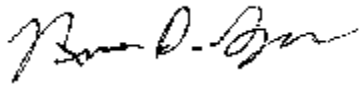


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Dan Takasugi, Public Works Director/City Engineer
DATE: March 6, 2012
SUBJECT: Proposed Solage Local Benefit Districts Reimbursement Agreement Relating to Certain Water, Sewer and Storm Drain Improvements Installed During the Construction of the Solage Calistoga (Palisades) Resort

APPROVAL FOR FORWARDING:



Richard D. Spitler, City Manager

ISSUE:

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2
3 Proposed Solage Local Benefit Districts Reimbursement Agreement relating to certain
4 water, sewer and storm drain improvements installed during the construction of the
5 Solage Calistoga (Palisades) Resort.
6

RECOMMENDATION:

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8
9 Adopt Resolution.
10

BACKGROUND/DISCUSSION:

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12
13 On December 7, 2001, the City Council approved the Palisades Spa and Resort Project
14 to be located on a 25.86 acre site at the southeast corner of Brannan Street and
15 Silverado Trail. On December 21, 2004, the City Council approved a Development
16 Agreement with Palisades Resorts, LP, for the development of this project. The
17 developer agreed to a number of project conditions of approval requiring the installation

18 and improvement of municipal infrastructure systems to accommodate the project's new
19 demand and to enhance aging or deficient systems.

20
21 Public sewer system improvements included approximately 3,500 linear feet of new
22 sewer main and a new sewer lift station. Public water distribution system improvements
23 included approximately 5,400 feet of water main. Public storm drainage improvements
24 included widening of the existing Central Creek channel from the Chateau Calistoga
25 Mobile Home Park to the existing channel downstream. A vehicular bridge was also
26 provided as needed due to channel widening. Public frontage improvements were
27 provided along Brannan Street and Silverado Trail.

28
29 The construction of the off-site water, sewer, storm drainage, and frontage public
30 improvements was completed in accordance with the approved plans and City
31 standards. The off-site improvements were accepted as complete by Council on
32 January 18, 2011. The Council also approved a partial Measure A funded
33 reimbursement of the developer's stormwater drainage improvements on January 18,
34 2011, in the amount of \$600,000, which will reduce the total amount of drainage benefit
35 to be spread.

36
37 Under Sections 66485, 66486, and 66487 of the Subdivision Map Act and Calistoga
38 Municipal Code sections 16.14.100, 13.04.300, and 13.08.270, a Reimbursement
39 Agreement may be adopted to reimburse a developer for supplemental capacity
40 improvements.

41
42 The approved Development Agreement states in Section 8.3.d.i that the City shall use
43 reasonable efforts to reimburse a portion of the costs incurred by the Developer based
44 on a benefit formula prepared by the City and approved by the City Council. The
45 process involved several years of obtaining as-built construction drawings and cost data
46 from the developer. The City, using the services of Coastland Engineering, then
47 identified the areas of benefit and prepared a methodology to proportion benefit
48 amongst all potentially benefiting parcels.

49
50 The proposed imposition of "Reimbursement Costs" on benefited properties is generally
51 considered to be a form of development impact "fee" and not a "tax" or "special
52 assessment." As such, the proposed adoption of the Reimbursement Agreement is not
53 subject to the procedures applicable to the adoption of a "tax" or "special assessment"
54 including the procedures of Proposition 218 (California Constitution articles XIIC and
55 XIID) and Proposition 26 (California Constitution articles XIIA and XIIC), and only
56 requires notice and a public hearing.

57
58 A special Council Study Session was held on January 24, 2012, along with a public
59 hearing on February 7, 2012, to discuss the proposed Reimbursement Agreement and

60 receive public comment. Out of that study session and public hearing, several concerns
61 were noted by the City Council. Those concerns and staff responses are summarized
62 as follows:

63

64 a. Reimbursement payments should only be required for actual development
65 that intensifies the existing use. Payment should not be required when
66 discretionary land use entitlements are granted.

67 **Staff Response:** *Reimbursement payments are only due at Building or*
68 *Grading Permit stage, Final Subdivision Map approval, or at initiation of a*
69 *new use under a Use Permit. Solage ownership has requested that if*
70 *reimbursement (not payment) was triggered by a discretionary land use*
71 *entitlement, then the term for reimbursement payment collection be*
72 *extended another 5 or 10 years. Because of the added complexity and*
73 *record-keeping administration this would create, staff recommends that the*
74 *term of the reimbursement agreement be extended from a 20-year term to a*
75 *25-year term, with no exemptions, even if a discretionary land use*
76 *entitlement has triggered reimbursement, but not payment.*

77

78 b. Should properties be allowed to reduce or eliminate the reimbursement
79 obligation for drainage? This question addresses the situation where a
80 development does not intensify drainage beyond pre-development
81 conditions.

82 **Staff Response:** *When a property can show that there is no intensification of*
83 *drainage, then a drainage reimbursement will not be triggered.*

84

85 c. Can a fairer allocation of reimbursement costs for water improvements be
86 established? Only 4 properties are in the Water area of benefit. Some
87 having a significant reimbursement because of their potential development
88 yield at highest and best use. Yet the entire water reimbursement will be
89 triggered with the addition of one residence or residential addition.

90 **Staff Response:** *For the properties in the Water and Sewer areas of benefit,*
91 *reimbursement for lot splits and minor subdivisions will only be triggered for*
92 *that proportion of full development capacity that obtains a building permit.*
93 *The proportion would be determined on a per Equivalent Dwelling Unit*
94 *(EDU) basis. However, for a subdivision of 4 or more lots, then the entire*
95 *parcel will be triggered for water reimbursement at Final Map approval.*

96

97 d. Should the Calistoga Village Inn be included in the Sewer area of benefit?
98 This property was not included in the draft Sewer area of benefit, as staff
99 believed that there is currently no reasonable way to connect the property to
100 Solage-built sewer infrastructure. Additionally, there is a much more direct
101 route of sewer discharge onto the Lincoln Avenue sewer main.

102 **Staff Response:** *That portion of the Calistoga Village Inn property that was*
103 *contained within the 2006 Solage sewer shed analysis will be added into the*
104 *Sewer area of benefit. Given the near infeasibility of this property*
105 *connecting to Solage-built sewer infrastructure, the option to connect will be*
106 *at the sole discretion of the Calistoga Village Inn property owner. The*
107 *sewer area of benefit has been modified to include the portion of the*
108 *Calistoga Village Inn property within the sewer shed. Also, the sewer*
109 *spread of benefit has been recalculated, resulting in a lower proportional*
110 *reimbursement share for all other properties in the sewer area of benefit.*

- 111
112 e. Should the Silver Rose property be included in the Water area of benefit?
113 This property was already included in the Sewer and Drainage areas of
114 benefit, but was not included in the Water area of benefit, as there is no
115 documented nexus to the Solage-built water infrastructure.

116 **Staff Response:** *The Silver Rose properties have been included in the Sewer*
117 *and Drainage areas of benefit. These properties have not, however, been*
118 *included in the Water area of benefit. There are several reasons for their*
119 *non-inclusion in the Water area of benefit. First, an engineering analysis*
120 *does not exist that would determine their fair benefit from the Solage-built*
121 *water infrastructure. Second, if the Silver Rose properties were brought into*
122 *the Water area of benefit, then several other properties at a minimum must*
123 *also be brought into the area of benefit, including residential property. And*
124 *third, with the Mt. Washington water tank construction, all properties not*
125 *directly connected to the Solage water infrastructure, such as the Silver*
126 *Rose properties, would have no direct need for the Solage-built water main.*

127
128 The public hearing of February 7, 2012 was continued to this meeting tonight, as
129 agreement on how these issues could be resolved, was not reached with Solage
130 ownership at that time. After further discussions with Solage ownership over the past
131 several weeks, general agreement on the remaining issues was attained. The
132 proposed Reimbursement Agreement and approving Resolution are attached for
133 Council consideration.

134
135 **ATTACHMENTS**

- 136
137 1. Resolution
138 2. Reimbursement Agreement