Resolution 23-314

ITEM TO INCLUDE ON AGENDA

CITY OF COUNCIL BLUFFS, IOWA
November 13, 2023
7:00 P.M.

- Resolution declaring the Purchase, Sale, and Development Agreement by and between the City of Council Bluffs and CB-WLG Affordable Limited Partnership terminated in its entirety and approving and authorizing execution, delivery, and recording of the Notice of Termination

IMPORTANT INFORMATION

1. The above agenda items should be included, along with any other agenda items, in the meeting agenda. The agenda should be posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building in which the meeting is to be held.

2. If you do not now have a bulletin board designated as above mentioned, designate one and establish a uniform policy of posting your notices of meeting and tentative agenda.

3. Notice and tentative agenda must be posted at least 24 hours prior to the commencement of the meeting.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE CHAPTER 21 AND THE LOCAL RULES OF THE CITY.

November 13, 2023

The City Council of the City of Council Bluffs in the State of Iowa, met in regular session, in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at 7:00 P.M., on the above date. There were present Mayor Walsh, in the chair, and the following named Council Members:

_____

_____

Absent: _____

Vacant: _____

* * * * * * *

Council Member _____ introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION DECLARING THE PURCHASE, SALE, AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND CB-WLG AFFORDABLE LIMITED PARTNERSHIP TERMINATED IN ITS ENTIRETY AND APPROVING AND AUTHORIZING EXECUTION, DELIVERY, AND RECORDING OF THE NOTICE OF TERMINATION", and moved:

☐ that the Resolution be adopted.

☐ to defer action on the Resolution and the proposal to the meeting to be held at _____ _____.M. on the _____ day of _____, 2023, at _____.

Council Member _____ seconded the motion. The roll was called and the vote was,

AYES: _____

_____

NAYS: _____

Whereupon, the Mayor declared the measure duly adopted.

RESOLUTION NO. 23-314

RESOLUTION DECLARING THE PURCHASE, SALE, AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND CB-WLG AFFORDABLE LIMITED PARTNERSHIP TERMINATED IN ITS ENTIRETY AND APPROVING AND AUTHORIZING EXECUTION, DELIVERY, AND RECORDING OF THE NOTICE OF TERMINATION

WHEREAS, the City of Council Bluffs, Iowa ("City") and CB-WLG Affordable Limited Partnership (the "Developer") entered into a Purchase, Sale, and Development Agreement on September 13, 2021 approved by the City pursuant to Resolution No. 21-262 (the "Agreement"); and

WHEREAS, the Developer has failed to enter into an agreement with Iowa Finance Authority that meets the criteria for the "State Agreement" and has failed to enter into an agreement with the Omaha/Council Bluffs Interlocal HOME Consortium that meets the criteria for the "Interlocal HOME Agreement", which were required by Section 3.1 of the Agreement as a condition precedent to the City's transfer of the Development Property to the Developer, and this failure is an Event of Default under the Agreement; and

WHEREAS, on October 12, 2023, the City sent the Developer a Notice of Default in the manner required by the terms of the Agreement, which Notice of Default identified the above-described violations of the Agreement (the "Events of Default"); and

WHEREAS, the Developer has not cured the Events of Default and remains in violation of the terms of the Agreement; and

WHEREAS, City staff has caused a Notice of Termination to be prepared to document termination of the Agreement; and

WHEREAS, this Council now desires to terminate the Agreement and to authorize City staff to take additional action with respect to the terminated Agreement as may be needed.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS IN THE STATE OF IOWA:

Section 1. That the Agreement is hereby terminated in its entirety.

Section 2. That the form and content of the Notice of Termination, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal, deliver, and record the Notice of Termination for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers.

Section 3. That City staff are hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and document the termination of the Agreement.

PASSED AND APPROVED this 13th day of November, 2023.

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

I, the undersigned City Clerk of the City of Council Bluffs, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the City hereto affixed this 14th day of November, 2023.

City Clerk, City of Council Bluffs, State of Iowa

(SEAL)

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