RESOLUTION - ACTION REQUESTED 2020-254

MEETING: May 19, 2020

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Temporary Amendment to County Fire Protection Agreement for the Tenaya Cabins Project

RECOMMENDATION AND JUSTIFICATION:

Approve a Temporary Amendment to the County Fire Protection Agreement for the Tenaya Cabins Project with DNC Parks & Resorts at Tenaya, Inc. Due to Impacts of COVID-19; and Authorize the Board of Supervisors Chair to Sign the Amendment.

The County Fire Protection Agreement for the Tenaya Cabins Project with DNC Parks & Resorts at Tenaya, Inc. (DNC) was required as mitigation for the Tenaya Cabins Project, resulting from findings of the Environmental Impact Report (EIR).

DNC recently requested amendments to the Fire Protection Agreement for adjusted hours and staffing for fire protection personnel as required by the existing agreement on a temporary basis due to impacts of COVID-19.

The Tenaya Cabins Project is temporarily closed based on the County Health Officer’s Order on April 6, 2020 which finds that use of short-term lodging for non-COVID-19 purposes is a direct violation of the Governor’s Stay-at-Home Order.

DNC requested the reduced fire protection personnel services during the mandatory closure period.

County Fire, Counsel and Planning have conferred regarding the matter and the following amendments are supported:

1. Allow for reduced hours to 8 am to 5 pm 7 days a week
2. Continue to provide a minimum of two (2) responders during the adjusted hours
3. Amendments are temporary and will cease when the County Health Officer’s Covid-19 Closure Order is lifted

All other agreement provisions stay in tact.
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BACKGROUND AND HISTORY OF BOARD ACTIONS:


ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives: Board could request additional amendments.
Negative Action: Do not approve amendment. No change to the provisions of existing fire protection requirements.

FINANCIAL IMPACT:

none

ATTACHMENTS:

Tenaya Cabins Fire Protection Agreement- Temporary Amendment (COVID19) (PDF)
Attachment A - Tenaya Cabins Fire Protection Agreement Res. 2018-161 (PDF)
Attachment B - Amended and Restated Tenaya Cabins Fire Protection Agreement Res. 2019-288 (PDF)

RESULT: ADOPTED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
TEMPORARY AMENDMENT TO THE
AMENDED AND RESTATED COUNTY FIRE PROTECTION AGREEMENT
FOR THE TENAYA CABINS PROJECT

THIS TEMPORARY AMENDMENT TO THE AMENDED AND RESTATED COUNTY FIRE PROTECTION AGREEMENT FOR THE TENAYA CABINS PROJECT ("Temporary Amendment") dated May 19, 2020, for reference purposes only, is by and between DNC Parks & Resorts at Tenaya, Inc. a Delaware corporation ("Owner") and the County of Mariposa, California ("County") and is made on the basis of the following facts, intentions and understandings.

A. The Tenaya Cabins Project ("Project") received Mariposa County Board of Supervisors (the "Board") Certification of the Environmental Impact Report ("EIR") by Resolution No. 2017-434, to which were attached Mitigation Measures ("Mitigation Measures").


C. Condition No. 23 states:

Prior to the issuance of the any building or grading permits, the County Fire Chief shall provide the Planning Director with a letter certifying that the permit holder has entered into a written agreement satisfying the requirements of the County Fire Department for fire protection and demonstrates compliance with EIR mitigation Measure 4.13-3. The County Fire Chief shall provide a copy of the written agreement with the certification letter. The agreement shall, at a minimum, enumerate each mitigation measure identified in the Environmental Impact Report for fire protection and shall affirmatively state the measure’s inclusion in the agreement or alternatives accomplishing the same objective as required by the mitigation measure that are incorporated into the agreement.

D. Resolution No. 2018-161 approved the County Fire Protection Agreement for the Tenaya Cabins Project on April 10, 2018, implementing the requirements of the applicable Conditions and Mitigation Measures.

E. Resolution No. 2019-288 approved the Amended and Restated County Fire Protection Agreement for the Tenaya Cabins Project ("Amended and Restated Agreement") on May 28, 2019.

F. Owner has subsequently requested amendments to the Amended and Restated Agreement to adjust the hours and staffing for fire protection personnel as required by the Amended and Restated Agreement on a temporary basis due to the impacts of COVID-19. The Project is temporarily closed based on the County Health Officer’s Order of April 6, 2020, which finds that use of short-term lodging for non-COVID-19 purposes is a direct violation of the Governor’s Stay-at-Home Order.
G. Owner and County agree to enter into this Temporary Amended Agreement specifically to address the matter of fire protection during the mandatory closure of the Project due to COVID-19 as follows.

1. **Staffing, Hours and Training**

   a. Owner shall provide a minimum of two (2) responders in accordance with the terms of the Amended and Restated Agreement between 8 a.m. and 5 p.m., seven (7) days a week.

   b. All other provisions of the Amended and Restated Agreement shall remain in full force and effect.

2. **Term**

   The term of this Temporary Amendment shall be during the mandatory closures due to COVID-19 Public Health Officer Orders. At such time as the County Health Officer determines short-term lodging facilities may be open, this amendment becomes null and void.

IN WITNESS WHEREOF, Owner and County have executed this Temporary Amendment as of the date first stated above.

Owner: DNC Parks & Resorts at Tenaya, Inc

By: [Signature]

Name: DANIEL LYUL

Title: GENERAL MANAGER

County: County of Mariposa

By: [Signature]

Kevin Cann, Chair
Board of Supervisors

ATTEST:

René LaRoche
Clerk of the Board

APPROVED AS TO FORM:

Steven W. Dahlem
County Counsel