

## RESOLUTION 2015- 071

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING A SUBDIVISION OFF-SITE IMPROVEMENT AND REIMBURSEMENT AGREEMENT WITH CALISTOGA HILLS RESOURTS INC. FOR REPLACEMENT OF THE PINE STREET SEWER LIFT STATION AND LOWER WASHINGTON SEWER TRUNK MAIN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calistoga at its regular meeting held this **16<sup>th</sup> day of June 2015**, by the following vote:

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

  
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**CHRIS CANNING, Mayor**

**ATTEST:**  
  
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**KATHY FLAMSON, City Clerk**