



# CITY OF CALISTOGA

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## STAFF REPORT

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**TO:** Honorable Mayor and City Council  
**FROM:** Dylan Feik  
**DATE:** December 4, 2018  
**SUBJECT:** Consideration and Approval of an Impact Fee Payment Agreement between the City of Calistoga and Miroslav Reich.

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**SIGNATURE:**

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**DYLAN FEIK, City Manager**

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**DESCRIPTION:** Consideration and Approval of an Impact Fee Payment Agreement between the City of Calistoga and Miroslav Reich.

**RECOMMENDATION:** Authorize the City Manager to Approve the Agreement.

**SUMMARY:** Miroslav Reich Owner owns the properties located at 916 Foothill Boulevard and 1102 Pine Street, Calistoga (Assessor's Parcel Numbers 011-257-022 and 011-257-023, respectively).

On July 11, 2018, the Calistoga Planning Commission approved Use Permit UP 2018-4 for a wine tasting room on the 916 Foothill Boulevard property. During the course of the City's review of the use permit application, it was determined that the two properties share a single connection to the public water system, necessitating the installation of an additional connection. It was also determined that the utility baselines for the properties need to be increased to reflect their current/projected water usage and wastewater generation.

The total cost associated with increasing the utility baselines for the properties amounts to water connection fees of \$1,789.74 and wastewater connection fees of \$4,795.71.

On October 24, 2018, Mr. Reich applied for a plumbing permit to install a separate water meter for 1102 Pine Street and connect it to the City's water line. The payment of connection fees is required at the time of permit issuance.

Mr. Reich wishes to divide the payment of the connection fees between the two properties, as well as pay the connection fees associated with the 1102 Pine Street property over a period of six months.

In the interests of creating proper connections for the properties to the City's water system and bringing their utility baselines into alignment with actual and projected water use and wastewater generation, the City and property owner have mutually agreed to the agreement.

**FINANCIAL IMPACT:** There is no anticipated fiscal impact of this decision. The Owner is required to pay \$6,585.45 and will pay the full amount; however, it will be done over a six-month period rather than at the time of plumbing permit issuance.

**CONSISTENCY WITH CITY COUNCIL GOALS AND OBJECTIVES:** The recommended action supports the following FY 2018-19 City Council Goals and Objectives:

- Goal 3, Objective 1 - Maintain the high level of service and reliability of the City's infrastructure systems and facilities.
- Goal 3, Objective 2 - Upgrade and maintain the long-term reliability of the City's water supply.

**FISCAL IMPACT:** There is no anticipated fiscal impact of this decision. The Owner is required to pay \$6,585.45 (\$1,789.74 to Account No. 12-3269 and \$4,795.71 to Account No. 13-3269) and will pay the full amount; however, it will be done over a six-month period rather than at the time of plumbing permit issuance.

**ATTACHMENTS:**

1. Impact Fee Agreement

**IMPACT FEE PAYMENT AGREEMENT**

This IMPACT FEE PAYMENT AGREEMENT (“Agreement”) is entered into as of December \_\_\_\_, 2018, by and between Miroslav Reich, (“Owner”) and CITY OF CALISTOGA, a municipal corporation (“City”).

RECITALS

A. Owner owns those certain real properties located at 916 Foothill Boulevard and 1102 Pine Street, Calistoga and identified as Napa County Assessor’s Parcel Numbers 011-257-022 and 011-257-023, respectively (“Properties”).

B. On July 11, 2018, the Calistoga Planning Commission approved Use Permit UP 2018-4 for a wine tasting room on the 916 Foothill Boulevard property. During the course of the City’s review of the use permit application, it was determined that the two properties share a single connection to the public water system, necessitating the installation of an additional connection, and that the utility baselines for the Properties need to be increased to reflect their current/projected water usage and wastewater generation.

C. The total cost associated with increasing the utility baselines for the Properties amounts to water connection fees of \$1,789.74 and wastewater connection fees of \$4,795.71.

D. On October 24, 2018, the Owner applied for a plumbing permit to install a separate water meter for 1102 Pine Street and connect it to the City’s water line.

E. The Owner desires to pay the connection fees over a period of six months.

F. The City desires to ensure there are proper connections for the Properties to the City’s water system and to bring their utility baselines into alignment with actual and projected water use and wastewater generation.

G. City and Owner desire to set forth the terms and provisions of the payment of the Impact Fees.

NOW, THEREFORE, for good and valuable consideration, Owner and City agree as follows:

**Section 1. Impact Fee Payment**

Owner will pay City an amount equal to \$6,585.45. Owner will pay this amount in six (6) equal monthly installment payments of approximately \$1,098, starting on December 10, 2018 and ending on May 10, 2019. All payments must be made no later than the 10th day of each month during the term of this Agreement.

**Section 2. Indemnification**

Owner hereby indemnifies and holds the City harmless from all demands, claims, actions and damages to any person or property brought by any party arising out of this Agreement.

**Section 3. Default**

Failure by Owner to perform its obligations hereunder will constitute a default under this Agreement. In the event of default by the Owner, City may take any and all action available to it

under the law to recover the amount owed, including, but not limited to seeking payment through collections. In the event of default by the Owner, City will be entitled to recover from Owner all costs and fees, including attorneys' fees, incurred by the City as part of its efforts to collect the amount owed by Owner.

**Section 4. Miscellaneous Provisions**

a. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, without reference to choice of laws principles. Any action to enforce the terms and provision of this agreement must be filed in the County of Napa.

b. Notices. Notices or other communications given under this Agreement shall be in writing and shall be served personally or transmitted by first-class mail, postage prepaid. Notices shall be deemed received either at the time of actual receipt or, if mailed in accordance herewith, on the third (3rd) business day after mailing, whichever occurs first. Notices shall be directed to the parties at the following addresses or at such other addresses as the parties may indicate by notice:

To City: City of Calistoga  
1232 Washington Street  
Calistoga, CA 94515  
Attention: City Manager

To Owner: Miroslav Reich  
2201 Mora Avenue  
Calistoga, CA 94515  
Telephone: 707.815.9080

c. Headings. The titles and headings of the various sections of this Agreement are intended solely for reference and are not intended to explain, modify or place any interpretation upon any provision of this Agreement.

d. Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

e. Further Assurances. The parties shall execute, acknowledge, file or record such other instruments and statements and shall take such additional action as may be necessary to carry out the purpose and intent of this Agreement.

f. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, legal representatives, successors and assigns.

g. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersede all prior or contemporaneous agreements, representations, warranties and understandings of the parties concerning the subject matter contained herein, written or oral. No change, modification, addendum or amendment to any provision of this Agreement shall be valid unless executed in writing by all parties hereto.

IN WITNESS WHEREOF, the City and Owner have caused this Agreement to be executed by their respective representatives thereunto duly authorized as of the dates set forth below their signatures.

CITY OF CALISTOGA

By: \_\_\_\_\_  
Dylan Feik, City Manager

OWNER

By: \_\_\_\_\_  
Miroslav Reich

ATTEST

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Kathy Flamson, City Clerk