RESOLUTION 19-270

ITEM TO INCLUDE ON AGENDA

CITY OF COUNCIL BLUFFS, IOWA
November 18, 2019
7:00 P.M.

Playland Park Urban Renewal Plan

- Resolution fixing date for a public hearing on the proposal to enter into an Amended and Restated Agreement for Private Development with Argent Baxter JV - Council Bluffs, LLC.

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 CHAPTER 21,
CODE OF IOWA, AND THE LOCAL RULES OF THE CITY.

November 18, 2019

The City Council of the City of Council Bluffs in the State of Iowa, met in _____ 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 _____, in the chair, and the following named Council Members:

_____

Absent: _____

Vacant: _____

* * * * * * * *

Council Member _____ then introduced the following proposed Resolution entitled "RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO AN AMENDED AND RESTATED AGREEMENT FOR PRIVATE DEVELOPMENT WITH ARGENT BAXTER JV - COUNCIL BLUFFS, LLC., AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member _____ seconded the motion to adopt. The roll was called, and the vote was:

AYES: _____

_____

NAYS: _____

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. 19-270

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO AN AMENDED AND RESTATED AGREEMENT FOR PRIVATE DEVELOPMENT WITH ARGENT BAXTER JV - COUNCIL BLUFFS, LLC., AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

WHEREAS, by Resolution No. 03-138, adopted June 23, 2003, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Playland Park Urban Renewal Plan (the "Urban Renewal Plan" or "Plan") for the Playland Park Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan as amended, is on file in the office of the Recorder of Pottawattamie County; and

WHEREAS, the Plan has been amended by Amendment No. 1 in 2005, Amendment No. 2 in 2009, Amendment No. 3 in 2004, Amendment No. 4 in 2006, and is proposed to be further amended by an Amendment No. 5, planned for the Council's consideration on December 16, 2019; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the City of Council Bluffs, Iowa ("City") and Argent Development Group, L.L.C. ("Former Developer") entered into an Agreement for Private Development on March 28, 2017 ("Original Agreement"); and

WHEREAS, pursuant to the Original Agreement, the Former Developer was to cause certain Minimum Improvements to be constructed in connection with an urban renewal project identified in to the Plan, as amended, for the redevelopment of certain real property located within the Urban Renewal Area and legally described as Block 1, River's Edge Subdivision, Council Bluffs, Iowa (the "Development Property"); and

WHEREAS, the Former Developer has not initiated performance under the terms of the Original Agreement; and

WHEREAS, the City has received a proposal from Argent Baxter JV-Council Bluffs, LLC (the "Developer"), in the form of a proposed Amended and Restated Agreement for Private Development (the "Agreement") by and between the City and the Developer, which would replace the Original Agreement and would establish new terms for the project; and

WHEREAS, pursuant to the terms of the Agreement, among other things, the City would agree to sell the Development Property to the Developer for redevelopment, and the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) on the Development Property, consisting of the construction of a single residential tower to consist of up to 210 rental units and 24 "for sale" units, together with all related site improvements, as outlined in the proposed Agreement; and

WHEREAS, the Former Developer consents to the City and Developer entering into this Amended and Restated Agreement with respect to the development of the Development Property; and

WHEREAS, the Agreement further proposes that the City will make up to eighteen (18) consecutive annual payments of Grants to Developer consisting of 75% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of $23,000,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the Agreement also proposes that Developer and the City will enter into an Amended and Restated Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than $45,000,000; and

WHEREAS, Chapters 15A and 403, Code of Iowa, (the "Urban Renewal Law") authorize cities to make grants for economic development in furtherance of the objectives of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate blight remediation activities and objectives of the City within the meaning of Chapters 15A and 403, Code of Iowa, taking into account the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 364.6,Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the City Clerk publish notice of the proposal and of the time and place of the meeting at which the Council proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said City to such action.

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

Section 1. That this Council meet in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at 7:00 P.M. on December 16, 2019, for the purpose of taking action on the matter of the proposal to enter into an Amended and Restated Agreement for Private Development with Argent Baxter JV - Council Bluffs, LLC.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS IN THE STATE OF IOWA, ON THE MATTER OF THE PROPOSAL TO ENTER INTO AN AMENDED AND RESTATED AGREEMENT FOR PRIVATE DEVELOPMENT WITH ARGENT BAXTER JV - COUNCIL BLUFFS, LLC., AND THE HEARING THEREON

PUBLIC NOTICE is hereby given that the Council of the City of Council Bluffs in the State of Iowa, will hold a public hearing on December 16, 2019, at 7:00 P.M. in the Council Chambers, City Hall, 209 Pearl Street, Council Bluffs, Iowa, at which meeting the Council proposes to take action on the proposal to enter into an Amended and Restated Agreement for Private Development (the "Agreement") with Argent Baxter JV - Council Bluffs, LLC. (the "Developer").

Pursuant to the terms of the Agreement, the City would sell certain real property located within the Playland Park Urban Renewal Area to the Developer, which property is legally described as: Block 1, River's Edge Subdivision, Council Bluffs, Iowa (the "Development Property"). The Agreement would obligate the Developer to construct certain Minimum Improvements (as defined in the Agreement) on the Development Property, consisting of the construction of a single residential tower to consist of up to 210 rental units and 24 "for sale" units, together with all related site improvements, under the terms and following satisfaction of the conditions set forth in the Agreement.

The Agreement would further obligate the City to make up to eighteen (18) consecutive annual payments of Grants to Developer consisting of 75% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of $23,000,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement.

The Agreement also proposes that Developer and the City will enter into an Amended and Restated Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than $45,000,000.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the City Clerk, City Hall, City of Council Bluffs, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City, to the proposal to enter into the Agreement with the Developer. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the City Council of the City of Council Bluffs in the State of Iowa, as provided by Section 364.6, Code of Iowa.

Dated this _____ day of _____, 2019.

_____

City Clerk, City of Council Bluffs in the State of Iowa

(End of Notice)

PASSED AND APPROVED this 18th day of November, 2019.

_____
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 records of the City showing proceedings of the 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 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 Council hereto affixed this _____ day of _____, 2019.

_____
City Clerk, City of Council Bluffs, State of Iowa

(SEAL)

01653098-1\10342-143