**Resolution 19-279**

**ITEMS TO INCLUDE ON AGENDA**

**CITY OF COUNCIL BLUFFS, IOWA**
December 16, 2019
7:00 P.M.

Playland Park Urban Renewal Plan

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

- Resolution approving and authorizing execution of an Amended and Restated Agreement for Private Development by and between the City of Council Bluffs and 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.

December 16, 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: _____

* * * * * * * * *

The Mayor announced that this was the time and place for the public hearing and meeting on the matter of the proposal to approve and authorize execution of an Amended and Restated Agreement for Private Development by and between the City of Council Bluffs and Argent Baxter JV - Council Bluffs, LLC., and that notice of the proposed action by the Council to enter into said Agreement had been published pursuant to the provisions of Section 362.3, Code of Iowa.

The Mayor then asked the Clerk whether any written objections had been filed by any City resident or property owner to the proposed action. The Clerk advised the Mayor and the Council that _____ written objections had been filed. The Mayor then called for oral objections and _____ were made. Whereupon, the Mayor declared the time for receiving oral and written objections to be closed.

**(Attach here a summary of objections received or made, if any)**

The Council then considered the proposed action and the extent of objections thereto.

Whereupon, Council Member _____ introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDED AND RESTATED AGREEMENT FOR PRIVATE DEVELOPMENT BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND ARGENT BAXTER JV - COUNCIL BLUFFS, LLC.", 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 _____, 2019, at this place.

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. 19-279

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDED AND RESTATED AGREEMENT FOR PRIVATE DEVELOPMENT BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND ARGENT BAXTER JV - COUNCIL BLUFFS, LLC.

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 no more than 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 no more than $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, 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 Chapters, 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 economic development and blight remediation activities and objectives of the City within the meaning of Chapters 15A and 403, Code of Iowa, taking into account any or all of the factors set forth in Chapter 15A, Code of Iowa, to wit:

a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.

b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes, or which generate tourism-related activities.

c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.

d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds; and

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

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

Section 1. That the performance by the City of its obligations under the Agreement, including but not limited to making of grants to the Developer in connection with the development of the Development Property under the terms set forth in the Agreement, be and is hereby declared to be 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 economic development and 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.

Section 2. That the form and content of the Agreement, 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 and deliver the Agreement 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, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk 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 comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 16th day of December, 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)

01657869-1\10342-143