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2021-12153

RECORDER MARK BRANDENBURG

POTTAWATTAMIE COUNTY, IA

FILE TIME: 07/29/2021 02:07:18 PM

RECORDING FEE	55.00
RMA FEE	1.00
ECM FEE	1.00

R FEES \$ 55.00 RMA \$ 1.00
 A FEES \$ _____ ECOM \$ 1.00
 T TAX \$ _____

Type of Document: MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT BETWEEN THE CITY OF COUNCIL BLUFFS AND ROBERT MCCARTHY

Resolution 21-196

Return Document to: Jodi Quakenbush
 209 Pearl Street
 Council Bluffs, Iowa 51503

Preparer Information: Nathan J. Overberg
 Ahlers & Cooney, P.C.
 100 Court Ave., Ste. #600
 Des Moines, IA 50309
 (515) 243-7611

Taxpayer Information: N/A

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See first page of the Memorandum of Agreement for Private Development.

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RESOLUTION 21-196

ITEMS TO INCLUDE ON AGENDA

CITY OF COUNCIL BLUFFS, IOWA

June 28, 2021

7:00 P.M.

New Horizon Urban Renewal Plan

- Public hearing on the proposal to enter into a Development Agreement with Robert McCarthy.
- Resolution approving and authorizing execution of a Development Agreement by and between the City of Council Bluffs and Robert McCarthy.

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.**

June 28, 2021

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:

Disalvo, Hannan, Head, Sandau and Wolf

Absent: n/a

Vacant: n/a

* * * * *

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 a Development Agreement by and between the City of Council Bluffs and Robert McCarthy, 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 zero written objections had been filed. The Mayor then called for oral objections and zero 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 Sandau introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF COUNCIL BLUFFS AND ROBERT MCCARTHY", 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 Head seconded the motion. The roll was called, and the vote was:

AYES: Disalvo, Hannan, Head, Sandau and Wolf

NAYS: n/a

Whereupon, the Mayor declared the measure duly adopted.

RESOLUTION NO. 21-196

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF A DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF COUNCIL BLUFFS AND ROBERT
MCCARTHY

WHEREAS, by Resolution No. 21-152, adopted May 24, 2021, 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 New Horizon Urban Renewal Plan (the "Urban Renewal Plan" or "Plan") for the New Horizon Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan 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; and

WHEREAS, the City has received a proposal from Robert McCarthy (the "Developer"), in the form of a proposed Development Agreement (the "Agreement") by and between the City and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Infrastructure Improvements, approximately 36 single-family Housing Units, and all related site improvements (the "Minimum Improvements", as further defined in the Agreement) on certain real property located within the Urban Renewal Area as defined and legally described in the Agreement (the "Development Property"), as outlined in the proposed Agreement; and

WHEREAS, the Agreement further proposes that, under the terms and following Developer's satisfaction of the conditions set forth in the Agreement, the City will make up to ten (10) annual payments of Economic Development Grants to Developer, each payment equal to 100% of the Tax Increment annually generated by the construction of the Minimum Improvements and collected pursuant to Iowa Code Section 403.19 and remaining after the City has set aside a portion of the Tax Increment to satisfy the LMI assistance requirements of Iowa Code Chapter 403; starting the first fiscal year in which Tax Increment generated by the construction of the Minimum Improvements is collected pursuant to Iowa Code Section 403.19 and ending after ten (10) Grants have been made, or in the fiscal year that the maximum cumulative total of the Grants has been paid or the Agreement terminates, whichever is sooner; the cumulative total for all Grants not to exceed the lesser of (i) the amount of the Developer's certified costs and expenses in constructing the Infrastructure Improvements, (ii) \$600,000, or (iii) the amount of Tax Increment generated by the construction of the Minimum Improvements and collected pursuant to Iowa Code Section 403.19 over a 10-year period; 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 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 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 28th day of June, 2021.



Mayor

ATTEST:



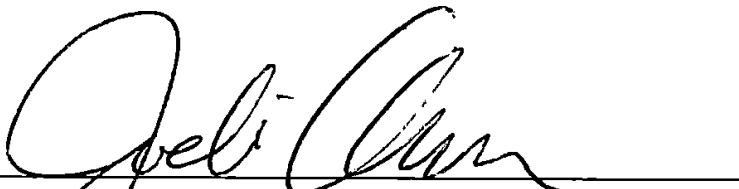
City Clerk

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 29th day of June, 2021.



City Clerk, City of Council Bluffs, State of Iowa

(SEAL)

Proof Of Publication

State of Iowa

Pottattwattamie County

I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 20th day of June, 2021.



Billing Representative

Sworn to and subscribed before me this 20th day of June, A.D. 2021.



Notary Public

Kimberly Kay Harris
NOTARY PUBLIC
Commonwealth of Virginia
Reg. No. 356753
Commission Exp. Jan. 31, 2025

State of Virginia
County of Hanover
My Commission expires _____

CITY OF COUNCIL BLUFFS
209 PEARL ST.
COUNCIL BLUFFS, IA 51503

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E-mail

jquakenbush@councilbluffs-ia.gov

**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 A DEVELOPMENT
AGREEMENT WITH ROBERT MCCARTHY, AND
THE HEARING THEREON**

Iowa
2021 (6) 20-1 Sunday

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 June 28, 2021, 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 a Development Agreement (the "Agreement") with Robert McCarthy (the "Developer").

The Agreement would obligate the Developer to construct certain Infrastructure Improvements and Housing Units (the "Minimum Improvements", as further defined in the Agreement) on certain real property located within the proposed New Horizon Urban Renewal Area as defined and legally described in the Agreement (the "Development Property"). The Minimum Improvements are expected to include approximately 36 single-family Housing Units, and the Infrastructure Improvements include streets, sanitary sewer, storm sewer, and other infrastructure to be completed by Developer and dedicated to the City.

The Agreement would further obligate the City to make up to ten (10) annual payments of Economic Development Grants to Developer, under the terms of the Agreement. Each Grant payment would be equal to 100% of the Tax Increment annually generated by the construction of the Minimum Improvements and collected pursuant to Iowa Code Section 403.19 and remaining after the City has set aside a portion of the Tax Increment to satisfy the LMI assistance requirements of Iowa Code Chapter 403. Subject to the terms and conditions of the Agreement, the Grants would start the first fiscal year in which Tax Increment generated by the construction of the Minimum Improvements is collected pursuant to Iowa Code Section 403.19 and would end after 10 Grants have been made, or in the fiscal year that the maximum cumulative total of the Grants has been paid or the Agreement terminates, whichever is sooner; the cumulative total for all Grants is not to exceed the lesser of (i) the amount of the Developer's certified costs and expenses in constructing the Infrastructure Improvements, (ii) \$600,000, or (iii) the amount of Tax Increment generated by the construction of the Minimum Improvements and collected pursuant to Iowa Code Section 403.19 over a 10-year period, as described in the Agreement.

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 _____,
2021.

City Clerk, City of Council Bluffs in the State of