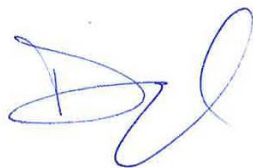


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Michael Kirn, Public Works Director/City Engineer
DATE: August 16, 2016
SUBJECT: Consideration of a Resolution Approving a Site Remediation and Reimbursement Agreement for Calistoga Hills Resort LLC

APPROVAL FOR FORWARDING:



DYLAN FEIK, CITY MANAGER

1 **ISSUE:** Consideration of a Resolution that approves a Site Remediation and
2 Reimbursement Agreement for Calistoga Hills Resort LLC (“Developer”).
3
4 **RECOMMENDATION:** Adopt the Resolution.
5
6 **BACKGROUND/DISCUSSION:** On August 21, 2012, the City adopted three
7 resolutions (2012-063-065) that approved a vesting tentative map for the Calistoga Hills
8 Resort (the Project), a Conditional Use Permit, Design Review, and Planned
9 Development and specific Conditions of Approval for the Project.
10
11 On April 9, 2013 a Development Agreement was executed by the City and the
12 Developer for the Project and the Agreement was recorded on April 18, 2013 in the
13 Napa County Recorder’s Office.
14
15 Section 36 of the Conditions of Approval require Developer to enter into a Site
16 Remediation and Reimbursement Agreement with the City prior to commencing
17 construction of the onsite improvements related to the Project (“Project Improvements”).
18

19 The recommended Agreement will satisfy the requirement in Section 36 of the
20 Conditions to provide security for any site remediation costs potentially incurred by the
21 City in the event the Developer does not satisfactorily complete the work.

22
23 Site Remediation Work includes, but is not limited to, soil stabilization and compaction,
24 planting of trees/vegetation, hydro-seeding, installation of storm water treatment
25 systems, retaining walls and/or other related construction activities reasonably
26 necessary to restore and stabilize the Property to a natural state.

27
28 A certificate of deposit in the amount of \$527,160 in favor of the City has been placed
29 on file as security until this agreement deemed complete and the security is released by
30 the City.

31
32 **FISCAL IMPACT:** There is no impact to the General Fund associated with the
33 recommended action. In the event Developer does not complete the required Project
34 Improvements the City has the option of “calling” the Certificate of Deposit due and
35 payable to complete the necessary restoration work.

36
37 **ATTACHMENTS:**

- 38 1. Resolution
39 2. Site Remediation and Reimbursement Agreement

RESOLUTION NO. 2016-XXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,
COUNTY OF NAPA, STATE OF CALIFORNIA, APPROVING A SITE REMEDIATION
AND REIMBURSEMENT AGREEMENT FOR CALSITOGA HILLS RESORT LLC**

WHEREAS, the City of Calistoga entered into a Development Agreement with Calistoga Hills Resorts LLC (“Developer”) in April 2013; and

WHEREAS, the City approved Resolution 2012-064 approving a Conditional Use Permit, Design Review, and Planned Development for the Calistoga Hills Resort property at 411 Foothill Blvd. (“Project”); and

WHEREAS, Section 36 of the Conditions contained in Resolution 2012-064 requires the Developer to enter into a Site Remediation and Reimbursement Agreement (“Agreement”) with the City prior to commencing construction of the onsite improvements related to the project; and

WHEREAS, Developer has placed a certificate of deposit at Bank of America in the amount of \$527,160 in favor of the City as security for site remediation and restoration; and

WHEREAS, Developer and the City agree that in the event that (a) the City undertakes any Site Remediation Work as specified in the Agreement, (b) the City incurs Site Remediation Costs, and (c) the Developer fails to pay any Site Remediation Costs incurred by the City, subject to the notice and cure provisions in Section 9 of the Agreement, the City may draw upon the Certificate of Deposit on file with Bank of America to pay for the Site Remediation Costs as set out in the Agreement; and

NOW, THEREFORE BE IT RESOLVED THAT AS FOLLOWS:

1. The City Council of the City of Calistoga hereby approves the Site Remediation and Reimbursement Agreement for Calistoga Hills Resort LLC and authorizes the City Manager or his designee to execute the same.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **16th day of August, 2016**, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHRIS CANNING, Mayor

ATTEST:

Kathy Flamson, City Clerk