RESOLUTION 21-73

ITEM TO INCLUDE ON AGENDA

CITY OF COUNCIL BLUFFS, IOWA
February 22, 2021
7:00 P.M.

Playland Park Urban Renewal Plan

- Resolution approving and authorizing execution of an Amendment No. 1 to 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.

February 22, 2021

The City Council of the City of Council Bluffs in the State of Iowa, met in _____ session, in 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 _____ introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDMENT NO. 1 TO 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 _____, 2021, 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. 21-73

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDMENT NO. 1 TO 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, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan, as amended; and

WHEREAS, the City of Council Bluffs, Iowa ("City") and Argent Development Group, L.L.C. ("Former Developer") previously entered into an Agreement for Private Development dated March 28, 2017 ("Original Agreement") regarding the development of certain property within the Urban Renewal Area ("Development Property"), which Original Agreement was replaced in its entirety by an Amended and Restated Agreement between the City and Argent Baxter JV – Council Bluffs, LLC ("Developer") dated December 16, 2019 ("Amended and Restated Agreement"); and

WHEREAS, the Former Developer assigned all of its rights and obligations under the Original Agreement to the Developer and consented to the City and Developer entering into the Amended and Restated Agreement with respect to the development of the Development Property; and

WHEREAS, the Amended and Restated Agreement included an Amended and Restated Minimum Assessment Agreement between the City and the Developer ("Amended and Restated Minimum Assessment Agreement"), which replaced the minimum assessment agreement executed in connection with the Original Agreement in its entirety; and

WHEREAS, pursuant to a proposed Amendment No. 1 to the Amended and Restated Agreement ("Amendment"), the Parties desire to amend certain terms in the timeline for the Project described in the Amended and Restated Agreement, authorize an assignment of the Amended and Restated Agreement, as amended, to Moselle CB, LLC ("Assignee") pursuant to the terms of the Amendment, and update the description of the Minimum Improvements; 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 Amendment and the Amended and Restated Agreement, as proposed to be amended, 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 Amendment and the City's performance under the Amended and Restated Agreement, as proposed to be amended, is in furtherance of appropriate economic development 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, 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 Amended and Restated Agreement as amended by the Amendment 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 Amended and Restated Agreement as amended by the Amendment and the City's performance thereunder is in furtherance of appropriate economic development 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 Amendment, 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 Amendment 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 Amendment, 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 Amendment as executed.

PASSED AND APPROVED this 22nd day of February, 2021.

_____
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 _____, 2021.

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

(SEAL)

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