



Deschutes County Board of Commissioners
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(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

AGENDA REQUEST & STAFF REPORT

For Board Business Meeting of August 17, 2015

DATE: 8/4/15

FROM: Will Groves CDD 388-6518

TITLE OF AGENDA ITEM:

Consideration and Signature of Document No. 2015-540, Amendment to Deschutes County Document No. 2006-016, Caldera Springs Resort, Partial Release of Improvement Agreement Bonds

PUBLIC HEARING ON THIS DATE? No

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County and Caldera Springs Real Estate LLC entered into an Improvement Agreement for the construction of 106 overnight lodging units in the amount of \$6,491,036. Caldera Springs Real Estate LLC has constructed or is in the process of completing 152 overnight lodging units, leaving only eight (8) overnight lodging units to be constructed in two separate cabins. CSRE has requested a reduction in the Bond to the amount of \$802,492, which is 110% of the actual cost to construct two cabins containing the eight remaining overnight lodging units, together with an additional warranty bond amount of \$319,172, which is equal to 10% of the value of each of the seven cabins completed in the last twelve months. The total Bond amount would equal \$1,121,664.

FISCAL IMPLICATIONS:

The Board is making a determination with this release that the funds remaining in the bond are sufficient to pay for the remaining 8 units of overnight lodging units.

RECOMMENDATION & ACTION REQUESTED:

Motion: Approve signature of Document 2015-540.

ATTENDANCE: Will Groves

DISTRIBUTION OF DOCUMENTS:

CDD Staff, Legal

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

DESCHUTES COUNTY DOCUMENT NO. 2015-540
AMENDMENT TO DESCHUTES COUNTY DOCUMENT NO. 2006-016
CALDERA SPRINGS RESORT
PARTIAL RELEASE OF
IMPROVEMENT AGREEMENT BONDS

A. Deschutes County (the "County") and Caldera Springs Real Estate LLC ("CSRE") previously entered into that certain Improvement Agreement recorded February 17, 2006 at 2006-11382, as amended by Document No. 2007-510, recoded January 17, 2008 at 2008-02159 (the "Agreement"); and

B. Pursuant to the Agreement, CSRE provided security for the construction of the Required Improvements (as defined in the Agreements) consisting of 106 overnight lodging units out of a total of 160 overnight lodging units required for the resort, pursuant to Bond No. 8835803 in the amount of \$6,491,036 (the "Bond"); and

C. As of the effective date of this Agreement, CSRE has constructed 152 overnight lodging units, leaving only eight (8) overnight lodging units to be constructed in two separate cabins; and

D. CSRE has requested a reduction in the Bond to the amount of \$802,492, which is 110% of the actual cost to construct two (2) cabins containing the eight remaining overnight lodging units, together with an additional warranty bond amount of \$319,172, which is equal to 10% of the value of each of the seven (7) cabins completed in the last twelve months. The total Bond amount would equal \$1,121,664.

E. The County has agreed to a partial release of the Bond as requested by CSRE.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties agree as follows:

1. **Partial Release of Bonds.** The County hereby approves an amended release and/or reduction of the Bond as follows:

A. Bond No. 8835803. Bond No. 8835803 guarantees construction of overnight lodging units.

98 of the 106 overnight lodging units secured by the Bond have been completed, with seven cabins containing overnight lodging units under warranty, reflecting their completion within the previous 12 month period.

The construction cost for these seven (7) cabins was \$3,191,720. The warranty bond should be ten percent (10%) of this amount or \$319,172. The cost to complete the remaining two (2) cabins containing eight (8) overnight lodging units is estimated to be \$729,538. The completion bond should be

one hundred and ten percent (110%) of this estimate or \$802,492. The total amount of the Bond should be \$1,121,664.

Accordingly, the Bond may be reduced to a warranty bond in the amount of \$319,172 and a completion bond in the amount of \$802,492, for a total bond amount of \$1,121,664. The bond riders, copies of which are attached and incorporated by reference herein, reflect those approved amounts.

COUNTY:

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

TAMMY BANEY, Vice Chair

ATTEST:

Recording Secretary

ALAN UNGER, Commissioner

Before me, a Notary Public, personally appeared, ANTHONY DEBONE, ALAN UNGER and TAMMY BANEY, the above-named Board of County Commissioners of Deschutes County, Oregon, and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon.

DATED this _____ day of August 2015.

Notary Public for Oregon

My Commission Expires: _____

DEVELOPER:

CALDERA SPRINGS REAL ESTATE LLC
By Sunriver Resort Limited Partnership, Sole member
By: Lowe Sunriver Inc., General Partner

Name: Tom O'Shea, Executive Director

STATE OF OREGON, County of Deschutes) ss

This instrument was acknowledged before me on _____, 2015 by Tom O'Shea and acknowledged the foregoing instrument as executive director of Lowe Sunriver Inc., the general partner of Sunriver Resort Limited Partnership, the sole member of Caldera Springs Real Estate LLC, on behalf of Caldera Springs Real Estate LLC.

Notary Public - State of Oregon
My Commission Expires: _____

Caldera Springs VOA Current Bond Calculation

July 5, 2015

Completed Cabins	Cabins	Keys	10% Bond	Completion Date
3	1	3	\$ -	September 1, 2011
4	1	5	\$ 45,596	July 28, 2015
5	1	5	\$ 45,596	May 11, 2015
6	1	5	\$ 45,596	April 13, 2015
7	1	4	\$ -	May 1, 2014
8	1	5	\$ -	May 1, 2014
9	1	4	\$ -	July 1, 2013
10	1	4	\$ -	April 15, 2013
11	1	4	\$ -	April 15, 2013
12	1	5	\$ -	November 15, 2013
13	1	5	\$ 45,596	November 6, 2014
14	1	5	\$ 45,596	March 5, 2015
15	1	5	\$ 45,596	July 28, 2015
16	1	5	\$ 45,596	July 22, 2015
21	1	5	\$ -	May 1, 2014
22	1	4	\$ -	May 1, 2014
23	1	5	\$ -	May 1, 2014
24	1	3	\$ -	March 12, 2009
25	1	4	\$ -	June 22, 2007
26	1	4	\$ -	January 9, 2009
27	1	3	\$ -	January 27, 2009
28	1	4	\$ -	November 20, 2009
29	1	3	\$ -	April 1, 2012
30	1	4	\$ -	February 2, 2009
31	1	4	\$ -	May 9, 2008
32	1	4	\$ -	May 12, 2008
33	1	4	\$ -	May 15, 2008
34	1	4	\$ -	April 29, 2008
35	1	4	\$ -	April 25, 2008
36	1	4	\$ -	April 25, 2008
40	1	4	\$ -	April 1, 2010
43	1	3	\$ -	June 1, 2010
44	1	4	\$ -	February 18, 2009
45	1	4	\$ -	September 8, 2009
			\$ -	
Total Cabins/Keys/Bonds	34	142	\$ 319,173	Total Maintenance Bond

Keys/Bonds Remaining to Complete Total Requirement	18	\$ 1,805,607	Construction Performance Bond
Total Performance and Warranty Bond Needed at Current Date		\$ 2,124,779	August 15, 2015