



OLYMPIC VALLEY PUBLIC SERVICE DISTRICT



EXHIBIT F-7
12 Pages

Everline Resort & Spa - Phase 2 6th Amendment to Development Agreement

DATE: September 26, 2023

TO: District Board Members

FROM: Dave Hunt, P.E., District Engineer

SUBJECT: Everline Resort & Spa - Phase 2 Project. Sixth Amendment to the Water and Sewer Service (Development) Agreement.

BACKGROUND: In 2008, the District served as the Lead Agency and certified a Supplemental Environmental Impact Report (SEIR) for the Everline Resort & Spa (Developer), formerly known as Resort at Squaw Creek, Phase 2 Project. Subsequently, the District and Developer entered into a Water and Sewer Service Agreement, or Development Agreement (Agreement), for the project. The SEIR focused on potential environmental impacts, and defined mitigation measures, associated with the implementation of the Agreement.

The Agreement includes the terms under which the District would provide water and sewer collection services to the Phase 2 project, which was planned to be built in three sub-phases and include as many as 460 bedrooms in 221 residential units and a structured parking facility. The types of units currently proposed are as follows:

- Phase 2A - 18 single-family townhome units located in four low-rise buildings.
- Phases 2B and 2C - 188 units in a mid-rise building, parking structure, and 9 employee housing units.

To receive water service from the District, the Agreement requires the Developer to dedicate to the District its Well 18-3R which they currently use as their primary source of water supply for Golf Course irrigation and to meet their obligations to supply Palisades Tahoe with water for the ski resort's snowmaking operations, in addition to other specific water and sewer system improvements indicated in the Agreement.

Since then, the District and Developer have executed five (5) amendments to the original Agreement. The amendments have primarily addressed the dedication date for Well 18-3R. The most recent 5th Amendment to the Agreement, dated October 25, 2022, included extending the dedication date for Well 18-3R to November 6, 2024 and for the pressure reducing valve station (PRV) to November 6, 2023.

Additional information regarding the previous amendment can be found in the attached Board report, *Resort at Squaw Creek – Phase Two Project. Fifth Amendment to the Water & Sewer Service (Development Agreement)*, dated October 25, 2022.

DISCUSSION: This 6th Amendment further extends the deadline by which Developer is required to dedicate the PRV to the District; for one year to November 6, 2024. The dedication date for Well 18-3R remains unchanged as does the Development Term of the Agreement, both of which are November 6, 2024.

District staff have been working closely with the Developer's engineer on the location of the PRV station, and based on those discussions, a partial re-design of the facility became necessary. The original approved design was originally to be constructed in 2019 alongside water and sewer system improvements identified in the approved *The Resort at Squaw Creek Squaw Creek Townhomes Phase 2A Infrastructure Improvement Plans*, dated May 13, 2019. Additionally, in preparation for the 2019 construction, the Developer pre-purchased specific electrical and controls equipment for the PRV station. Many of these components are now outdated and the District has directed the Developer to re-design the electrical and controls systems to current District and industry standards and provide new equipment accordingly. This work is currently on-going, and thus is the basis for the Developer's request to extend the deadline.

With the Board's consideration and action to approve the 6th Amendment, the Agreement remains current and in force. In consideration of the Phase II Project's scope and the Developer's request for an extension of time to fulfill obligations required by the Agreement, staff recommends approval of the 6th Amendment based on the following facts and findings:

1. There are no substantial changes proposed to the project.
2. There are no substantial changes to how the project is being undertaken.
3. There is no new information which was not known and could not have been known at the time the SEIR was certified as complete.

If the 6th Amendment is approved, a Memorandum of Agreement will be recorded with the Placer County Recorder's Office.

ALTERNATIVES: 1. Authorize the General Manager to execute the 6th Amendment to the Water & Sewer Service Agreement for the Everline Resort & Spa - Phase 2

Project between Everline Associates, LLC and the Olympic Valley Public Service District. Approve Resolution 2023-19.

2. Do not authorize staff to execute the 6th Amendment and do not approve Resolution 2023-19.

FISCAL/RESOURCE IMPACTS: There are no direct fiscal or resource impacts to the District negotiating the 6th Amendment to the Water & Sewer Service Agreement for the Everline Resort & Spa - Phase 2 Project and extending the deadlines discussed above. The Amendment primarily extends an existing Development Agreement executed in 2008, and more specifically, extends the deadline for dedication of the PRV to the District from 2023 to 2024.

RECOMMENDATION: Approve Resolution 2023-19 and authorize the General Manager to execute the 6th Amendment to the Water & Sewer Service Agreement between Everline Associates, LLC and the Olympic Valley Public Service District for the Everline Resort & Spa - Phase 2 Project.

ATTACHMENTS:

- Resolution 2023-19.
- 6th Amendment to the Water & Sewer Service Agreement between Everline Associates, LLC and the District.
- Board report - *Resort at Squaw Creek – Phase Two Project. Fifth Amendment to the Water & Sewer Service (Development Agreement)*, dated October 25, 2022

DATE PREPARED: September 19, 2023

RESOLUTION 2023-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLYMPIC VALLEY PUBLIC SERVICE DISTRICT (PLACER COUNTY) APPROVING & AUTHORIZING EXECUTION OF THE SIXTH AMENDMENT TO WATER AND SEWER AGREEMENT WITH EVERLINE ASSOCIATES, LLC TO EXTEND DEADLINE OF DEDICATION OF PRESSURE REDUCING VALVE STATION

WHEREAS, the Olympic Valley Public Service District (District) entered into the Water and Sewer Service Agreement (Agreement) with Everline Associates, LLC (Developer hereafter), formerly known as Squaw Creek Associates, for the provision of water and sewer service for the Everline Resort & Spa Phase II Project, formerly known as Resort at Squaw Creek Phase II Project, following the adoption and certification of a Supplemental Environmental Impact Report (SEIR) under the California Environmental Quality Act;

WHEREAS, Developer warrants and represents to District that it will secure an extension of time from the County of Placer for completion of infrastructure improvements under the Subdivision Improvement Agreement for the Phase II Project, and has requested an extension of the Agreement; and

WHEREAS, Developer and District agree that the date for dedication of Well 18-3R from Developer to District shall be remain November 6, 2024, as provided in the Fifth Amendment to the Water and Sewer Service Agreement; and

WHEREAS, Developer and District agree that the date for dedication of Pressure Reducing Valve Station described in Section 6(a) of the Second Amendment shall be extended from November 6, 2023 to November 6, 2024; and

WHEREAS, the District finds that no new or more severe impacts than previously identified in the SEIR will occur; and

WHEREAS, in consideration of the Phase II Project's scope and the Developer's request for an extension of time to fulfill obligations required by the Agreement, the District's Board of Directors determines and confirms the following specific Facts and Findings:

1. There are no substantial changes proposed to the project.
2. There are no substantial changes to how the project is being undertaken.
3. There is no new information which was not known and could not have been known at the time the SEIR was certified as complete.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Olympic Valley Public Service District hereby approves the attached Sixth Amendment to the Water and Sewer Service Agreement between Developer and District and does hereby direct the General Manager to execute said Amendment and such other documents, related thereto or required thereby. District Staff are further directed to record a Memorandum of Sixth Amendment with the Office of the Recorder, County of Placer.

PASSED AND ADOPTED this 26th day of September, 2023 at a meeting of the Board of Directors of the Olympic Valley Public Service District by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dale Cox, Board President

ATTEST:

Jessica Asher, Board Secretary

SIXTH AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT

THIS SIXTH AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT (the “Sixth Amendment”) is made and entered as of this ____ day of _____, 2023, by and between the OLYMPIC VALLEY PUBLIC SERVICE DISTRICT, (the “District”), and EVERLINE ASSOCIATES, LLC, a Delaware limited liability company (the “Developer”), which was formerly known as Squaw Creek Associates, LLC, a Delaware limited liability company. “District” and “Developer” are each a “Party” and, collectively, are the “Parties”.

RECITALS

This Sixth Amendment is entered into on the basis of the following facts, understandings, and intentions of the Parties:

- A.** On or about December 26, 2008, District and Developer entered into that certain Water and Sewer Service Agreement (the “Agreement”) after District’s approval of the Agreement and certification of a Supplemental Environmental Impact Report (“SEIR”) under the California Environmental Quality Act (CEQA) on or about November 13, 2008.
- B.** A condition precedent to District’s obligation to provide water service to the Developer’s Phase II Project or New Project (as defined in the Third Amendment) is that Developer must dedicate to the District a “water supply extraction well currently known as Well 18-3R, with a minimum well capacity of One Hundred and Ten gallons per minute (110 gpm)” under Section 3.4 of the Agreement.
- C.** On or about August 28, 2012, District and Developer entered into the First Amendment to Water and Sewer Service Agreement (the “First Amendment”), which amended the Agreement and extended the dedication date for Well 18-3R under Section 3.4 of the Agreement to November 6, 2016.
- D.** On or about November 2, 2016, District and Developer entered into the Second Amendment to Water and Sewer Service Agreement (the “Second Amendment”), which extended the dedication date for Well 18-3R under Section 3.4 of the Agreement to November 6, 2019, and clarified existing obligations on Developer.
- E.** On or about June 14, 2018, District and Developer entered into the Third Amendment to Water and Sewer Service Agreement (the “Third Amendment”), which extended the dedication date for Well 18-3R under Section 3.4 of the Agreement to November 6, 2020, and made additional modifications to the Agreement.
- F.** On or about November 20, 2020, District and Developer entered into the Fourth Amendment to Water and Sewer Service Agreement (the “Fourth Amendment”), which extended the dedication date for Well 18-3R under Section 3.4 of the Agreement to November 6, 2022.

- G. On or about October 25, 2022, District and Developer entered into the Fifth Amendment to Water and Sewer Service Agreement (the “Fifth Amendment”), which extended the dedication date for Well 18-3R, amongst other agreed upon performances, under 3.4 of the Agreement to November 6, 2024.
- H. Pursuant to the provisions of Section 3 of the Fifth Amendment, Developer agreed that the Pressure Reduction Valve Station (PRV), described in Section 6(a) of the Second Amendment shall be constructed subject to and in accordance with the requirements and conditions set forth in the Technical Memorandum, appended as Exhibit A to the Fifth Amendment. Developer further agreed that the PRV shall be installed by Developer by November 6, 2023
- I. Developer warrants and represents to District that it has or will secure an extension of time from the County of Placer for completion of infrastructure improvements under the Subdivision Improvement Agreement for the Phase II Project (SUB-260 and CUP-1444), which agreement shall be in effect or infrastructure obligations for Phase IIA satisfied as of the Dedication Date, as hereby further extended. Developer agrees to provide satisfactory evidence of said extension to District.
- J. Developer desires an additional Twelve (12) month extension of time to construct and install the PRV by November 6, 2024 (the “PRV Deadline”), the same to coincide with the Dedication Date for Well 18-3R, as set forth in Section 2 of the Fifth Amendment.

AGREEMENT

- 1. **Incorporation of Recitals.** The Recitals set forth above are incorporated herein by this reference.
- 2. **Dedication Date.** Developer and District hereby agree that the date for completion and dedication of the PRV (the “PRV Deadline”) shall be extended to November 6, 2024.
- 3. **PRV Installation.** The PRV, described in Section 6(a) of the Second Amendment, shall be installed by Developer by November 6, 2024 (the “PRV Deadline”). The PRV shall be constructed subject to and in accordance with the requirements and conditions set forth on the Technical Memorandum issued by District’s Engineer (the “Technical Memorandum”), copy of which is appended as Exhibit A to the Fifth Amendment, which is incorporated herein by reference.
- 4. **Binding Effect and Recording of Memorandum.** The terms, covenants, and conditions of the Agreement, as amended or supplemented by the First, Second, Third, Fourth, Fifth and this Sixth Amendment (collectively the “Amendments”), shall be binding on and inure to the benefit of the Parties hereto and to their successors, affiliates, transferees, and assigns. It is further agreed that a Memorandum of this Sixth Amendment shall be drafted and agreed upon by the Parties and with approval

not to be unreasonably withheld, shall be recorded in the Official Records of the County of Placer.

5. **Miscellaneous.** With exception of the terms, covenants, and conditions, as expressly set forth herein, the Agreement and the Amendments shall remain, otherwise, unmodified and in full force and effect. The Agreement and the Amendments are incorporated herein by reference as if fully set forth herein. All terms not specifically defined herein shall have the meanings set forth in the Agreement.

WHEREFORE, the Parties hereto have agreed to this Sixth Amendment on the day and in the year first above written.

DISTRICT:

OLYMPIC VALLEY PUBLIC SERVICE DISTRICT,
a public entity

By: _____

Name: _____

Title: _____

DEVELOPER:

EVERLINE ASSOCIATES, LLC,
a Delaware limited liability company

By: Pacific Squaw Creek, Inc.,
a California corporation
Its Managing Member

By: _____

Name: _____

Title: _____



OLYMPIC VALLEY PUBLIC SERVICE DISTRICT



EXHIBIT F-7
17 Pages

Resort at Squaw Creek - Phase 2 5th Amendment to Development Agreement

DATE: October 25, 2022

TO: District Board Members

FROM: Mike Geary, General Manager

SUBJECT: Resort at Squaw Creek - Phase Two Project. Fifth Amendment to the Water & Sewer Service (Development) Agreement.

BACKGROUND: In 2008, the District served as the Lead Agency and certified a Supplemental Environmental Impact Report (SEIR) for the Resort at Squaw Creek Phase 2 Project. Subsequently, the District and Resort at Squaw Creek (RSC) entered into a Water and Sewer Service Agreement, or Development Agreement (Agreement), for the project. The SEIR focused on potential environmental impacts, and defined mitigation measures, associated with the implementation of the Agreement.

The Agreement includes the terms under which the District would provide water and sewer collection services to the Phase 2 project, which was planned to be built in three sub-phases and include as many as 460 bedrooms in 221 residential units and a structured parking facility. The types of units currently proposed are as follows:

- Phase 2A - 18 single-family townhome units located in four low-rise buildings.
- Phases 2B and 2C - 188 units in a mid-rise building, parking structure, and 9 employee housing units.

To receive water service from the District, the Agreement requires RSC to dedicate to the District its Well 18-3R, with a minimum capacity of 110-gpm, which they currently use as their primary source of water supply for Golf Course irrigation and to meet their obligations to supply Squaw Valley Resort with water for the ski resort's snowmaking operations.

In 2012, the District approved the 1st Amendment that extended by four-years the date by which RSC had to dedicate Well 18-3R to the District; from November 6, 2012 to November 6, 2016.

In 2016, the District approved the 2nd Amendment that extended the Well 18-3R dedication date another three years to November 6, 2019 to align with construction timing under the new Placer County deadline for infrastructure improvements. There were other deadlines that were extended too; they are for RSC's dedication of a Water Treatment Plant Site (WTP), District's construction of a WTP, and the District's License to Explore for Wells.

The 2nd Amendment also addressed the requirement for the installation of a pressure reducing valve station (PRV) that was to be constructed as part of the Phase 2A Infrastructure Improvements.

In 2018, the District approved the 3rd Amendment that extended the Well 18-3R dedication date another two years to November 6, 2020. Once again, this District's extension to deadlines in the Agreement paralleled extensions granted by Placer County to their Subdivision Improvement Agreements with RSC.

The 3rd Amendment also allowed RSC to redefine the second and third sub-phases (e.g., Phase 2B and Phase 2C) and still receive water and sewer service from the District. The "New Project", if proposed, would be limited to a maximum of 221 residential units and a maximum day demand of 110 gpm.

In 2019 the RSC constructed the majority of the infrastructure improvements for Phase 2A. The construction of a PRV remains to be completed and is scheduled for installation 2023.

In 2020, the District approved the 4th Amendment, extending the Well 18-3R dedication date another two years to November 6, 2022.

Section 2.2.a of the Agreement states that:

"the District shall agree to extend the Term so long as Developer's approvals (SUB – 260, CUP – 1444) from the County are still in effect and Developer is in compliance with the terms and conditions of this Agreement."

DISCUSSION: This 5th Amendment further extends the deadline by which RSC is required to dedicate Well 18-3R to the District; for two years to November 6, 2024, to coincide with the extensions provided by Placer County. Accordingly, the original contract development term of the Agreement is also extended two years to November 6, 2024. The 5th Amendment also requires the installation of the PRV station by November 6, 2023.

As provided for in Amendment's *Exhibit A* (e.g., Technical Memorandum), attached, staff continues to work with RSC to identify a location for the wellhead treatment building and the PRV, as well as negotiate other project specifications and design elements.

With the Board's consideration and action to approve the 5th Amendment, the Agreement remains current and in force.

There have been no substantive changes to the project scope, the Agreement, the SEIR, or the District's ability to supply water and sewer services.

The Agreement continues to provide benefit for both the Developer and the District. Benefits to the District and the community we serve include:

- Water supply to meet the water demands of the project.
- Well 18-3R provides geographic diversity in the District's water supply and well field and provides supply redundancy.
- Wellhead water treatment facility.
- Fifteen (15) year warranty on Well 18-3R.
- Ten (10) year well water testing program.
- Grant of water rights.
- Irrigation Rollback Agreement resulting in a net zero increase in water demand from the Phase 2 Project during the critically dry summer months of June through October.
- Community Benefit Fee Agreement.
- Infrastructure including a Pressure Reducing Valve (PRV) and a sewer flow meter.
- Dedication of land to construct a Regional WTP Site if needed.
- License to explore for additional wells.
- Mitigations from the SEIR.

In consideration of the Phase II Project's scope and the RSC's request for an extension of time to fulfill obligations required by the Agreement, staff recommends approval of the 5th Amendment based on the following facts and findings:

1. There are no substantial changes proposed to the project.
2. There are no substantial changes to how the project is being undertaken.
3. There is no new information which was not known and could not have been known at the time the SEIR was certified as complete.

If the 5th Amendment is approved, a Memorandum of Agreement will be recorded with the Placer County Recorder's Office.

- ALTERNATIVES:**
1. Authorize the General Manager to execute the 5th Amendment to the Water & Sewer Service Agreement for the Resort at Squaw Creek - Phase 2 Project between Squaw Creek Associates, LLC and the Olympic Valley Public Service District. Approve Resolution 2022-26.
 2. Do not authorize staff to execute the 5th Amendment and do not approve Resolution 2022-26.

FISCAL/RESOURCE IMPACTS: There are no direct fiscal or resource impacts to the District negotiating the 5th Amendment to the Water & Sewer Service Agreement for the Resort at Squaw Creek - Phase 2 Project and extending the deadlines discussed above. The Amendment primarily extends an existing Development Agreement executed in 2008, and more specifically, extends the deadline for dedication of Well 18-3R to the District from 2022 to 2024.

RECOMMENDATION: Approve Resolution 2022-26 and authorize the General Manager to execute the 5th Amendment to the Water & Sewer Service Agreement between Squaw Creek Associates, LLC and the Olympic Valley Public Service District for the Resort at Squaw Creek - Phase 2 Project.

ATTACHMENTS:

- Resolution 2022-26.
- 5th Amendment to the Water & Sewer Service Agreement between Squaw Creek Associates, LLC and the District.
- Exhibit A – *Technical Memorandum*.
- PowerPoint slides presented at this meeting.

DATE PREPARED: October 19, 2022