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October 29, 2019

Letter, agenda item and resolution, and notice of public hearing sent via e-mail; letter and enclosures sent via overnight mail

Cindy Kudrna, Finance Director
City of Hiawatha
City Hall
101 Emmons Street
Hiawatha, IA 52233-1697

RE: City of Hiawatha - Development Agreement with R&S Properties, L.L.C. and Midland Concrete Products, LLC - Setting Notice of Public Hearing (November 6, 2019)

Dear Cindy:

We have now prepared and are enclosing herewith suggested proceedings to be acted upon by the Council in fixing the date for a public hearing on the proposal to enter into a Development Agreement with R&S Properties, L.L.C. and Midland Concrete Products, LLC, and ordering publication of notice of said public hearing.

The notice of public hearing should be published one time in a newspaper having general circulation in the City not less than 4 nor more than 20 days before the date of the hearing.

Proceedings for the approval of the Development Agreement on November 20, 2019, will be sent in the near future. We will need to have the proposed terms for the Development Agreement agreed upon between the Developer, Tenant, and the City staff by the publication date, because our Notice tells the public that a copy of the proposed Agreement is on file at the City Clerk's office.

Note: The enclosed Notice was drafted based on information current as of the date of this letter. If material changes are made in the current draft of the Development Agreement, the enclosed Notice of Public Hearing may not be effective. Accordingly, the Notice would have to be re-published for a later meeting.

An extra copy of the proceedings along with a certificate documenting publication of notice is enclosed to be filled in as original and returned to this office.

If you have any questions, please do not hesitate to contact me.

Ahlers & Cooney, P.C.

Sincerely,

By: Jenna Bishop
Jenna H. Bishop

JHB: mp

cc: Amy Scheer, Deputy City Clerk (w/ stamped and clean copies)

Enclosures: Agenda Item with Important Instructions; Resolution Fixing Date; Notice of Public Hearing; Certificate of Publisher's Affidavit of Publication

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DRAFT

RESOLUTION NO. 19-
City Council

RESOLUTION SETTING PUBLIC HEARING DATE FOR THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH R&S PROPERTIES, L.L.C. AND MIDLAND CONCRETE PRODUCTS, LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA to direct the City Clerk to proceed with notification of a public hearing that will be held in the Hiawatha Council Chambers, 101 Emmons Street, before the Hiawatha City Council on Wednesday, November 20, 2019 at 5:30 P.M. to consider the proposal to enter into a Development Agreement with R&S Properties, L.L.C. and Midland Concrete Products, LLC.

AYES:
NAYS:
ABSENT:

PASSED AND APPROVED this 6th day of November, 2019.

_____
Bill Bennett, Mayor

ATTEST:

_____
Amy Scheer, Deputy City Clerk

ORIGINAL

ITEM TO INCLUDE ON AGENDA

CITY OF HIAWATHA, IOWA
November 6, 2019
5:30 P.M.

Hiawatha Urban Renewal Plan

- Resolution fixing date for a public hearing on the proposal to enter into a Development Agreement with R&S Properties, L.L.C. and Midland Concrete Products, 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.

November 6, 2019

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: _____

Vacant: _____

* * * * * * * *

Council Member _____ then introduced the following proposed Resolution entitled "RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH R&S PROPERTIES, L.L.C. AND MIDLAND CONCRETE PRODUCTS, LLC, AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member _____ seconded the motion to adopt. The roll was called, and the vote was:

AYES: _____

_____

NAYS: _____

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. _____

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH R&S PROPERTIES, L.L.C. AND MIDLAND CONCRETE PRODUCTS, LLC, AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

WHEREAS, by Resolution No. 91-68, adopted June 19, 1991, which has been amended 14 times, lastly by Amendment No. 14 as approved by Resolution No. 18-123 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 has received a proposal from R&S Properties, L.L.C. (the "Developer") and Midland Concrete Products, LLC (the "Tenant"), in the form of a proposed Development Agreement (the "Agreement") by and between the City, Developer, and Tenant, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as 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") and consisting of the construction of an addition to the existing facility on the Development Property that will increase the overall building size to approximately 10,320 square feet, together with all related site improvements, as outlined in the proposed Agreement; and

WHEREAS, the Agreement further proposes that the City will make up to five (5) consecutive annual payments of Economic Development 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 $62,500, 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, one of the obligations of the Tenant relates to employment retention and/or creation; and

WHEREAS, Chapters 15A and 403, Code of Iowa, (the "Urban Renewal Law") 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 Chapter, 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 the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 364.6,Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the City Clerk publish notice of the proposal and of the time and place of the meeting at which the Council proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said City to such action.

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

Section 1. That this Council meet in the Council Chambers, City Hall, 101 Emmons Street, Hiawatha, Iowa, at 5:30 P.M. on November 20, 2019, for the purpose of taking action on the matter of the proposal to enter into a Development Agreement with R&S Properties, L.L.C. and Midland Concrete Products, LLC.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF HIAWATHA IN THE STATE OF IOWA, ON THE MATTER OF THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH R&S PROPERTIES, L.L.C. AND MIDLAND CONCRETE PRODUCTS, LLC, AND THE HEARING THEREON

PUBLIC NOTICE is hereby given that the Council of the City of Hiawatha in the State of Iowa, will hold a public hearing on November 20, 2019, at 5:30 P.M. in the Council Chambers, City Hall, 101 Emmons Street, Hiawatha, Iowa, at which meeting the Council proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with R&S Properties, L.L.C. (the "Developer") and Midland Concrete Products, LLC (the "Tenant").

The Agreement would obligate the Developer to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the Hiawatha Urban Renewal Area as defined and legally described in the Agreement, consisting of the construction of an addition to an existing facility that will increase the building size to approximately 10, 320 square feet, together with all related site improvements, under the terms and following satisfaction of the conditions set forth in the Agreement. One of the obligations of Tenant relates to employment retention and/or creation.

The Agreement would further obligate the City to make up to five (5) consecutive annual payments of Economic Development 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 $62,500, 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.

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 Hiawatha, 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 and Tenant. 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 Hiawatha in the State of Iowa, as provided by Section 364.6, Code of Iowa.

Dated this _____ day of _____, 2019.

_____

City Clerk, City of Hiawatha in the State of Iowa

(End of Notice)

PASSED AND APPROVED this 6th day of November, 2019.

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF LINN)

I, the undersigned City Clerk of the City of Hiawatha, 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 Hiawatha, State of Iowa

(SEAL)

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