F6.

ITEM TO INCLUDE ON AGENDA

CITY OF HIAWATHA, IOWA
July 18, 2018
5:30 P.M.

Hiawatha Urban Renewal Plan

- Consent of Transfer between Peck's Landing, LLC and Landing Investments, 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 IOWA CODE
CHAPTER 21 AND THE LOCAL RULES OF THE CITY.

July 18, 2018

The City Council of the City of Hiawatha in the State of Iowa, met in _____ session, in the Council Chambers, City Hall, 101 Emmons Street, Hiawatha, Iowa, at 5:30 P.M., on the above date. There were present Mayor _____, in the chair, and the following named Council Members:

_____

_____

Absent: _____

* * * * * * *

Whereupon, Council Member _____ introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF CONSENT LETTER AND ACKNOWLEDGEMENT TO THE TRANSFER OF THE AGREEMENT FOR PRIVATE DEVELOPMENT FROM PECK'S LANDING, LLC TO LANDING INVESTMENTS, 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 _____, 2018, at _____.

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. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF CONSENT LETTER AND ACKNOWLEDGEMENT TO THE TRANSFER OF THE AGREEMENT FOR PRIVATE DEVELOPMENT FROM PECK'S LANDING, LLC TO LANDING INVESTMENTS, LLC

WHEREAS, by Resolution No. 91-68, adopted June 19, 1991, and which has been amended 14 times, lastly by Amendment No. 14 as approved by Resolution No. _____ on July 18, 2018, 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 Hiawatha Urban Renewal Plan (the "Urban Renewal Plan" or "Plan") for the Hiawatha 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 Linn 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 previously entered into an Agreement for Private Development ("Agreement") with Peck's Landing, LLC (the "Developer") dated November 1, 2017; and

WHEREAS, the City has been asked to consent to the transfer of the Development Property (as defined in the Agreement) from Peck's Landing, LLC to Landing Investments, LLC, by execution of a Consent Letter (the "Consent"); and

WHEREAS, the Council has determined that the Consent 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

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

Section 1. That the form and content of the Consent, 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 Consent 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 Consent, 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 Consent as executed.

PASSED AND APPROVED this 18th day of July, 2018.

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF LINN)

I, the undersigned City Clerk of the City of Hiawatha, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of said Municipality showing proceedings of the Council, and the same is a true and complete copy of the action taken by said Council with respect to said 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 (a copy of the face sheet of said agenda being attached hereto) 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 said 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 said 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 said Municipality hereto affixed this _____ day of _____, 2018.

_____
City Clerk, City of Hiawatha, State of Iowa

SEAL

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Hiawatha!™

June 15, 2018

Joe Ahmann
1950 Boyson Road
Hiawatha, Iowa 52233

RE: Peck's Landing, LLC (First Addition) Agreement for Private Development

Dear Mr. Ahmann:

This letter is in regard to the conveyance by Peck's Landing, LLC ("Developer") to Landing Investments, LLC by Warranty Deed dated May 14, 2018, of the property legally described as Lot 1, Peck's Landing First Addition in the City of Hiawatha, Linn County, Iowa ("Development Property").

The Development Property is the subject of a certain Agreement for Private Development by and between the City of Hiawatha ("City") and Developer dated November 1, 2017 ("Agreement"). By execution of the Agreement, per the provisions of Section 7.1 of the Agreement, Developer agreed that it would not "transfer, convey, or assign its interest in the Development Property . . . to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing *in advance thereof* . . ." (emphasis added).

Section 10.1(c) of the Agreement provided that a transfer of Developer's interest in the Development Property in violation of the provisions of the Agreement would be an Event of Default under the Agreement. Therefore, by failing to seek the City's consent to the conveyance of the Development Property in advance of such conveyance, the Developer has caused an Event of Default to occur.

Notwithstanding this Event of Default, by this letter, the City hereby acknowledges the Developer's transfer of the Development Property to Landing Investments, LLC and consents thereto. By such consent, the City represents that it will not pursue the remedies that are available to the City under the Agreement with respect to this Event of Default and that it will continue to perform under the terms of the Agreement, including the potential payment of Economic Development Grants, which Grants shall be paid under the terms of the Agreement to Developer, if all conditions of the Agreement thereto are satisfied.

The City's consent is given for the limited scope of the above-described conveyance and shall not serve as a waiver of any other Event of Default that has occurred or may occur.

City of Hiawatha, Iowa

By: _____
Mayor

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