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Title: Approve Amendment No. 5 to the Copper River Ranch Water Supply Implementation Agreement approved by Fresno City Council on November 17, 2016 (Council District 6)

Sponsors: Department of Public Utilities

Indexes:

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Attachments: 1. Amendment 5 - Copper River Ranch.pdf

Date	Ver.	Action By	Action	Result
12/13/2018	1	City Council	approved	

REPORT TO THE CITY COUNCIL

December 13, 2018

FROM: MICHAEL CARBAJAL, Director
Department of Public Utilities

SUBJECT

Approve Amendment No. 5 to the Copper River Ranch Water Supply Implementation Agreement approved by Fresno City Council on November 17, 2016 (Council District 6)

RECOMMENDATION

The Administration recommends the City Council approve Amendment No. 5 to the Copper River Ranch Water Supply Implementation Agreement (Agreement) for the convenience of the Developers to address defaults and failures to timely fulfill Agreement obligations by the Developer of the Copper River Ranch Development (Copper River or the Project Area)

EXECUTIVE SUMMARY

The Fresno City Council approved the Agreement on November 17, 2016, whereby Developers are to provide 4,900 GPM of firm water supply capacity within the Project Area in accordance with a mutually-agreed upon project completion schedule. The Agreement also includes a payment schedule for Developers' fair share contribution (Development Fee) related to the City's Northeast Surface Water Treatment Facility (NESWTF). The Agreement has previously been amended four times for the convenience of the Developers to extend deadlines set forth therein. The current amendment request is for a fifth extension so Developer's deadline to expand PS 330 and to

construct PS 370 and the Disposal Bypass Line may be extended by three months to March 1, 2019. The Administration recommends City Council approve the amendment.

BACKGROUND

Pursuant to the Agreement, Developers are obligated to provide water for the Copper River Ranch Development via the construction of new wells, pay a fair share fee for the NESWTF, and construct a Disposal Bypass Line - all to occur based upon an agreed timeline. Developers have previously defaulted on agreed upon deadlines four times. For the first three defaults, City provided deadline extensions in exchange for Developer accelerating its payment for the NESWTF fee. The NESWTF fee is now paid in full and developer seeks a fifth deadline extension of three months to expand PS 330 and to construct PS 370 and the Disposal Bypass Line. For the convenience of the Developer, the City agrees to modify the implementation schedule with Amendment No. 5 to the Water Supply Implementation Agreement as follows:

Milestone Requirement	Originally Agreed Upon Completion Date	New Required Completion Date
Increase Capacity of PS 330 from 1,200 gpm to 1,800 gpm	March 1, 2017	March 1, 2019
New PS 369 (minimum capacity 1,000 gpm)	March 1, 2017	Complete
New PS 370 (minimum capacity 500 gpm)	June 30, 2017	March 1, 2019
New PS 371 (minimum capacity 500 gpm)	December 1, 2018	December 1, 2019
Discharge Pipeline for PS 330, 369, 370, and 371	March 1, 2017	March 1, 2019
1 st Payment Developer Fee Obligation	December 17, 2017	Paid
2 nd Payment Developer Fee Obligation	June 30, 2017	Paid
3 rd Payment (1 st Installment) Developer Fee Obligation	December 1, 2018	Paid
3 rd Payment (2 nd Installment) Developer Fee Obligation	December 1, 2018	Paid

The City’s Administration has authorized the continued issuance of certificates of occupancy for lots within the Project Area until such time that the Fresno City Council considers Amendment No. 5. Should the Fresno City Council not approve Amendment No. 5 to the Agreement, the Administration will discontinue issuing certificates of occupancy in the Project Area effective 8:00 am on Friday, December 14, 2018.

All other terms and conditions of the Agreement shall remain in effect. By entering into Amendment No. 5, the Developer acknowledged and agreed to limit the Equivalent Dwelling Units (EDUs) Allowance and the City shall not issue Certificates of Occupancy within the Project Area beyond 2,209 EDUs, which is 60 percent of the 3,682 EDUs authorized within the Project Area. Upon expanding PS 330 and constructing PS 370 and the Disposal Bypass Line, the Developer’s EDU

Allowance shall be increased to 2,577 EDUs, and City may issue Certificates of Occupancy within the Project Area up to a maximum of 2,577 EDUs, which represent 70 percent of the total EDUs authorized for the Project Area. Upon construction of PS 371, Developer may utilize, and City may issue Certificates of Occupancy for, up to 3,682 EDUs, which represent 100 percent of the total EDUs authorized for the Project Area. Further, the City shall at all times retain the right to cease issuing building permits and certificates of occupancy for any lots within the Project Area if another default condition occurs.

Amendment No. 5 to the Agreement has been approved as to form by the City Attorney.

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 and entering into this Amendment will not impact the General Fund.

Attachment:

Fifth Amendment to the Copper River Ranch Water Supply Implementation Agreement