a solution could take at least 1-2 years to complete.

WHEREAS, CARMEL is proceeding with road improvements that require relocation of PRIVATE SYSTEM force main unless the force main is promptly connected to TRICO sewers.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, TRICO, CARMEL, AND PROPERTY OWNERS agree as follows:

Interim Sewer Service. To accommodate CARMEL road improvements schedule and allow the parties adequate time to determine a solution for permanent sewer service, PRIVATE SYSTEM will be connected to TRICO sewers on the following interim basis.

1. PROPERTY OWNERS and/or CARMEL will, upon execution of this agreement:
 - a. Complete repairs to the private system to eliminate inflow of storm water
 - b. Install a new force main to allow PRIVATE SYSTEM to discharge into TRICO sanitary sewer manhole SI-10 at 96th Street and Day Drive
 - c. Install a flow meter on the new force main as specified by TRICO
 - d. Install a new power service for the lift station to allow for demolition of the adjacent structure
 - e. Maintain access to the lift station at all times during and after road construction
2. Any and all costs related to the above work, in addition to PRIVATE SYSTEM force main relocation and repair expenses, gravity sewer cleaning, televising and repair expenses, will be paid for by PROPERTY OWNERS and/or CARMEL, as maybe determined pursuant to a separate agreement between PROPERTY OWNERS and CARMEL.
3. PRIVATE SYSTEM including lift station, existing force main, new force main, connected gravity sewers and related infrastructure will remain privately owned, operated and maintained at PROPERTY OWNERS expense.
4. While connected to TRICO sewers, PROPERTY OWNERS will abide by all ordinances, policies and rates of TRICO including prompt payment of rates. Monthly billing for sewer service will begin upon connection to TRICO sewers.
5. TRICO staff will monitor flows from PRIVATE SYSTEM. If peak hour flow during wet weather events exceeds 3.5 times average daily flow in dry weather, or if peak flows cause capacity issues downstream in TRICO sewers, TRICO will notify PROPERTY OWNERS, and PROPERTY OWNERS will promptly complete additional repairs to PRIVATE SYSTEM to remove inflow and infiltration.
6. PROPERTY OWNERS will reimburse TRICO for any and all costs incurred by TRICO related to operation, maintenance, repair and/or replacement of PRIVATE SYSTEM while it is connected to TRICO sewers, should PROPERTY OWNERS fail to act accordingly. Costs incurred by TRICO will be split equally between PROPERTY OWNERS.
7. PROPERTY OWNERS will grant TRICO right of entry for any infrastructure connected to TRICO sewers
8. CARMEL will release from its service area all real estate identified in Exhibit A, and TRICO will accept said real estate into its service area, once PRIVATE SYSTEM is connected to TRICO sewers.
9. CARMEL will grant to TRICO additional capacity at its wastewater treatment facility, once PRIVATE SYSTEM is connected to TRICO sewers, in the amount of 26,296 gallons per day plus proportional increases to accommodate wet weather flows based on the aforementioned ratio of peak hour to average daily flow. TRICO will reserve this additional capacity for real estate identified in Exhibit A.

10. No new connections will be made to the private system without prior approval from TRICO during interim sewer service period.
11. PROPERTY OWNERS will each pay to TRICO the sum of \$50,000 before PRIVATE SYSTEM is connected to TRICO sewers. This money will be held in escrow as a security for costs TRICO may incur while PRIVATE SYSTEM is connected to TRICO sewers.
12. All parties will continue to work diligently to find a permanent solution for sewer service. Within 12 months of connection to TRICO sewers:
 - a. PRIVATE SYSTEM shall be reconnected to CARMEL sewers, or
 - b. PRIVATE SYSTEM shall remain permanently connected to TRICO sewers, as described below.

Reconnection to CARMEL Sewers.

1. PROPERTY OWNERS will reconnect to CARMEL sewers, and any and all costs related to reconnection will be paid for by PROPERTY OWNERS and/or CARMEL, as determined by a separate agreement between PROPERTY OWNERS and CARMEL.
2. PRIVATE SYSTEM force main will be abandoned at TRICO manhole, in accordance with TRICO standards, at PROPERTY OWNERS expense.
3. Monthly billing for sewer service will terminate upon reconnection to CARMEL sewers.
4. TRICO will return to PROPERTY OWNERS their full security amount less any costs incurred by TRICO during interim connection.
5. TRICO will release from its service area all real estate identified in Exhibit A, and CARMEL will accept said real estate into its service area, once PRIVATE SYSTEM is connected to CARMEL sewers.
6. Additional capacity at CARMEL wastewater treatment facility granted to TRICO for interim connection of PRIVATE SYSTEM will be returned to CARMEL upon reconnection to CARMEL sewers. CARMEL will reserve this capacity for real estate identified in Exhibit A.

TRICO Sewer Service Becomes Permanent.

1. PRIVATE SYSTEM will continue to be subject to all policies, ordinances and rates of TRICO once 12 months of interim connection has expired and PROPERTY OWNERS have not reconnected to Carmel, the service shall be deemed permanent.
2. Once the PRIVATE SYSTEM becomes permanently connected TRICO will begin a capital project to repair, rehabilitate and/or reconstruct the PRIVATE SYSTEM, as well as bring the system to current standards and to meet the area's needs for sewer service. The scope of this project will be at TRICO's sole discretion. Prior to construction PROPERTY OWNERS and CARMEL will dedicate to TRICO ownership of any PRIVATE SYSTEM assets requested by TRICO, in addition to any necessary easements, at no cost to TRICO. Once dedicated TRICO will own, operate and maintain the lift station, force main and gravity sewers. Sewer laterals

- connecting individual buildings to sewer mains will continue to be owned and maintained by respective PROPERTY OWNERS, consistent with TRICO policies.
3. TRICO will document all project costs, including but not limited to engineering, permitting, construction, and equipment (PROJECT COSTS). TRICO will invoice PROPERTY OWNERS for PROJECT COSTS upon substantial completion of the project. PROJECT COSTS will be shared equally by PROPERTY OWNERS. Payment made by PROPERTY OWNERS prior to establishment of interim sewer service will be credited towards invoicing of PROJECT COSTS.
 4. Within 30 days of invoicing of PROJECT COSTS, PROPERTY OWNERS will pay in full or finance the amount due. Unpaid PROJECT COSTS become a lien against the real estate upon invoicing. TRICO Financing will consist of a monthly surcharge for 60 months at 4.00 percent interest per year. In the event of each and every late payment or nonpayment PROPERTY OWNERS agree to reimburse TRICO for any attorney fees, staff time, expenses, and interest on the balance owed.
 5. DJ Reinbold Realty LLC (DR) owns a separate private sewer system with lift station located on Whitley Drive. DR has requested TRICO incorporate elimination of the private lift station into TRICO's capital project. DR and TRICO will decide whether or not to pursue this option at a later date. If this option is pursued then any additional costs associated with the Whitley Drive lift station will be documented and reimbursed separately by DR.
 6. PROPERTY OWNERS will each be allocated wastewater treatment capacity based on water consumption, occupancy and usage for their real estate connected to PRIVATE SYSTEM. Unallocated capacity (CAPACITY), calculated by subtracting allocated capacity from 26,296 gallons per day, will be reserved for future development or redevelopment of real estate identified in Exhibit A. Future development or redevelopment of real estate identified in Exhibit A or elsewhere in TRICO service area will pay Connection Fees to TRICO in accordance with ordinances and policies.
 7. For any remaining CAPACITY, Connection Fees paid for development or redevelopment of real estate identified in Exhibit A within 10 years of execution of this agreement will be credited back equally to PROPERTY OWNERS for PROJECT COSTS.
 8. PROPERTY OWNERS will not pay TRICO Interceptor Fees for real estate identified in Exhibit A.
 9. Part of CARMEL acquired real estate may not be needed for road improvements, and CARMEL may auction off unneeded real estate in the future. Any development or redevelopment of unneeded real estate identified in Exhibit A would benefit from connection to improved Haver Way sewers. Therefore, upon closing, the purchasers of any auctioned parcels will share PROJECT COSTS equally with PROPERTY OWNERS. CARMEL will pay TRICO out of auction proceeds \$50,000 for each parcel within 30 days of closing. Purchasers of auctioned parcels will be invoiced for their share of PROJECT COSTS as noted above, with the option to pay in full or finance the balance due. The balance due must be paid in full before development or redevelopment is permitted. TRICO will credit or refund PROPERTY OWNERS for any overpayment after redistribution of PROJECT COSTS. Carmel will notify bidders of this agreement prior to auction.

Miscellaneous.

(a) This Agreement shall at all times be construed and interpreted to be consistent with the rights, powers and duties of the District under the laws of the State of Indiana, applicable rules and regulations of the United States Environmental Protection Agency, Indiana Department of Environmental Management, and the ordinances, rules, regulations and policies of TRICO.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, personal representatives and assigns (to the extent not inconsistent herewith). This Agreement shall not be assigned by any party without the written consent of the non-assigning parties, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) No amendment or modification of this Agreement shall be effective unless contained in a written document executed by the parties hereto (or their successors, personal representatives or assigns).

(d) Failure of any party hereto to insist upon strict performance of the provisions of this Agreement shall not be construed as a waiver of any subsequent default or breach of the same or similar nature.

(e) In the event any provision of this Agreement is declared unlawful or unenforceable by a Court of competent jurisdiction the remaining provisions of this Agreement shall remain in full force and effect.

(f) In the event of any controversy, claim or dispute between the parties arising out of or related to this Agreement or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses in connection with such controversy, claim or dispute. However, prior to either party filing suit, the parties shall participate in pre-suit mediation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the dates set forth below.

TRICO REGIONAL SEWER UTILITY

Date: _____

By: _____
Marilyn Anderson, President

Attest: _____
Michael McDonald, Secretary

CITY OF CARMEL

Date: _____

By: _____

Printed: _____

Title: _____

DJ REINBOLD REALTY LLC

Date: _____

By: _____

Printed: _____

Title: _____

AZR HAVER LLC

Date: _____

By: _____

Printed: _____

Title: _____

JORDAN KS LLC

Date: _____

By: _____

Printed: _____

Title: _____

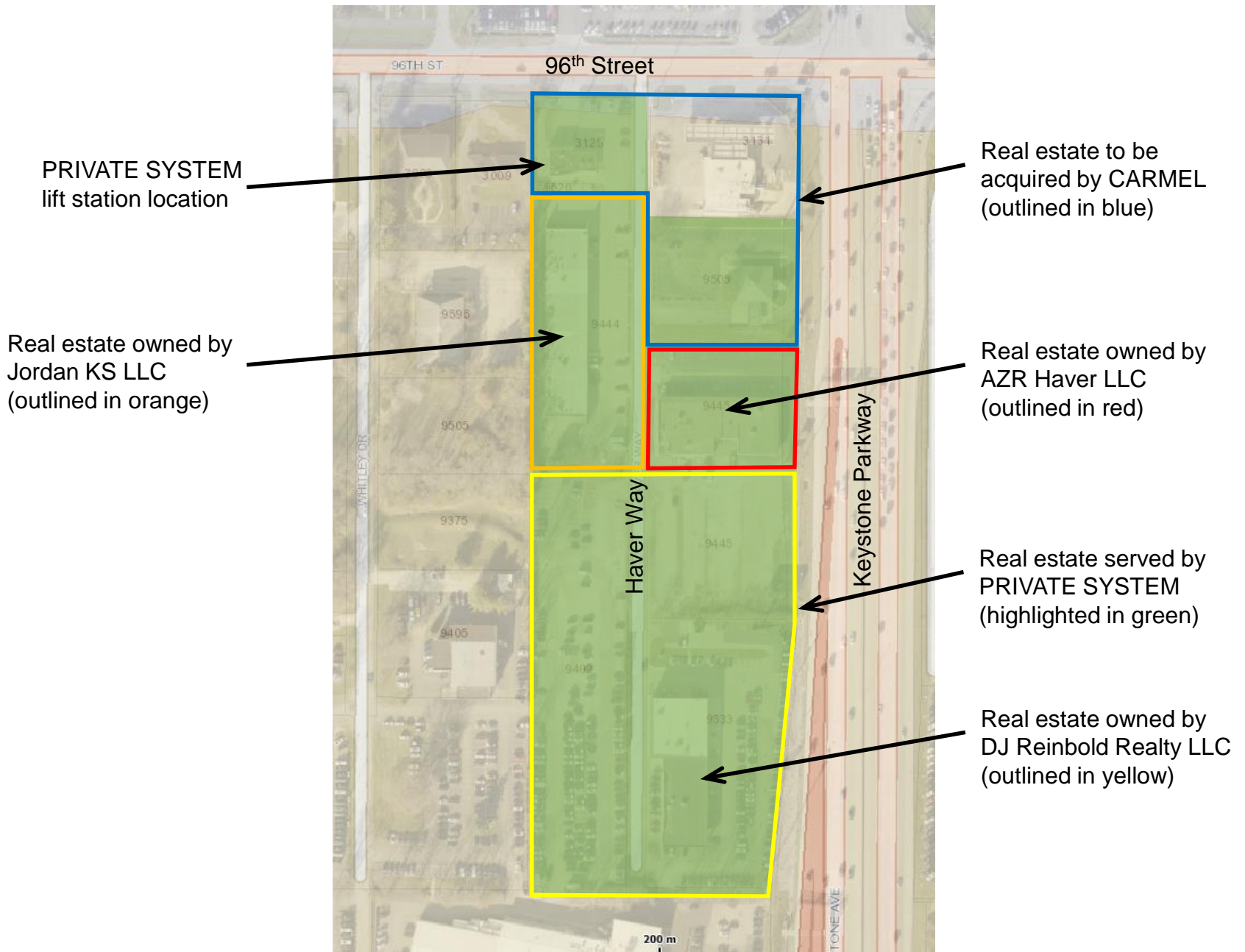


Exhibit A – Haver Way Real Estate & Area Served by PRIVATE SYSTEM