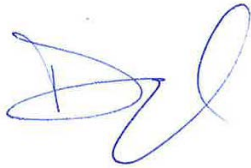


City of Calistoga

Staff Report

TO Honorable Mayor and City Council
FROM Lynn Goldberg, Planning and Building Director
DATE February 20, 2018
SUBJECT Annual Review of Resort at Indian Springs Development Agreement

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

1 **ISSUE:** Consideration of the annual report on the Resort at Indian Springs LLC
2 development agreement

3 **RECOMMENDATION:** Approve the attached resolution finding that Resort at Indian
4 Springs LLC is in good faith compliance with the terms and conditions of its
5 development agreement.

6 **BACKGROUND:** The City of Calistoga entered into a development agreement with
7 Resort at Indian Springs, LLC, on February 23, 2013 (Ordinance No. 688). The
8 Agreement provided the developer with certain assurances that they could proceed with
9 a development project that included a resort expansion of 75 guest rooms, a restaurant,
10 conference facility, gym, yoga studio, and. It also required certain public amenities,
11 infrastructure and improvements, as well as the payment of development impact fees,
12 among other obligations. All of the project's improvements were completed in 2015 and
13 all required fees have been paid.

14 The initial term of the Agreement is five years. The City Manager granted a one-year
15 term extension of the Agreement on January 26, 2018, to February 15, 2019.

16 The Agreement provides that the City annually review the developer's good faith
17 compliance with the Agreement and that the developer work with the City in good faith
18 in connection with any such review. The Developer has completed an Annual
19 Compliance Evaluation Form that provides evidence of its good faith compliance with its
20 obligations under the Agreement (Attachment 2).

21 **DISCUSSION:** As required in the Agreement and by Government Code Section
22 65865.1, the City Council must determine whether the Developer has, in good faith,
23 substantially complied with the terms of the Agreement up to and including the date of
24 the review. The developer has submitted the attached Annual Compliance Evaluation
25 Form that demonstrates compliance with its obligations under the Agreement. Based on
26 this submittal and the project status described above, this finding can be made.

27 Although the project's construction is complete, the Agreement must remain in effect
28 because it requires that the project's groundwater discharge baselines be calculated,
29 and its average annual demand on water supplies and wastewater be determined
30 following three years of actual measurement. The beginning of the three-year
31 measurement period will be 2017 because that is when full occupancy of the project
32 began. According to the Public Works Department, the project appears to be within its
33 anticipated baselines.

34 **ENVIRONMENTAL REVIEW:** The annual review of the Agreement is not subject to the
35 California Environmental Quality Act (CEQA) under CEQA Guidelines Section
36 15061(b)(3) because it can be seen with certainty that there is no possibility it could
37 have a significant effect on the environment.

38 **FISCAL IMPACT:** There are no fiscal impacts associated with preparation of the
39 annual report. However, the City's economy has benefited from the project by its
40 promotion of tourism, payment of transient occupancy tax and job creation.

41 **ALTERNATIVES TO RECOMMENDATION:** Pursuant to Government Code Section
42 65865.1, "If, as a result of such periodic review, the local agency finds and determines,
43 on the basis of substantial evidence, that the applicant or successor in interest thereto
44 has not complied in good faith with the terms or conditions of the agreement, the local
45 agency may terminate or modify the Agreement." There is no evidence that this has
46 occurred.

ATTACHMENTS

1. Draft resolution
2. 2018 Annual Compliance Evaluation Form

RESOLUTION NO. 2018-XXX

1 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF
2 NAPA, STATE OF CALIFORNIA FINDING THAT RESORT AT INDIAN SPRINGS,
3 LLC IS IN GOOD FAITH COMPLIANCE WITH THE TERMS AND CONDITIONS OF
4 THE DEVELOPMENT AGREEMENT FOR THE RESORT AT INDIAN SPRINGS
5 PROJECT
6

7 **WHEREAS**, on February 23, 2013, the City of Calistoga (City) entered into a
8 Development Agreement (Agreement) with Resort at Indian Springs, LLC (Developer),
9 (Ordinance No. 688); and

10 **WHEREAS**, the City Manager granted a one-year term extension of the
11 Agreement on January 26, 2018, to February 15, 2019; and

12 **WHEREAS**, as required by Government Code Section 65865.1 and by the
13 Agreement, the City shall annually determine whether the Developer has, in good faith,
14 substantially complied with the terms of the Agreement up to and including the date of
15 the review; and

16 **WHEREAS**, at its meeting of February 20, 2018, the City Council considered the
17 Annual Compliance Evaluation Form completed by the Developer that provides
18 evidence of its good faith compliance with its obligations under the Agreement, and the
19 facts as described in the staff report that the Developer has completed all of the
20 improvements required of the project and paid all required fees; and

21 **WHEREAS**, the annual review of the Agreement is not subject to the California
22 Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3)
23 because it can be seen with certainty that there is no possibility it could have a
24 significant effect on the environment.

25 **NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of
26 Calistoga hereby finds that:

- 27 1. The Developer is in good faith substantial compliance with the terms and
28 conditions of the Development Agreement between the City of Calistoga and
29 Resort at Indian Springs, LLC.
30 2. This review satisfies the annual review of development agreement as provided in
31 Government Code §65865.1.

32 **PASSED AND APPROVED** by the City Council of the City of Calistoga at its
33 meeting held the 20th day of February, 2018 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHRIS CANNING, Mayor

ATTEST:

KATHY FLAMSON, City Clerk



**ANNUAL DEVELOPMENT AGREEMENT
COMPLIANCE EVALUATION FORM**

Annual

Review Period: 2017

This Annual Compliance Evaluation Form is submitted to the City of Calistoga ("City") by Resort at Indian Springs ("Developer") pursuant to the requirements of California Government Code Section 65856.1 and Chapter 17.39 of the City Municipal Code regarding Developer's good faith compliance with its obligations under the Development Agreement between the City and Developer by Ordinance No. 688 ("Development Agreement").

Please attach description and/or documentation in support of any "Yes" answers

- A. Development activities during this annual review period: Yes: No:
- B. Development impact fees, processing fees, architectural review fees and/or other fees paid during this annual review period: Yes: No:
- C. On- and/or off-site infrastructure improvements completed or paid for during this annual review period: Yes: No:
- D. Other Development Agreement obligations completed during this annual review period: Yes: No:
- E. Transfers, assignments, or dedications from or by Developer during this annual review period: Yes: No:
- F. Awareness of any facts or circumstances that may be construed as a default by Developer during this annual review period: Yes: No:

The undersigned representative of Developer confirms that Developer is:

In compliance with its obligations under the Development Agreement for this annual review period.

Not in compliance with its obligations under the Development Agreement for this annual review period, in response to which Developer is taking the actions set forth in the attachment hereto.

IN WITNESS WHEREOF, Developer has executed this Annual Compliance Evaluation Form as of this 4 day of January, 2018.

By: _____
Daniel Merchant
Its: Member of LLC