

STEAMBOAT SPRINGS
REDEVELOPMENT AUTHORITY

AGENDA

SPECIAL MEETING NO. SSRA-SP-2010-01
FRIDAY, MAY 7, 2010
5:00 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

A. ROLL CALL (5:00 P.M.)

B. BASE AREA REDEVELOPMENT

- 1. RESOLUTION:** Resolution of the Board of Commissioners of the Steamboat Springs Redevelopment Authority relating to maintaining a minimum balance in the construction fund created in connection with the issuance of the Authority's Tax Increment Adjustable Rate Revenue Refunding and Improvement Bonds (Base Area Redevelopment Project), Series 2009. (Hinsvark)
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C. ADJOURNMENT (5:30 P.M.)

BY: JULIE FRANKLIN
CLERK TO THE BOARD

AGENDA ITEM # 1

STEAMBOAT SPRINGS REDEVELOPMENT AUTHORITY

RESOLUTION NO. SSRA-2010-_____

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE STEAMBOAT SPRINGS REDEVELOPMENT AUTHORITY RELATING TO MAINTAINING A MINIMUM BALANCE IN THE CONSTRUCTION FUND CREATED IN CONNECTION WITH THE ISSUANCE OF THE AUTHORITY'S TAX INCREMENT ADJUSTABLE RATE REVENUE REFUNDING AND IMPROVEMENT BONDS (BASE AREA REDEVELOPMENT PROJECT), SERIES 2009.

WHEREAS, the Steamboat Springs Redevelopment Authority (the "Authority") is a public body corporate and politic, and has been duly created, organized, established and authorized by the City of Steamboat Springs, Colorado to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting part 1 of article 25 of title 31, Colorado Revised Statutes, as amended (the "Act"); and

WHEREAS, pursuant to Section 31-25-109 of the Act, the Authority has the power and authority to issue bonds to finance the activities or operations permitted and authorized to be undertaken by the Authority under the Act; and

WHEREAS, pursuant to an Indenture of Trust dated as of December 22, 2009 (the "Indenture") between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), the Authority has issued its Tax Increment Adjustable Rate Revenue Refunding and Improvement Bonds (Base Area Redevelopment Project), Series 2009, in the original aggregate principal amount of \$17,500,000 (the "Bonds") for the purpose of financing the acquisition, construction and equipping of an urban renewal project as defined in the Indenture (the "Improvement Project") and refunding all the Authority's outstanding Tax Increment Adjustable Rate Revenue Bonds (Base Area Redevelopment Project), Series 2007; and

WHEREAS, a portion of the proceeds of the Bonds was deposited in the Construction Fund created in Section 302 of the Indenture (the "Construction Fund") to pay the costs of construction related to the Improvement Project upon receipt of a requisition from the Authority in accordance with the terms of the Indenture; and

WHEREAS, in order to provide security for the repayment of the Bonds, U.S. Bank National Association (the "Bank") has issued and delivered to the Trustee an irrevocable direct pay letter of credit (the "Letter of Credit") and for the purpose of, among other things, setting forth the Authority's reimbursement obligations relating thereto, the Authority has entered into a Letter of Credit Reimbursement Agreement with the Bank dated as of December 22, 2009 (the "Reimbursement Agreement"); and

WHEREAS, after the issuance of the Bonds and the delivery of the Letter of Credit, the Authority's expected revenues have decreased due primarily to a reduction in the mill levy of Steamboat Springs School District Re-2 from 22.0 mills to 11.6 mills; and

WHEREAS, due to the decline in expected Authority revenues, and in order to comply with the terms and provisions of the Reimbursement Agreement , the Bank has requested that the Authority agree to maintain a minimum balance in the Construction Fund of \$2,500,000 to offset the reduction in the Authority's expected revenues; and

WHEREAS, the Board of Commissioners of the Authority (the "Board") has determined and hereby determines that it is in the best interests of the Authority that the Authority agrees to maintain such minimum balance in the Construction Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE STEAMBOAT SPRINGS REDEVELOPMENT AUTHORITY, COLORADO, THAT:

Section 1. The Board hereby covenants that, so long as the Bonds are outstanding, the Letter of Credit is in effect, and the Bank has not failed to honor a draw request on the Letter of Credit in accordance with the terms and provisions thereof, the Authority shall maintain a minimum balance in the Construction Fund of \$2,500,000, unless the Bank, in its sole discretion, consents in writing to withdrawals from the Construction Fund that would reduce the balance therein below such minimum amount. The Board further covenants that it shall provide written instructions to the Trustee in substantially the form of Exhibit A attached hereto and by this reference made a part hereof in order to implement the foregoing covenant. The Board covenants that it will not provide any future written instructions to the Trustee which in any way modify the instructions contained in Exhibit A without the prior written consent of the Bank, which consent shall be evidenced by the Bank's execution of any subsequent instructions to the Trustee. The Board further acknowledges and agrees that the Bank shall at all times have the right to enforce the covenant made in this Section 1 provided that at the time of such enforcement the Bank has not failed to honor a draw request under the Letter of Credit in accordance with the terms and provisions thereof and the Letter of Credit is then in effect. Notwithstanding the foregoing or any other provision of this resolution to the contrary, the foregoing covenant and agreement shall take effect only upon receipt by the Authority of a Certificate executed by an authorized officer of the Bank in substantially the form of Exhibit B attached hereto and by this reference made a part hereof.

Section 2. The officers of the Authority shall take all action which they deem necessary or reasonably required to carry out the purpose and intent of this resolution.

Section 3. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 4. All bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order or resolution or part thereof.

Section 5. This resolution shall be in full force and effect immediately upon its passage and approval.

PASSED, ADOPTED AND APPROVED this May 7, 2010.

Cari Hermacinski, Chair
Board of Commissioners

ATTEST:

Jon B. Roberts, Secretary/Executive Director
Board of Commissioners

Exhibit A

(Form of Written Instructions to Trustee)

U.S. Bank National Association, as trustee
950 17th Street, 12th Floor
Denver, CO 80202
Attention: Corporate Trust Department

Re: Steamboat Springs Redevelopment Authority – Construction Fund

Pursuant to an Indenture of Trust dated as of December 22, 2009 (the “Indenture”) between the Steamboat Springs Redevelopment Authority (the “Authority”) and U.S. Bank National Association, as trustee (the “Trustee”), the Authority has issued its Tax Increment Adjustable Rate Revenue Refunding and Improvement Bonds (Base Area Redevelopment Project), Series 2009, in the original aggregate principal amount of \$17,500,000 (the “Bonds”) and deposited a portion of the proceeds of the Bonds in the Construction Fund created in Section 302 of the Indenture (the “Construction Fund”). The Indenture provides that moneys on deposit in the Construction Fund are to be disbursed by the Trustee to pay the costs of construction related to the Improvement Project (as defined in the Indenture) upon receipt of a requisition from the Authority in accordance with the terms of the Indenture.

The undersigned authorized representative of the Authority hereby directs the Trustee to maintain a minimum balance in the Construction Fund equal to \$2,500,000, unless U.S. Bank National Association (the “Bank”), in its capacity as provider of the Letter of Credit (as defined in the Indenture) consents in writing, in its sole discretion, to the reduction of such minimum balance, and except as hereinafter provided. These instructions to the Trustee by the Authority were authorized pursuant to a Resolution adopted by the Board of Commissioners of the Authority on May 7, 2010, and may not be changed, terminated or revoked without the written consent of the Bank, except as hereinafter provided. Accordingly, the Trustee shall not release any funds pursuant to a Construction Fund requisition which, if disbursed, would result in a minimum balance in the Construction Fund of less than \$2,500,000.

Notwithstanding the foregoing, these instructions shall automatically terminate, and the Trustee shall not be required to maintain a minimum balance in the Construction Fund, upon the occurrence of any of the following events: (a) the defeasance in whole of all the outstanding Bonds, (b) written notice to the Trustee from the Authority and the Bank that the Letter of Credit issued by the Bank has been terminated or replaced or has expired and confirming that no amounts are due and owing to the Bank under the Reimbursement Agreement (as defined in the Indenture), or (c) the Trustee makes a demand for payment under the Letter of Credit and the Bank does not honor such draw request in accordance with the terms thereof, in which case the Trustee shall notify the Authority and the Bank in writing of such failure and of the automatic termination of these instructions.

The Authority acknowledges and agrees that so long as the Letter of Credit is in effect and the Bank is honoring draw requests thereunder in accordance with the terms and provisions thereof, the Bank shall have the right to enforce these instructions to the Trustee by specific performance, or by any other remedies available at law or in equity.

THE TRUSTEE IS NOT AUTHORIZED TO ACCEPT ANY WRITTEN INSTRUCTIONS MODIFYING THE TERMS OF THESE INSTRUCTIONS UNLESS SUCH MODIFIED INSTRUCTIONS ARE APPROVED BY THE BANK, AS EVIDENCED BY THE BANK'S SIGNATURE THEREON.

STEAMBOAT SPRINGS REDEVELOPMENT
AUTHORITY

By: _____
Secretary/Executive Director, Board of
Commissioners

ACKNOWLEDGED BY TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION,
a national banking association,
in its capacity as Trustee under the Indenture (defined above)

By: _____
Sandra L. Richelmy, Assistant Vice President

Exhibit B

WAIVER AND CURE

Upon adoption of Resolution No. SSRA-2010 - ____ (the "Resolution") by the Board of Commissioners of the Steamboat Springs Redevelopment Authority (the "Authority") and the delivery of the instructions set forth as Exhibit A thereto, U.S. Bank National Association (the "Bank") hereby irrevocably waives any event of default under Section 7.01(c) of the Letter of Credit Reimbursement Agreement dated December 22, 2009 (the "Reimbursement Agreement") related to the reduction in the mill levy of Steamboat Springs School District Re-2 (the "School District") from 22.0 mills to 11.6 mills and any event of default under Section 501(e)(iii) of the Reimbursement Agreement resulting from a failure by the Authority to file the certificate required thereunder by January 31, 2010, and the Bank hereby irrevocably agrees that any event of default under Section 7.01(j) of the Reimbursement Agreement related to the change in the Authority's financial condition due to the reduction of the School District's mill levy has been cured by the adoption of the Resolution and the delivery of such instructions.

The Bank further represents that upon adoption of the Resolution and the delivery of the instructions set forth as Exhibit A thereto, no uncured Event of Default by the Authority (as defined in the Reimbursement Agreement) has occurred and is continuing, nor any event, circumstance or condition which with notice or passage of time or both would be an Event of Default under the Reimbursement Agreement.

U.S. BANK NATIONAL ASSOCIATION, a
national banking association

By _____
Rob L. Stuart, Vice President