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Title: Actions related to Copper River Ranch Water Supply Implementation Agreement:
 1. Approve Copper River Ranch Water Supply Implementation Agreement.
 2. ***RESOLUTION - 28th amendment to the Annual Appropriation Resolution (AAR) No. 2016-118 to appropriate \$4,291,300 for water supply infrastructure. (Requires five affirmative votes)

Sponsors: Department of Public Utilities, Office of Mayor & City Manager

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Attachments: 1. CRR Water Supply Implementation Agreement_10_27_16_DRAFT.pdf, 2. 17 28th NE SWTF Water Tanks. SAM.pdf

Date	Ver.	Action By	Action	Result
11/3/2016	1	City Council	continued	

REPORT TO THE CITY COUNCIL

November 3, 2016

FROM: THOMAS C. ESQUEDA, Director
Department of Public Utilities

SUBJECT

Actions related to Copper River Ranch Water Supply Implementation Agreement:
 1. Approve Copper River Ranch Water Supply Implementation Agreement.
 2. ***RESOLUTION - 28th amendment to the Annual Appropriation Resolution (AAR) No. 2016-118 to appropriate \$4,291,300 for water supply infrastructure. (Requires five affirmative votes)

RECOMMENDATION

The Administration recommends City Council approve the Copper River Ranch Water Supply Implementation Agreement (Agreement) for the Developers of the Copper River Ranch Development (Copper River or the Development) to generate 4,900 gallons per minute (GPM) of firm water supply to service existing and future development located north of East Copper Ave between North Friant Road and North Willow Avenue.

EXECUTIVE SUMMARY

On September 30, 2004, the City of Fresno (City) entered into agreements with Copper River Ranch,

LLC; Copper River Development Company, Inc.; Copper River Custom Lots, Inc.; Copper River Ranch Villages, LLC.; Highland E, LLC.; Copper River Southwest, Inc.; Copper River 74, Inc.; and Copper Ridge Estates, LLC (collectively Developers) related to tentative tract maps for the Development. The agreements and related conditions of approval imposed upon Developers' final tract maps set forth specific requirements for Developers to create water supply infrastructure to ensure adequate water supply for the Development.

The Administration recently became aware that many of the water related mitigation measures adopted on September 30, 2004, have yet to be implemented. Staff has also discovered that a number of final maps included conditions of approval that are not consistent with 2004 requirements. As such, the Administration has been meeting with representatives of Copper River to develop an agreement to effectively address all outstanding water related issues associated with the Development.

The proposed Agreement is intended to memorialize the Developers' obligations to supply 4,900 GPM of firm water supply capacity within the Development and sets a mutually agreed-upon schedule for Developers to construct wells and wellhead treatment and mitigation facilities to fulfill their water supply obligation. It also includes a payment of approximately \$3.8 million that reflects Developers' proportionate share of the cost of connecting to the City's existing water system, including the Northeast Surface Water Treatment Facility (NESWTF).

BACKGROUND

The Copper River Ranch Project FEIR No. 10126 was certified on June 3, 2003, and a Mitigated Negative Declaration implementing the mitigation measures of the previously certified FEIR was adopted on September 30, 2004. Pursuant to the FEIR, the Development requires 4,900 GPM of water supply to ensure appropriate levels of water reliability and redundancy during peak usage.

The water supply required for the Development was contemplated to be delivered via an interconnected network of groundwater wells as well as an allocation from the NESWTF. Developers were obligated to construct the wells necessary, together with required wellhead treatment and mitigation facilities, in accordance with conditions of approval imposed upon Developers' final tract maps for the Development as well as pay an impact fee associated with accessing 8.5% of the NESWTF's capacity.

Since that time many of the requirements associated with water capacity infrastructure have not been fulfilled. One contributing factor has been a lack of consistency in implementing water supply requirements. For example, a number of early final maps for the Development contain conditions requiring the payment of Urban Growth Management 101s fees. This was problematic because on November 4, 2009, the City Attorney's Office advised Department of Public Utilities staff that collection of UGM 101s fees was impermissible because Copper River was not included in the nexus study for the UGM 101s fees. Therefore, the UMG 101s fees were either returned or never accessed even though Copper River has benefitted from connecting to the existing water infrastructure contained in UGM 101s, including the NESWTF.

It also appears that previous discussions between the City and Copper River representative were limited primarily to employees within the Department of Public Utilities, during which time different changes or amendments to the already-approved requirements were discussed, but never brought forth for approval or implementation. The lack of direction and certainty over the past 12 years has also contributed to a level of frustration amongst other City departments, Copper River

representatives, and other stakeholders as it has not been clear as to what was required and by when.

The Administration recently became aware of this issue and immediately reached out to the representatives of Copper River with the goal of developing a water supply implementation agreement. The Agreement effectively implements the mitigation measures and addresses the outstanding water related issues that have gone unaddressed until now.

Therefore, the Administration and Copper River representatives recommend Council authorize the City Manager to execute the proposed Agreement to memorialize the schedule for needed water infrastructure improvements as well as the payment of an appropriate development fees as contemplated in the FEIR. This Agreement will not only address the immediate need, but will also allow for the orderly and continued issuance of future building permits and certificates of occupancy as additional water supply is developed.

In summary, the proposed Agreement memorializes the existing obligations, including:

- Constructing additional water supply wells and wellhead treatment facilities sufficient to supply no less than 4,900 GPM of fixed water capacity to serve the Development;
- Concurrently construct a bypass line to needed to backwash wellhead treatment facilities, which will allow the Copper River Recycled Water Treatment Facility to function unimpeded;
- Reimburse the City approximately \$450,000 for the installation of wellhead treatment facilities for Pump Station 330; and
- Pay a capacity fee of approximately \$3.8 million related to permitted 3,682 equivalent development units contained within the Development.
- Failure to meet any of their obligations may result in the City withholding occupancy permits.

The proposed Agreement memorializes the above requirements to the mutual satisfaction of the City and Developers and the attached 28th amendment to AAR 2016-118 allows the City to expend the funds obtained as provided above. The proposed Agreement has been approved as to form by the City Attorney's Office.

ENVIRONMENTAL FINDINGS

Pursuant to CEQA Guidelines section 15378(b)(5), this is not a project for the purpose of CEQA, as this is an organizational or administrative action of the government to enforce an existing obligation, and will not result in a direct or indirect physical change in the environment.

LOCAL PREFERENCE

Local preference was not considered because this Agreement regarding water supply infrastructure development does not include a bid or award of a construction or services contract.

FISCAL IMPACT

There is no financial obligation for the General Fund for this Agreement. The payment of \$4,291,300 to be made by the Developers will be received into the Water Division Enterprise Fund to benefit the expansion and upgrade of the City's NESWTF, and to secure adequate water supply capacity,

reliability, and redundancy for area served by the NESWTF.

Attachment:

Copper River Ranch Water Supply Implementation Agreement
Resolution