



**CITY OF WAUKEE, IOWA
CITY COUNCIL MEETING COMMUNICATION**

MEETING DATE: January 3, 2022

AGENDA ITEM: Consideration of approval of a resolution approving and authorizing execution of a Second Amended and Restated Agreement for Private Development by and among the City of Waukeee, The Quarter at Waukeee, LLC, and Waukeee Prairie Apartments, LLC

FORMAT: Resolution

SYNOPSIS INCLUDING PRO & CON:

FISCAL IMPACT INCLUDING COST/BENEFIT ANALYSIS:

COMMISSION/BOARD/COMMITTEE COMMENT:

STAFF REVIEW AND COMMENT:

RECOMMENDATION: Approve the resolution.

ATTACHMENTS: I. Proposed Resolution

PREPARED BY: Becky Schuett

REVIEWED BY:

PUBLIC NOTICE INFORMATION –

NAME OF PUBLICATION:

DATE OF PUBLICATION:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF A SECOND AMENDED AND RESTATED
AGREEMENT FOR PRIVATE DEVELOPMENT BY AND
AMONG THE CITY OF WAUKEE, THE QUARTER AT
WAUKEE, L.L.C., AND WAUKEE PRAIRIE APARTMENTS,
LLC

WHEREAS, by Resolution No. 19-402, adopted November 4, 2019, the City approved and adopted Amendment No. 1 to the Waukee Consolidated Urban Renewal Plan (the "Plan" or "Urban Renewal Plan"), which unified the existing Gateway Economic Development Urban Renewal Area, Waukee West Urban Renewal Area, and Waukee Central Urban Renewal Area into the Waukee Consolidated Urban Renewal Area (the "Area" or "Urban Renewal Area") described therein, which Plan has been subsequently amended several times, most recently by Amendment No. 5 to the Plan approved by Resolution No. 2021-476 adopted on November 15, 2021, and which Plan, as amended, is on file in the office of the Recorder of Dallas 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 Waukee, Iowa (the "City") and Midtown Waukee Holdings, LLC (the "Original Developer") entered into an Agreement for Private Development on November 4, 2019 (the "Original Agreement"), pursuant to which the Original Developer was to cause certain Minimum Improvements to be constructed in connection with the redevelopment of certain real property located within the Urban Renewal Area (the "Development Property"); and

WHEREAS, the Original Agreement included a Minimum Assessment Agreement between the City and Original Developer also dated November 4, 2019; and

WHEREAS, the Development Property was subsequently transferred to The Quarter at Waukee, L.L.C. (the "Developer"), and the City, Developer, and Waukee Prairie Apartments, LLC subsequently entered into an Amended and Restated Agreement for Private Development (the "First Amended and Restated Agreement") along with a revised Minimum Assessment Agreement (the "First Amended and Restated MAA"), both dated August 3, 2020; and

WHEREAS, the City and Developer desire to amend and restate the terms of the First Amended and Restated Agreement and replace the First Amended MAA, by a proposed Second Amended and Restated Agreement for Private Development (the "Second Amended and Restated Agreement") and proposed new Minimum Assessment Agreement to (i) remove Waukee Prairie Apartments, LLC as a party, (ii) change the description of the Development Property and Minimum Improvements, (iii) change the terms for construction and operation of the Minimum Improvements on the Development Property, and (iv) change the minimum assessed values and maximum rebate amounts on the various commercial buildings and the surface parking lot to be constructed as the Minimum Improvements; and

WHEREAS, pursuant to the terms and conditions of the Second Amended and Restated Agreement, the City would make payments of Economic Development Grants to Developer, with the amounts of the payments to be calculated based on the Tax Increment generated by the various buildings and parking lot included in the Minimum Improvements and collected by the City under Iowa Code Section 403.19, under the formulas and schedules for the various buildings set forth in the Second Amended and Restated Agreement and subject to the terms and conditions of the Second Amended and Restated Agreement, with the cumulative maximum amount of all Economic Development Grants under the Second Amended and Restated Agreement not to exceed \$34,002,834; 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 Second Amended and Restated 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 Amendment and the City's performance under the Second Amended and Restated Agreement 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 Second Amended and Restated Agreement and has considered the extent of objections received from residents or

property owners as to said proposed Second Amended and Restated 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 WAUKEE IN THE STATE OF IOWA:

Section 1. That the performance by the City of its obligations under the Second Amended and Restated Agreement, including but not limited to the making of grants to the Developer in connection with the development of the Development Property under the terms set forth in the Second Amended and Restated 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 Second Amended and Restated 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 Second Amended and Restated 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 Second Amended and Restated 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 Second Amended and Restated 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 Second Amended and Restated Agreement as executed.

PASSED AND APPROVED this 3rd day of January, 2022.

Mayor

ATTEST:

City Clerk