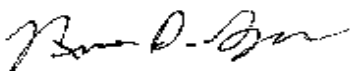


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Derek Rayner, Senior Civil Engineer
VIA: Michael Kirn, Public Works Director/City Engineer
DATE: June 16, 2015
SUBJECT: Consideration of a Resolution Authorizing the City Manager to Execute a Subdivision Off-Site Improvement and Reimbursement Agreement with Calistoga Hills Resorts Inc.

APPROVAL FOR FORWARDING:



Richard D. Spittler, City Manager

1
2 **ISSUE:** Consideration of a Resolution authorizing the City Manager to execute a
3 Subdivision Off-Site Improvement and Reimbursement Agreement with Calistoga Hills
4 Resorts Inc. for the Washington Trunk Main Replacement and Reconstruction of the
5 Pine Street Sewer Lift Station (PSLS).

6
7 **RECOMMENDATION:** Adopt the Resolution.

8
9 **BACKGROUND:** In April, 2013 the City of Calistoga approved the Calistoga Hills
10 Resorts Inc. development and entered in a Development Agreement (DA) with the
11 developer. There are three major off-site improvements the developer is obligated to
12 construct or provide funding for: 1) replace the lower Washington sewer trunk main; 2)
13 make improvements to the PSLS; and 3) install improvements to the water distribution
14 system.

15
16 In February, 2014 staff made a recommendation, based on construction estimates at
17 the time that by partnering with the developer and making a nominal investment
18 (\$380,000) the PSLS could be replaced instead of being upgraded. The Council
19 concurred with staff's recommendation and authorized preparation of plans for
20 replacement of the lift station.

21
22 In November of 2014 the Regional Water Quality Board issued a Cease and Desists
23 Order (CDO) and directed the City make improvements to eliminate by-pass releases
24 from the City's wastewater treatment plant (WWTP). The CDO included construction of

25 additional storage and piping improvements to increase delivery of recycled water. As a
26 result, staff requested the developer include an add alternate to upsize the recycled
27 water distribution pipe from the WWTP to the new storage pond and to install fiber optic
28 conduit to improve SCADA communications. The thought being if upsizing the recycled
29 water line is a requirement of CDO, it is advantageous to construct it concurrent with the
30 lower Washington sewer trunk main to avoid future disruptions to the bike path.

31
32 **DISCUSSION:** The developer prepared plans for the off-site improvements which have
33 been approved. Article 3.11.E of the DA requires the developer to enter into an
34 agreement prior to commencement of construction to ensure the improvements are
35 completed in an acceptable manner and there is adequate security for completion.

36
37 Article 3.11.F of the DA contemplates costs of the improvements above the developer's
38 obligation and provides language for reimbursement by the City to the developer.

39
40 On May 13, 2015 the developer received proposals to construct the improvements -
41 including those desired by the City. Unfortunately the PSLS is significantly more than
42 originally estimated. After review of line items and comparison of the other bids, staff
43 found the lowest bid an accurate reflection of the work to be performed.

44
45 Given the importance of complying with the CDO and limited City fiscal resources, staff
46 advised the developer we have to direct our efforts towards compliance with the CDO
47 and the recycled water line upgrades. With that understanding the PSLS plans would
48 need to be revised to reflect only upgrades - not replacement. The developer reviewed
49 his project timelines and offered to fund the total project with the understanding that the
50 City would reimburse him for the value of the added improvements desired by the City.
51 The developer also indicated that he would accept reimbursement in three installments
52 through July 2017 at zero percent interest.

53
54 Staff analyzed the proposal by the developer and finds it meets several important
55 criteria: the PSLS is replaced instead of upgraded - avoiding future disruptions to the
56 neighborhood for many years; the recycled water main is upsized from the WWTP to
57 the new pond concurrent with the trunk main replacement – avoiding future disruption
58 and additional closures of the bike path; significant progress is made towards
59 compliance with the CDO; economy of scale is achieved by having one contractor do
60 both the PSLS and the sewer main work at the same time; and the developer is not
61 delayed in completing his off-site improvements thereby allowing him to focus his
62 attention towards completing the resort component of the project sooner.

63
64 Constructing the Washington Trunk Main will require the closure of the Vine Trail
65 Pathway for approximately 4 months. Staff looked at the possibility of keeping the
66 pathway open during construction but due to limited area and safety concerns it was
67 determined that the liability associated with keeping the pathway open was too great.

68
69 Staff recommends adoption of a resolution authorizing the City Manager to execute a
70 Subdivision Off-Site Improvement and Reimbursement Agreement with Calistoga Hills
71 Resorts Inc. and authorizes staff to make the make the reimbursement payments
72 subject to approved budget appropriations.

73

74 **CONSISTANCY WITH CITY COUNCIL GOALS AND OBJECTIVES:**

75

76 The recommended action supports the FY 2015/16 City Council Goal No. 3, Objectives
77 1 and 8 by providing the ability to "...maintain the high level of service and reliability of
78 the City's infrastructure systems and facilities" and "to address the issues with the
79 wastewater plant operations as identified in the Cease and Desist Order from the state".
80 Priority Project No. 7 – "Facilitate the replacement of the lower Washington Street sewer
81 trunk main" is also addressed through the recommended action.

82

83 **CEQA/NEPA COMPLIANCE:** The Calistoga Hills Resorts EIR identified improvements
84 that will be constructed under the Agreement. Therefore no further environmental
85 review is necessary.

86

87 **FISCAL IMPACT:** The amount the Developer is eligible for reimbursement for installing
88 City desired improvements to the PSLS, the recycled water main, and fiber optic conduit
89 is \$930,000. The proposed FY 15/16 Wastewater Collection Capital Improvement
90 budget includes recommended appropriations of \$380,000 to fund the first
91 reimbursement payment to the developer. The remaining balance would be paid in two
92 equal installments of \$275,000 on or before July 10, 2016 and July 10, 2017. These
93 costs will be included in future CIP budgets.

94

95 **ATTACHMENTS**

96

- 97 1. Resolution
98 2. Subdivision Off-Site Improvement and Reimbursement Agreement

RESOLUTION 2015- XXX

1
2
3 **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,**
4 **COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING A**
5 **SUBDIVISION OFF-SITE IMPROVEMENT AND REIMBURSEMENT**
6 **AGREEMENT WITH CALISTOGA HILLS RESOURTS INC. FOR**
7 **REPLACEMENT OF THE PINE STREET SEWER LIFT STATION AND**
8 **LOWER WASHINGTON SEWER TRUNK MAIN**
9

10 **WHEREAS**, the City Council approved the Calistoga Hills Resorts Inc. project,
11 also known as the Calistoga Hills Resort (the Project) in April, 2013 and entered into a
12 Development Agreement (DA) with the Developer; and
13

14 **WHEREAS**, the Pine Street Sewer Lift Station (PSLS) is exhibiting signs of wear
15 and tear and needs improvement or replacement; and
16

17 **WHEREAS**, approval of the Project included a fair share contribution from the
18 Developer for certain rehabilitation improvements to the PSLS and upsizing of the Lower
19 Washington Trunk Main (the Improvements); and
20

21 **WHEREAS**, after discussion and negotiation with the Developer a consensus was
22 reached that there is merit to constructing a new PSLS rather than making individual
23 improvements to the existing PSLS; and
24

25 **WHEREAS**, on February 18, 2014 the City Council adopted Resolution
26 No. 2014-016 agreeing in principle to replace the PSLS and reimburse the Developer for
27 costs in excess of their obligation as defined in the DA;
28

29 **WHEREAS**, the design of the Improvements has been completed, City staff has
30 approved the construction plans, and the Developer has obtained competitive proposals to
31 construct the Improvements; and
32

33 **WHEREAS**, Article 3.11.E of the DA requires the Developer to enter into an
34 agreement with the City prior to commencement of construction to ensure the
35 Improvements are completed in a timely and acceptable manner and there is adequate
36 security for completion; and
37

38 **WHAREAS**, Article 3.11.F of the Development Agreement contemplates costs of the
39 Improvements above the Developers obligations and provides for reimbursement to the
40 Developer by the City for costs above Developer's obligation; and
41

42 **WHAREAS**, the City desires to make certain improvements associated with the
43 replacement of the PSLS and recycled water main to comply with the November 12, 2014
44 Cease and Desist Order issued by the State and to install conduit for future installation of
45 fiber optic cable for improved SCADA communication to the wastewater treatment plant
46 with a combined valuation of \$930,000; and
47
48
49

50 **WHAREAS**, in lieu of encroachment permit fees the Developer will reimburse the
51 City for actual costs incurred in administering and inspecting the construction of the
52 Improvements through the Developer Deposit Account; and
53

54 **WHAREAS**, the proposed FY 15/16 Wastewater Collection Capital Improvement
55 budget includes \$380,000 in appropriations for initial reimbursement to the Developer for
56 betterments desired by the City; and
57

58 **WHAREAS**, the Developer has agreed to be repaid the balance of \$550,000 over a
59 two year period at zero percent (0%) interest with two payments of \$275,000 on or before
60 July 10, 2016 and July 10, 2017; and
61

62 **WHEREAS**, The Calistoga Hills Resorts EIR Document identified improvements to
63 the PSLS and replacement of the Washington Street Trunk Main and therefore no further
64 environmental review is necessary; and
65

66 **WHEREAS**, Staff recommends adoption of a resolution authorizing the City
67 Manager to execute a Subdivision Off-Site Improvement and Reimbursement Agreement
68 with Calistoga Hills Resorts Inc.
69

70 **NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of Calistoga
71 hereby:
72

- 73 1. Approves the Subdivision Off-Site Improvement and Reimbursement Agreement
74 with Calistoga Hills Resorts Inc.
- 75
- 76 2. Authorizes the City Manager to execute the Subdivision Off-Site Improvement
77 and Reimbursement Agreement with Calistoga Hills Resorts Inc. and staff is
78 otherwise directed to administer the Agreement including processing
79 reimbursements to the Developer in an amount not to exceed \$930,000.
80

81 **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calistoga
82 at its regular meeting held this **16th day of June 2015**, by the following vote:
83

84 **AYES:**
85 **NOES:**
86 **ABSTAIN:**
87 **ABSENT:**
88

89
90 **CHRIS CANNING, Mayor**

91 **ATTEST:**
92
93
94 **KATHY FLAMSON, City Clerk**