

RESOLUTION NO. 2017-028

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA FINDING THAT THE DEVELOPER OF THE SILVER ROSE RESORT PROJECT IS IN GOOD FAITH COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE PROJECT'S DEVELOPMENT AGREEMENT

WHEREAS, on June 14, 2012, the City of Calistoga (City) entered into a Development Agreement (Agreement) with Silver Rose Venture, LP (Developer) through its approval of Ordinance No. 682; and

WHEREAS, the Agreement provided the Developer with certain assurances that they could proceed with a development project known as the Silver Rose Resort on property located on Silverado Trail involving a resort hotel, spa, restaurant, winery and single-family residences; and

WHEREAS, the term of the Agreement is for a period of five years and the City Manager has extended the term of the Agreement for a period of one year, to June 14, 2018, as allowed by the terms of the Agreement; and

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

WHEREAS, at its meeting of April 18, 2017, the City Council considered the Annual Compliance Evaluation Form and Addendum completed by the Developer that provides evidence of its good faith compliance with its obligations under the Agreement and other information provided by staff; and

WHEREAS, the Developer and members of the public were provided an opportunity to be heard regarding the Agreement's status before the City Council conducted its review.

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

1. The Developer is in good faith substantial compliance with the terms and conditions of the Development Agreement between the City of Calistoga and Silver Rose Venture, LP for the Silver Rose Resort project.
2. This review satisfies the annual review of development agreement requirements as provided in Government Code §65865.1.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at its meeting held the **18th day of April, 2017** by the following vote:

AYES: Vice Mayor Dunsford, Councilmembers Barnes, Kraus and Lopez-Ortega and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: None



CHRIS CANNING, Mayor

ATTEST:


KATHY FLAMSON, City Clerk

Silver Rose Development Agreement

ANNUAL COMPLIANCE EVALUATION FORM

This Annual Compliance Evaluation Form is submitted to the City of Calistoga ("City") by Silver Rose Venture LLC ("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. 682 ("Development Agreement").

Annual Review Period: April 1, 2016 to April 1, 2017

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

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

The undersigned representative of Developer confirms that the Developer is:

- X 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 17th day of March, 2017.

By: [Handwritten Signature]

Its: Managers

ANNUAL COMPLIANCE EVALUATION FORM ADDENDUM
Annual Review Period: April 1, 2016 to April 1, 2017

- A. *Development activities during this review period*
- a. Continued implementation of Storm Water Prevention Plan.
 - b. Renewed Model Room Permit #6375.
 - c. Extended Encroachment Permit #3762 (Offsite Improvements) to April 30, 2017.
 - d. Completed site mass excavation and construction of retaining wall. Received final building approval of permit #6251-R3 on August 16, 2016.
 - e. Applied for three foundation permits (lodge complex, pool buildings/guest villas, and residences).
 - f. Applied for three construction permits (lodge complex, pool buildings/guest villas, and residences).
 - g. Subdivision Improvement Agreement was signed and recorded in the Napa County records on September 27, 2016.
 - h. Final Subdivision Map was approved and recorded in the Napa County records on September 27, 2016.
 - i. Construction job trailers installed on-site.
- B. *Permit fees, processing fees, architectural review fees and/or other fees paid during this period*
- a. June 28, 2016: Paid \$15,526 inspection fee for Encroachment Permit #3762 for off-site improvements on Silverado Trail
 - b. July 20, 2016: Paid \$16,974 permit deposit fee for Permit #B16-57, foundation permit for lodge complex
 - c. July 20, 2016: Paid \$8,524 permit deposit fee for Permit #B16-58, foundation permit for pool buildings & guest villas
 - d. July 20, 2016: Paid \$8,562 permit deposit fee for Permit #B16-59, foundation permit for residences
 - e. August 8, 2016: Paid \$11,448.38 permit fee for Permit #6251-R4, onsite grading, drainage and utilities (civil package #3)
 - f. September 15, 2016: Paid \$44,721.86 permit fee deposit for Permit #B16-95, construction permit for pool buildings & guest villas
 - g. September 15, 2016: Paid \$29,419.29 permit fee deposit for Permit #B16-96, construction permit for residences
 - h. November 23, 2016: Paid \$57,995.80 permit fee deposit for Permit #B16-134, construction permit for lodge complex (hotel, restaurant, spa & winery)
- D. *Other Development Agreement obligations completed during this annual review period:*
- a. Pursuant to Section 5.2 of the Development Agreement, an Operational Agreement was signed effective August 3, 2016, between the City and Silver Rose Property Owner LP.
 - b. Pursuant to Section 16 of the Development Agreement, Developer provided surety bonds for the Public Improvement Work and Private Improvement Work, as follows:
 - i. Public improvements
 - I. Performance bond in the amount of \$1,124,344
 - II. Labor & materials bond in the amount of \$1,124,344
 - III. Maintenance (warranty) bond in the amount of \$112,434.40
 - ii. Private improvements
 - I. Performance bond in the amount of \$1,926,229

- II. Labor & materials bond in the amount of \$963,115
- III. Maintenance (warranty) bond in the amount of \$192,622.90

E. *Transfers, assignments or dedications from or by Developer during this annual review period:*

- a. Effective February 3, 2017, Developer (Silver Rose Venture LP) assigned its rights and obligations under the Development Agreement to Silver Rose Residential Owner LP and Silver Rose Property Owner LP, pursuant to the attached Assignment and Assumption Agreement. At approximately that time, Silver Rose Residential Owner LP and Silver Rose Property Owner, LP, Property Co-Owners, collaterally assigned their interest in the Development Agreement to Wilson HCF Wisconsin Holdings 5, LLC, pursuant to a Construction Loan Agreement dated February 7, 2017, which assignment was consented to by the City as evidenced by the attached Consent to Assignment of Development Agreement dated February 7, 2017.