

Resolution No. 16-0864
RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF WINDSOR
HEIGHTS AND KOESTER DEVELOPMENT LLC

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the redevelopment of an urban renewal area in the City and, in this connection, is planning to engage in carrying out urban renewal project activities in an area known as the Consolidated Windsor Heights Urban Renewal Area (the "Urban Renewal Area") which is described in the Second Amended and Restated Urban Renewal Plan ("Plan") approved by Resolution No. 16-0105 on January 12, 2016 and which is available for inspection at the office of the City Clerk; 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 Koester Development LLC (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 Minimum Improvements (as defined in the Agreement) on certain real property located within the Consolidated Windsor Heights Urban Renewal Area, as defined and legally described in the Agreement, and consisting of the construction of an approximately 40,000 square foot building, together with all related site improvements, as outlined in the proposed Development Agreement; and

WHEREAS, the Agreement further proposes that the City will make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 70% of the Tax Increments pursuant to Iowa Code Section 403.19 which are generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of \$2,000,000, or the amount accrued under the formula outlined in the proposed Development Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement. The Agreement would also obligate the City to make a Forgivable Loan in the amount of \$250,000 to Developer, all under the terms and following satisfaction of the conditions set forth in the Agreement.

WHEREAS, one of the obligations of Developer relates to employment retention and/or creation; and

WHEREAS, Iowa Code Chapters 15A and 403 authorize cities to make loans and 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 of the Iowa Code taking into account any or all of the factors set forth in Chapter 15A, 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 WINDSOR HEIGHTS IN THE STATE OF IOWA:

That the performance by the City of its obligations under the Agreement, including but not limited to making of loans and 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 of the Iowa Code, taking into account the factors set forth therein.

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 6th day of September, 2016.

Diana Willits, Mayor

Attest: _____
Marcia Woodke, Interim City Clerk