ROBERT K. HILDER
COUNTY ATTORNEY

Criminal Division

PATRICIA S. CASSELL
Chief Prosecutor

JOY NATALE
Prosecuting Attorney

RYAN P. C. STACK
Prosecuting Attorney

IVY TELLES
Prosecuting Attorney

Summit County Courthouse • 60 N. Main • P.O. Box 128 • Coalville, Utah 84017
Telephone (435) 336-3206 Facsimile (435) 336-3287
email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS
Chief Deputy

JAMI R.BRACKIN
Deputy County Attorney

HELEN E. STRACHAN
Deputy County Attorney

LEGAL MEMORANDUM

To: Summit County Council

From: David L. Thomas, Chief Civil Deputy

Date: December 29, 2016

Re: TCFC Request for Assessment Area Financing

1. Under the Amended and Restated Development Agreement for the Canyons SPA, dated November 15, 1999, and recorded in the Office of the County Recorder as Entry No. 00553911 (the "Development Agreement"), resort infrastructure within the Canyons SPA was to be constructed by the Canyons Village Management Association (the "CVMA") and financed through real estate transfer fees and assessments.[1]

2. UCA Title 11, Chapter 42 (the "Assessment Area Act") provides a financing mechanism whereby a County could finance the costs of public improvements that benefit property within an assessment area.

   a. The benefited property is encumbered by an annual assessment (not to exceed 20 years) which is collected on an equal footing with real property taxes.
   b. The County issues an assessment bond to fund the public improvements.
   c. The County owns the public improvements.

3. TCFC proposes to redevelop portions of the Canyons SPA through a substantive amendment to the Development Agreement (the "Amendment"). Such redevelopment necessitates a significant investment in resort infrastructure which the CVMA does not have the capacity to fund. As an alternative funding source, TCFC seeks to have the County form an assessment area to fund the resort infrastructure. All resort infrastructure so funded would be owned by the County. However, the County could enter into operations and maintenance agreements with TCFC or the CVMA to operate and upkeep the resort infrastructure.

1. §3.5.1, Development Agreement; Exhibit E (Canyons Resort Village Management Agreement).

4. The purpose of TCFC's presentation to the Council is to provide a description of the Amendment and the resort infrastructure it seeks to have funded through an assessment area. The Amendment is scheduled to be heard by the Snyderville Basin Planning Commission and its description here is meant only to provide context for the discussion of resort infrastructure funding mechanisms.

5. In evaluating TCFC's proposal, County staff suggests that the Council consider the following questions:

a. What are the individual resort infrastructure projects that TCFC proposes to be funded by an assessment area? How are each necessary for the functioning of the Canyons resort?
b. Why is the CVMA funding source (real estate transfer fees or assessments of CVMA members) insufficient to finance the construction of resort infrastructure?
c. What are the financial risks to the County associated with establishing an assessment area at the Canyons? What happens if property owners within the Canyons fail to pay the assessments? What are the legal ramifications of such nonpayment? Would the County have to wait 5 years to collect on any delinquency via tax sale? Would the County have to subsidize bond payments while collecting delinquent assessments? How will this impact the County's bond rating? Why should the County take these financial risks?
d. What are the benefits to the County of establishing an assessment area at the Canyons? Will the tax base (sales, property, TRT, Restaurant taxes) be enhanced?
e. Would the redevelopment proposed by TCFC occur anyway without establishing an assessment area?
f. Why would the County want to own resort infrastructure? Who would maintain the resort infrastructure?
g. Do the resort infrastructure projects advance the Council's goals relative to moderate income housing and transit or do they negatively impact those goals?
h. What is the precedential effect of establishing an assessment area in the Canyons?
i. How will the County manage the assessment area? What are the costs associated with such?
j. Can off-site public infrastructure projects which benefit the Canyons be part of the assessment area (ie; park & ride lots; affordable housing)?
k. The CVMA has obligations under the Development Agreement for moderate income housing, roads and transit. Does an assessment area constitute a bail-out of those existing obligations?
l. Is it in the County's best interests to facilitate economic growth at the Canyons, given the current 2.8% unemployment rate in the County, the absence of adequate moderate income housing in the area, and the increased impacts to the transportation system?

6. County staff has considered TCFC’s proposed resort infrastructure projects for an assessment area. Staff has evaluated each resort infrastructure project for consistency with County goals and rated each accordingly as a high, medium or low priority.

Assessment Area Projects

RANKED AS A HIGH PRIORITY		
INFRASTRUCTURE	**COST**	
Improvements to future transit drop off at RC5	$100,000	
Lower Village Parking Phase 1 - 688 spaces	$10,192,000	E
	$10,292,000	

RANKED AS A MEDIUM PRIORITY		
INFRASTRUCTURE	**COST**	
Pedestrian Connection through Golf course from RC7 to base lifts	$350,000	
Rework Canyons Resort Dr. intersection at new High Mountain Rd	$200,000	D
Kimball Art Center Parking	$2,119,462	
Pedestrian Bridge connecting RC16 t o RC17/18	$250,000	
Connector road between RC16 and RC20	$586,000	B
	$3,505,462	

RANKED AS A LOW PRIORITY		
INFRASTRUCTURE	**COST**	
Willow Draw Road to RC7 and W37	$1,741,000	
Willow Draw sidewalks/trail and Way Finding	$100,000	
Landscaping improvements - Detention Pond	$500,000	
Escalator to base lifts at RC5	$565,000	
Re-alignment and construction of High Mountain Rd. on RC17/18	$1,414,000	A
Street Parking (65 spaces)	$165,000	A
Turn-around and drop off on RC17/18	$100,000	A
Construction of High Mountain Road Phase 1 at RC25	$1,544,000	C
Skier tunnel under High Mountain Road at RC24/25	$400,000	
Construction of High Mountain Road Phase 2 at RC24	$900,000	
General Parks and Landscaping	$1,000,000	
Soft Cost (Legal / Admin / Other)	$167,958	
	$8,596,958	

7. TCFC has discussed with County staff another possible financing mechanism, a Community Development Area ("CDA"). A CDA uses tax increment to finance public infrastructure projects, which could include a transit center at Lower Village, off-site park & ride lots, moderate income housing, and underground parking options. A financing strategy which utilizes both an assessment area and CDA could satisfy the requirements of TCFC while simultaneously fulfilling the transit/affordable housing goals of the County.

Attachments:

TCFC Powerpoint Presentation