

TENTATIVE AGENDA  
OTTUMWA CITY COUNCIL

SPECIAL MEETING NO. 17  
Council Chambers, City Hall

May 29, 2020  
12:00 O'Clock P.M.

In order to protect the health and safety of our citizens and staff and mitigate the spread of COVID-19, we are following the Proclamation of a State Public Health Disaster Emergency issued at 12:00 P.M. on Tuesday, March 17, 2020, which has been extended through May 27, 2020. Mass Gatherings or events of more than 10 people in attendance are hereby prohibited at all locations and venues. As a result, meeting attendance will be limited to *Elected Officials and Essential Personnel as it relates to items presented on the Council Agenda in Council Chambers*. Comments and/or questions will be accepted in writing at the door on the Fourth St. entrance. Our City Admin. will continue to evaluate the impact of COVID-19 on our community and will follow the guidelines and requirements of Wapello County EMA, the IDPH, and the CDC. The City will continue to record and broadcast meetings of the City Council on the YouTube channel so they are accessible to the public.

During Public Hearings, individuals can call 641-683-4581 to address the Council. During the meeting, Staff will reserve a minimum of 4 minutes for each Public Hearing Item to allow time for individuals to call in for questions/concerns.

PLEDGE OF ALLEGIANCE

ROLL CALL: Council Member Roe, Stevens, Meyers, Berg, Dalbey and Mayor Lazio.

APPROVAL OF AGENDA

IDENTIFICATION OF CITIZENS DESIRING TO COMMENT ON AGENDA ITEMS:

(When called upon by the Mayor, step to the microphone; state their name, address and agenda item to be addressed. The Mayor will invite you to address the Council when that topic is being discussed. Remarks will be limited to **three minutes or less**. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments are to be directly germane to the agenda item being discussed; if not directly germane as determined by the Mayor will be ruled out of order.)

***All items on this agenda are subject to discussion and/or action.***

ACTION ITEMS:

1. This is the time, place and date set for a public hearing on the proposal to enter into an Option to Purchase Real Property with Cutler Development, LLC, which includes the potential sale of the City's interest in real property.
  - A. Open the public hearing.
  - B. Close the public hearing.
  - C. Resolution No. 120-2020, approving and authorizing execution of an Option to Purchase Real Property by and between the City of Ottumwa and Cutler Development, LLC, and the potential sale of real property thereunder.

RECOMMENDATION: Pass and adopt Resolution No. 120-2020.

2. Resolution No. 125-2020, a resolution in support of Workforce Housing Program and Federal Home Loan Bank Rental Housing Program Financing Assistance Applications to be submitted by Scott Cutler for a Housing Development Project in the City of Ottumwa, Wapello County, Iowa.

RECOMMENDATION: Pass and adopt Resolution No. 125-2020.

3. Proposed reopening of the Beach Ottumwa.

RECOMMENDATION: Proceed with re-opening of the Beach Ottumwa under the prescribed guidelines and procedures outlined by Governor Reynolds.

## PUBLIC FORUM:

The Mayor will request comments from the public on topics of city business or operations other than those listed on this agenda. Comments shall not be personalized and limited to three minutes or less. Comments not directly applicable to operations, inappropriate, or an improper utilization of meeting time, as determined by the Mayor, will be ruled out of order. When called upon by the Mayor, step to the microphone; give your name, address and topic on which to address the Council. The Council is not likely to take any action on your comments due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department, city administrator or legal counsel for response, if relevant.

## ADJOURNMENT:

**\*\*\* It is the goal of the City of Ottumwa that all City Council public meetings are accessible to people with disabilities. If you need assistance in participating in City Council meetings due to a disability as defined under the ADA, please call the City Clerk's Office at (641) 683-0621 at least one (1) business day prior to the scheduled meeting to request an accommodation. \*\*\***



[ CITY OF ]  
O T T U M W A

**FAX COVER SHEET**

City of Ottumwa

DATE: 5/26/2020 TIME: 11:40 AM NO. OF PAGES 3  
(Including Cover Sheet)

TO: News Media CO: \_\_\_\_\_

FAX NO: \_\_\_\_\_

FROM: Christina Reinhard

FAX NO: 641-683-0613 PHONE NO: 641-683-0620

MEMO: Tentative Agenda for the Special City Council Meeting #17 to be held on  
5/29/2020 at 12:00 NOON.

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\*\*\* FAX MULTI TX REPORT \*\*\*  
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JOB NO. 1960  
DEPT. ID 4717  
PGS. 3  
TX INCOMPLETE -----  
TRANSACTION OK 96847834  
916606271885  
ERROR 916416828482

Ottumwa Courier  
KTVO  
Tom FM



CITY OF  
OTTUMWA

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\*\*\* TX REPORT \*\*\*  
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JOB NO. 1960  
DEPT. ID 4717  
ST. TIME 05/26 11:34  
SHEETS 3  
FILE NAME  
TX INCOMPLETE -----  
TRANSACTION OK 96847834  
916606271885  
ERROR 916416828482

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FILED  
2020 MAY 22 AM 11:10  
CITY OF OTTUMWA

# CITY OF OTTUMWA

## Staff Summary

**\*\* ACTION ITEM \*\***

Council Meeting of: May 29, 2020

Planning & Development  
Department

Kevin C. Flanagan  
Prepared By  
Kevin C. Flanagan  
Department Head

  
\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution No. 120-2020 A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN OPTION TO PURCHASE REAL PROPERTY BY AND BETWEEN THE CITY OF OTTUMWA AND CUTLER DEVELOPMENT, LLC, AND THE POTENTIAL SALE OF REAL PROPERTY THEREUNDER

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution No. 120-2020

DISCUSSION: This resolution will commit the City to a purchase agreement/option with Cutler Development for the south half of the Washington St. parking lot. The property is planned to be developed with a mixed-use development, elevation commercial and upper story housing, that will include mixed income housing occupancy. The developer, Scott Cutler, will be applying for both Iowa Workforce Housing Program and Federal Home Loan Bank Rental Housing Program

Source of Funds:

Budgeted Item:  Budget Amendment Needed:

financing assistance. this will be the City's first public/private development effort in conjunction with the Build Grant river corridor redevelopment initiative. The offer is for \$5,000 for this lot. The term of the purchase agreement is 12 months.

INDEX LEGEND	
LOCATION:	BLOCK 24 IN THE ORIGINAL PLAT OF OTTUMWA
PROPRIETOR:	CITY OF OTTUMWA
REQUESTED BY:	CITY OF OTTUMWA
PREPARED BY:	BOBBY J. MADDALENO
COMPANY:	GARDEN & ASSOCIATES, LTD.
RETURN TO:	P.O. BOX 451, OSKALOOSA, IOWA 52577



GARDEN & ASSOC.

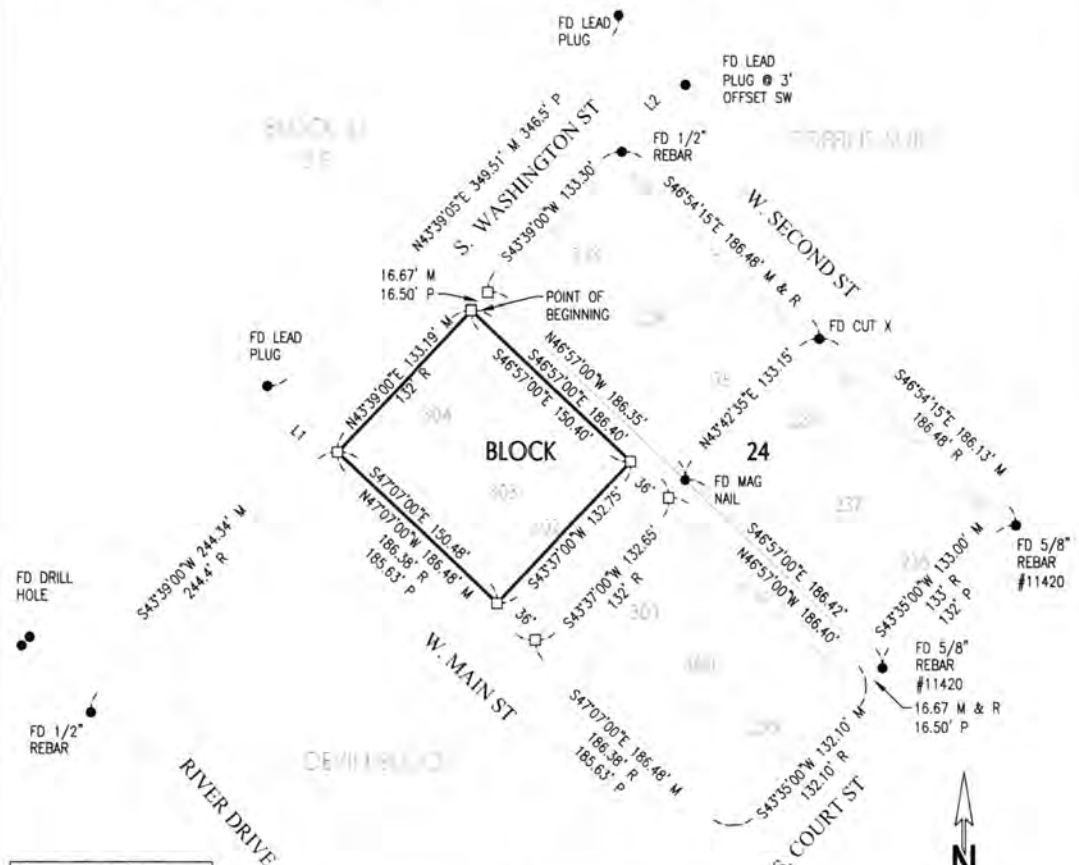
P.O. Box 451, Oskaloosa, Iowa 52577-0451 Phone: (641)672-2526

RESERVED FOR RECORDER'S USE

## PLAT OF SURVEY

Lot Three Hundred Four (304), Lot Three Hundred Three (303) and Lot Three Hundred Two (302) except the Southeastery 36 feet thereof, all in Block Twenty-four (24) in the Original Plat of the City of Ottumwa, Wapello County, Iowa being more particularly described as follows:

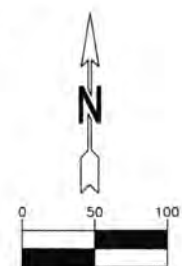
Beginning at the most Northerly corner of said Lot 304; thence South 46°57'00" East 150.40 feet along the Northeastery line of said Lots 304, 303 and 302 to the Northwestery corner of the Southeastery 36 feet of said Lot 302; thence South 43°37'00" West 132.75 feet along a line parallel and 36 feet normally distant from the Southeastery line of said Lot 302 to a point on the Southwestery line of said Lot 302 distant thereon 36 feet Northwestery from the most Southerly corner thereof; thence North 47°07'00" West 150.48 feet along the Southwestery line of said Lots 304, 303 and 302 and the Northeastery line of West Main Street to the Northwestery corner of said Lot 304; thence North 43°39'00" East 133.19 feet along the Northwestery line of said Lot 304 and Southeastery line of South Washington Street to the Point of Beginning, containing 20,003 square feet.



LINE TABLE		
LINE	BEARING	LENGTH
L1	N47°07'00"W	66.02'
L2	N43°40'15"E	63.11'

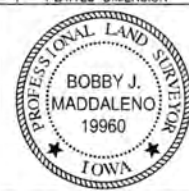
DATE OF FIELDWORK: 3-16-20  
BASIS OF BEARINGS: IOWA RCS, ZONE 12-RED OAK-OTTUMWA

- = PROPERTY CORNER FOUND
- = PROPERTY CORNER SET (MAG NAIL)
- = PROPERTY CORNER SET (5/8" x 30" REBAR #19960)
- M = MEASURED DIMENSION
- R = RECORDED DIMENSION
- P = PLATTED DIMENSION



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Bobby J. Maddaleno, P.L.S. \_\_\_\_\_ Date  
License number: 19960  
My license renewal date is December 31, 2021  
Pages or sheets covered by this seal: \_\_\_\_\_



CITY OF OTTUMWA  
LOTS 304, 303 AND PART  
OF LOT 302 IN BLOCK 24, O.P.  
OTTUMWA, IOWA

DATE: 4/21/20	DRN. BJM	APP.
FLO.BK.	PROJ.NO. 6020080	



## ITEMS TO INCLUDE ON AGENDA

### CITY OF OTTUMWA, IOWA

May 29, 2020

12:00 P.M.

#### West Gate Economic Development Urban Renewal Plan

- Public hearing on the proposal to enter into an Option to Purchase Real Property with Cutler Development, LLC, which includes the potential sale of the City's interest in real property.
- Resolution approving and authorizing execution of an Option to Purchase Real Property by and between the City of Ottumwa and Cutler Development, LLC, and the potential sale of real property thereunder

### 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.

May 29, 2020

The City Council of the City of Ottumwa, State of Iowa, met in special session, by electronic meeting pursuant to Iowa Code Section 21.8, at 12:00 P.M., on the above date. There were present Mayor Lazio, in the chair, and the following named Council Members:

Stevens, Meyers, Berg, Dalbey

Absent: Roe

\* \* \* \* \*

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 an Option to Purchase Real Property by and between the City of Ottumwa and Cutler Development, LLC, which Option Agreement includes the potential sale of the City's interest in real property, and that notice of the proposed action by the Council to enter into said Option Agreement and potentially sell real property thereunder had been published pursuant to the provisions of Section 364.6, 364.7, and 403.8 of the 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 none 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 Meyers introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN OPTION TO PURCHASE REAL PROPERTY BY AND BETWEEN THE CITY OF OTTUMWA AND CUTLER DEVELOPMENT, LLC, AND THE POTENTIAL SALE OF REAL PROPERTY THEREUNDER", 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 \_\_\_\_\_, 2020, at \_\_\_\_\_.

Council Member Dalbey seconded the motion. The roll was called and the vote was,

AYES: Stevens, Meyers, Berg, Dalbey

\_\_\_\_\_

NAYS: \_\_\_\_\_

Whereupon, the Mayor declared the measure duly adopted.

RESOLUTION NO. 120-2020

RESOLUTION APPROVING AND AUTHORIZING  
EXECUTION OF AN OPTION TO PURCHASE REAL  
PROPERTY BY AND BETWEEN THE CITY OF OTTUMWA  
AND CUTLER DEVELOPMENT, LLC, AND THE POTENTIAL  
SALE OF REAL PROPERTY THEREUNDER

WHEREAS, by Resolution No. 39-1989, adopted May 2, 1989, 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 West Gate Economic Development Urban Renewal Plan (the "Plan" or "Urban Renewal Plan") for the West Gate Economic Development Urban Renewal Area (the "Area" or "Urban Renewal Area") described therein, which Plan is on file in the office of the Recorder of Wapello County; and

WHEREAS, the Plan has subsequently been amended eight times, lastly by the adoption of Amendment No. 8 to the Plan, adopted by Resolution No. 217-2019, on October 1, 2019; 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 Cutler Development, LLC (the "Developer"), in the form of a proposed Option to Purchase Real Property (the "Option Agreement") by and between the City and the Developer, pursuant to which, among other things, in exchange for \$5,000 paid by the Developer and other consideration, the City would provide the Developer a 12-month option to purchase certain real property owned by the City and located within the Urban Renewal Area (the "Property"); and

WHEREAS, the Option Agreement further provides that a condition precedent to the Developer's purchase of the Property from the City under the Option Agreement is the Developer entering into a development agreement with the City regarding the development of the Property, including certain minimum development terms as specified in the Option Agreement; and

WHEREAS, Iowa Code Chapters 15A and 403 (the "Urban Renewal Law") authorize cities to dispose of property in furtherance of the objectives of an urban renewal project and to take other actions as may be necessary to carry out the purposes of said Chapter; and

WHEREAS, the terms of the Option Agreement satisfy the "fair market value" and "competitive bidding" requirements of Iowa Code Section 403.8; and

WHEREAS, in compliance with Sections 403.8, 364.6, and 364.7 of the Code of Iowa, the Council has set forth its proposal to dispose of interests in the Property, by publishing notice of a thirty day competitive bidding period followed by publication of notice of a public hearing on the Option Agreement and has held said hearing; and

WHEREAS, the Council has determined that the Option 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 Option 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 Option Agreement, which includes the potential sale of the Property (subject to the terms of the Option Agreement), and has considered the extent of objections received from residents or property owners as to said proposed Option 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 OTTUMWA IN THE STATE OF IOWA:

Section 1. The Council finds that potential disposal of interests in the Property to the Developer as set forth in the Option Agreement will benefit the health, safety and welfare of, and is in the best interests of the residents of the City. The Council further finds that transfer of the Property would promote economic development and blight remediation in the City and that these benefits, together with the other consideration provided for in the Option Agreement, constitute fair consideration for the disposal of interests in the Property under Section 403.8, Code of Iowa.

Section 2. The proposal to grant a 12-month option to purchase the Property to the Developer pursuant to the terms of the proposed Option Agreement is hereby approved.



Section 3. That the performance by the City of its obligations under the Option Agreement, including but not limited to the potential transfer of the Property to the Developer under the terms set forth in the Option 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 Option Agreement and the City's performance thereunder is in furtherance of appropriate economic development and blight remediation 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.

Section 4. That the form and content of the Option 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 Option 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 Option 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 Option Agreement as executed.

PASSED AND APPROVED this 29<sup>th</sup> day of May, 2020.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
  
\_\_\_\_\_  
City Clerk

CERTIFICATE

STATE OF IOWA )  
 ) SS  
COUNTY OF WAPELLO )

I, the undersigned City Clerk of the City of Ottumwa, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate 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 public hearing 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 the 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 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 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 May, 2020.

Christa Reinhard  
City Clerk, City of Ottumwa, State of Iowa



(SEAL)

## OPTION TO PURCHASE REAL PROPERTY

**THIS OPTION TO PURCHASE REAL PROPERTY** (this “Option” or “Option Agreement”), is made and entered into this 29 day of May, 2020 (the “Effective Date”) by and between the City of Ottumwa, Iowa (the “City”), and Cutler Development, LLC, an Iowa limited liability company (the “Developer”). The City and the Developer are the parties to this Option Agreement.

The parties agree as follows:

1. The City, for and in consideration of the non-refundable sum of \$5,000 (the “Option Price”) paid by the Developer, hereby gives and grants to the Developer the exclusive right, at any time during the twelve (12) month period immediately following the Effective Date (the “Option Period”), to purchase the real property legally described as set forth in Exhibit A Ottumwa, Iowa (the “Property”), provided that, if Developer exercises the Option, the conveyance of the Property from the City to Developer shall not occur unless the following conditions precedent are satisfied: (i) the City and Developer have also entered into a development agreement regarding the development of the Property (the “Development Agreement”) containing at least those terms set forth in Exhibit B and other terms as deemed appropriate by the City Council, (ii) any other action required to authorize the Development Agreement as an urban renewal project in the City’s Gateway Urban Renewal Area has been completed; and (iii) the Developer is in compliance with the terms of the Development Agreement including the payment of any Purchase Price.
2. City shall not sell, encumber, or otherwise dispose of the Property, except to Developer, or with Developer’s consent, during the Option Period.
3. This Option may be exercised by the Developer at any time during the Option Period by giving the City written notice delivered by personal service or by certified mail and addressed to the City.
4. Within 30 days following receipt of the Developer’s notice to exercise the Option, the City shall deliver to the Developer any abstract of title concerning the Property in the possession of the City. The Developer, at Developer’s expense, shall have the abstract continued to date and reviewed by an attorney of Developer’s choosing. The abstract shall show marketable title in the City in conformity with Iowa law, and the title standards of the Iowa State Bar Association. The City shall make every reasonable effort to promptly perfect title. If the City is unable to perfect title with reasonable diligence, the Developer may either waive the title defects and proceed to Closing or elect to terminate this Option in which case the City shall retain the Option Price. The abstract shall become the property of the Developer when the Purchase Price is paid in full.
5. The parties shall close the sale of the Property no later than 90 days following the Date the City receives Developer’s notice to exercise the Option consistent with the terms of this Option. This transaction shall be considered closed upon the delivery of all title transfer



documents, and the City's receipt of all funds due from the Developer under this Option and the Developer's execution and compliance with Development Agreement referenced herein ("Closing"). If Closing has not occurred within said 90-day period, this Option shall automatically terminate, and the City shall be entitled to retain the Option Price.

6. The Property is exempt from real estate taxes while owned by the City. There shall be no pro-ration of real estate taxes at Closing. Developer shall take the Property subject to any special assessments, whether such assessment is a lien against the Property or a preliminary or deficiency assessment.
7. In the event of substantial damage or destruction after the Developer has exercised the Option but prior to Closing, this Agreement shall be null and void; provided, however, the Developer shall have the option to complete the closing and receive any insurance proceeds related to the Property regardless of the extent of damages. The Property shall be deemed substantially damaged or destroyed if it cannot be restored to its present condition on or before the Closing.
8. Included with the Property shall be all fixtures that integrally belong to, are specifically adapted to, or are a part of the Property, whether attached or detached.
9. The City agrees to allow the Developer, or Developer's representative, to conduct non-invasive testing and survey work upon the Property during Option Period, so long as said work does not damage the Property or interfere with the City's use of the Property. Any and all damages to real or personal property that may arise as a result of the inspections will be restored by Developer to original conditions. Developer shall indemnify, defend, and hold the City harmless against any loss, claim, damage, or expense that may arise out of Developer's access to the Property to conduct inspections.
10. The City shall convey the Property to the Developer by Special Warranty Deed.
11. Notwithstanding any other provision contained herein, it is understood and agreed that the City is not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Property, including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title, leasing, zoning, tax consequences, latent or patent physical condition, utilities, operating history or projections, valuation, governmental approvals, or the compliance of the Property with laws. The Developer acknowledges and agrees that at the Closing the City shall sell and convey to Developer and Developer shall accept the Property "as is, where is, with all faults". The Developer has not relied and will not rely on, and the City is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, information packages distributed with respect to the Property) made or furnished by City or any real estate broker or agent representing or purporting to represent City, to whomever made or given, directly or indirectly, orally or in writing. The Developer represents to the City that the Developer has conducted, or will conduct prior to Closing, such investigations of the Property, including but not limited

to the physical and environmental condition thereof, as the Developer deems necessary to satisfy itself as to the condition of the Property. At the Closing the Developer shall be deemed to have waived, relinquished, and released the City (and City's directors, administrators, employees, and agents) from and against any and all claims, demands, causes of action (including causes of action in tort), losses, damages, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which the Developer might have asserted or alleged against the City (and City's directors, administrators, employees, and agents) at any time by reason of or arising out of any latent or patent construction defects or physical conditions, violations of any applicable laws and any and all other acts, omissions, events, circumstances or matters regarding the Property.

12. Neither party used the services of a real estate agent or broker in connection with this transaction. Each party agrees to indemnify, defend, and hold harmless the other party from and against all claims, costs, liabilities and expense (including court costs and reasonable attorney's fees) incurred by the other party as a result of a breach of this representation.
13. The parties each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.
14. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally as follows:
  - a. In the case of Developer, is addressed or delivered personally to Cutler Development, LLC at 1307 50TH Street, West Des Moines, IA, 50266, Attn: Scott Cutler, Manager;
  - b. In the case of the City, is addressed to or delivered personally to the City at 105 E 3rd Street, Ottumwa, IA 52501 Attn: Chris Reinhard, City Clerk.
15. In the performance of each part of this Option Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Option Agreement shall apply to and bind the successors in interest of the parties. This Option Agreement shall survive the Closing.

16. This Option Agreement contains the entire agreement of the parties and shall not be amended except by a written instrument duly signed by both parties. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this Option Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
17. This Option Agreement shall be governed by and construed under the laws of the State of Iowa.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

*[Remainder of page intentionally left blank; signature pages follow]*

(SEAL)

CITY OF OTTUMWA, IOWA

By: Tom Lazio  
Tom Lazio, Mayor

ATTEST:

By: Chris Reinhard  
Chris Reinhard, City Clerk

STATE OF IOWA                     )  
   ) SS  
COUNTY OF WAPELLO         )

On this 29 day of may, 2020, before me a Notary Public in and for said State, personally appeared Tom Lazio and Chris Reinhard, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ottumwa, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.



Katy King  
Notary Public in and for the State of Iowa

[Signature page to Option Agreement – City of Ottumwa]



EXHIBIT A  
LEGAL DESCRIPTION OF PROPERTY

Lot Three Hundred Four (304), Lot Three Hundred Three (303) and Lot Three Hundred Two (302) except the Southeasterly 36 feet thereof, all in Block Twenty-four (24) in the Original Plat of the City of Ottumwa, Wapello County, Iowa being more particularly described as follows:

Beginning at the most Northerly corner of said Lot 304; thence South  $46^{\circ}57'00''$  East 150.40 feet along the Northeasterly line of said Lots 304, 303 and 302 to the Northwesterly corner of the Southeasterly 36 feet of said Lot 302; thence South  $43^{\circ}37'00''$  West 132.75 feet along a line parallel and 36 feet normally distant from the Southeasterly line of said Lot 302 to a point on the Southwesterly line of said Lot 302 distant thereon 36 feet Northwesterly from the most Southerly corner thereof; thence North  $47^{\circ}07'00''$  West 150.48 feet along the Southwesterly line of said Lots 304, 303 and 302 and the Northeasterly line of West Main Street to the Northwesterly corner of said Lot 304; thence North  $43^{\circ}39'00''$  East 133.19 feet along the Northwesterly line of said Lot 304 and Southeasterly line of South Washington Street to the Point of Beginning, containing 20,003 square feet

EXHIBIT B  
MINIMUM TERMS OF DEVELOPMENT AGREEMENT

The Development Agreement that the Parties must execute as a condition precedent to the sale of the Property to Developer shall include, at a minimum, Developer's obligation to complete Minimum Improvement on the Property within a specified period after closing that is mutually agreed to by the Parties, which Minimum Improvements shall include:

- A three-story building with approximately 24 apartments on levels 2 and 3, 9,300 square feet of retail space on level 1, 10,000 square feet of private parking, and related site improvements.
- The required investment will be approximately \$4,000,000.

The transfer of the Property may be subject to a right of reversion should the Developer not meet certain benchmarks toward the completion of the Minimum Improvements.

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CERTIFICATE OF PUBLISHER'S AFFIDAVIT OF PUBLICATION

STATE OF IOWA )  
 ) SS  
COUNTY OF WAPELLO )

I, the undersigned, do hereby certify that I am now and was at the times hereinafter mentioned, the duly qualified and acting Clerk of the City of Ottumwa, in the County of Wapello, State of Iowa, and that as such Clerk and by full authority from the Council of the City, I have caused a

NOTICE OF PUBLIC HEARING

of which the clipping annexed to the publisher's affidavit hereto attached is in words and figures a correct and complete copy, to be published as required by law in the Ottumwa Courier, a legal newspaper published at least once weekly, printed wholly in the English language, published regularly and mailed through the post office of current entry for more than two years and which has had for more than two years a bona fide paid circulation recognized by the postal laws of the United States, and has a general circulation in the City, and that the Notice was published in all of the issues thereof published and circulated on the following date:

May 19, 2020.

WITNESS my official signature at Ottumwa, Iowa, this 2nd day of June, 2020.

Christ Reulard  
City Clerk, City of Ottumwa, State of Iowa



(SEAL)



# PROOF OF PUBLICATION

STATE OF IOWA  
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advert

NOTICE OF PUBLIC HEARING

CITY OF OTTUMWA – KATIE KING

hereto attached was published in said newspaper for 1 consecutive week's to 05/19/2020 Subscribed and sworn to before me, and in my presence, by the said 19TH day of MAY, 2020



*Traci Counterman*  
Notary Public

In and for Wapello County

Printer's fee \$45.15

## COPY OF ADVERTISEMENT

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE STATE OF IOWA, ON THE MATTER OF THE PROPOSAL TO ENTER INTO AN OPTION TO PURCHASE REAL PROPERTY WITH CUTLER DEVELOPMENT, LLC, AND THE HEARING THEREON PUBLIC NOTICE is hereby given that the Council of the City of Ottumwa in the State of Iowa, will hold a public hearing on May 29, 2020, at 12:00 P.M. in the Council Chambers, City Hall, 105 E. 3rd Street, Ottumwa, Iowa, at which meeting the Council proposes to take action on the proposal to enter into an Offer to Purchase Real Property Agreement (the "Option Agreement") with Cutler Development, LLC ("Developer"). Due to public health concerns related to COVID-19, as authorized by emergency proclamation of the Governor of the State of Iowa, the Council Chambers will NOT be open to the public to attend the public hearing and meeting in person; instead, the public may access the meeting electronically, pursuant to Iowa Code Section 21.8, in the manner specified below. The public may access the meeting by telephone as follows: (641) 683-4581 Please check the posted agenda in advance of the May 29, 2020 meeting for any updates to the manner in which the public may access the hearing. The Option Agreement proposes that the City would grant a 12-month option to the Developer to purchase certain real property from the City located within the West Gate Economic Development Urban Renewal Area as defined and legally described in the Option Agreement (the "Property"). One of the conditions precedent to the Developer's purchase of the Property under the Option Agreement is the Developer entering into a development agreement with the City regarding the development of the Property, including certain minimum development terms as set forth in the Option Agreement. 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 Option 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 Option Agreement. All persons wishing to observe or participate in the meeting and/or public hearing may do so by accessing the meeting as directed above, and may also submit comments to the City prior to the meeting. At the above meeting, the Council shall receive oral or

flanagan@ci.ottumwa.ia.us or call (641) 451-4990. This notice is given by order of the City Council of the City of Ottumwa in the State of Iowa, as provided by Section 364.6 of the City Code of Iowa. Dated this 28th day of April, 2020. Christina Reinhard, City Clerk

PH Notice  
Cutler Develop  
5-29-2020

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : May 29, 2020

Planning & Development  
Department

Kevin C. Flanagan  
Prepared By  
Kevin C. Flanagan  
Department Head

\_\_\_\_\_  
City Administrator Approval

AGENDA TITLE: Resolution No. 125-2020 A RESOLUTION IN SUPPORT OF WORKFORCE HOUSING PROGRAM AND FEDERAL HOME LOAN BANK RENTAL HOUSING PROGRAM FINANCING ASSISTANCE APPLICATIONS TO BE SUBMITTED BY SCOTT CUTLER FOR A HOUSING DEVELOPMENT PROJECT IN THE CITY OF OTTUMWA, WAPELLO COUNTY, IOWA

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Pass and adopt Resolution No. 125-2020

DISCUSSION: This resolution will express the City's support for financing assistance for our project with Springer, LLC, a project specific development LLC owned by Scott Cutler that will perform said development. The property is planned to be developed with a mixed-use development, elevation commercial and upper story housing, that will include mixed income housing occupancy.

Source of Funds:

Budgeted Item:  Budget Amendment Needed:

The developer, Scott Cutler, will be applying for both Iowa Workforce Housing Program and Federal Home Loan Bank Rental Housing Program financing assistance. This will be the City's first public/private development effort in conjunction with the Build Grant river corridor redevelopment initiative.

## RESOLUTION NO. 125-2020

A RESOLUTION IN SUPPORT OF WORKFORCE HOUSING PROGRAM AND FEDERAL HOME LOAN BANK RENTAL HOUSING PROGRAM FINANCING ASSISTANCE APPLICATIONS TO BE SUBMITTED BY SCOTT CUTLER FOR A HOUSING DEVELOPMENT PROJECT IN THE CITY OF OTTUMWA, WAPELLO COUNTY, IOWA

WHEREAS, Springer, LLC, an affiliate of Cutler Development, LLC, represented by Scott Cutler, Owner, has requested City support for applications to the Iowa Workforce Program and the Federal Home Loan Bank Rental Housing Program for financing assistance in developing a mixed-use housing facility in the City; and

WHEREAS, successful completion of the Project requires funding from a number of sources, including grants, loans, and local economic development incentives; and

WHEREAS, the project will result in commercial and housing development at a key location in the heart of the community's downtown river corridor; and

WHEREAS, the project is in conjunction with the City's river corridor development initiative and will be a public/private partnership; and

WHEREAS, upon successfully obtaining the above grant assistance, the City will provide Tax Increment Financing (TIF) tax rebates in an amount not to exceed \$2.5 million as a portion of its local economic development incentives for said project; and

WHEREAS, City and developer have entered into an option to purchase agreement for City property that will also incentivize said development.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Ottumwa, Iowa, as follows:

1. The City Council of the City of Ottumwa, Iowa does hereby express its support for Springer, LLC applications to Iowa Workforce Housing Program and the Federal Home Loan Bank Rental Housing Program for financing assistance for downtown mixed-use housing development.
2. The Mayor and City Administrator are hereby authorized and directed to sign any and all forms required to evidence the City's support for said applications by Springer, LLC, upon approval of the same by the City Attorney.
3. The Planning Director is directed to transmit a copy of this resolution and Roll Call to Springer LLC, for submittal, and to conduct project compliance monitoring.
4. In the event that any of the Project characteristics mentioned above should change prior to the final award of tax credit benefits to Springer, LLC, then:
  - a. The City Administrator or the City Administrator's designee is authorized and directed to execute the applicable consent to any unsubstantial change upon receipt of a recommendation in support of such consent by the Planning Director.

b. Any substantial change shall be subject to approval by the City Council after report and recommendation by the City Administrator.

PASSED AND ADOPTED this 29th day of May, 2020.

CITY OF OTTUMWA, IOWA

  
\_\_\_\_\_  
Tom X. Lazio, Mayor

ATTEST:

  
\_\_\_\_\_  
Chris Reinhard, City Clerk

**CITY OF OTTUMWA**  
**Staff Summary**

**\*\* ACTION ITEM \*\***

Council Meeting of : May 29, 2020

Philip Rath

Prepared By

Department

Department Head



City Administrator Approval

AGENDA TITLE: Proposed reopening of Beach Ottumwa

\*\*\*\*\*

\*\*Public hearing required if this box is checked.\*\*

RECOMMENDATION: Proceed with the re-opening of Beach Ottumwa under the prescribed guidelines and procedures outlined by Governor Reynolds.

DISCUSSION: On May 20, 2020, Governor Kim Reynolds issued a proclamation allowing swimming pools to re-open for the purpose of lap swimming. Additionally, unless further proclamations are issued, the current Disaster Emergency is scheduled to expire at 11:59 PM on May 27, 2020. The Test Iowa site located on the grounds of the Beach is scheduled to run through May 29, 2020.

Based upon this information and pending any additional guidance from the State of Iowa, staff is prepared to re-open the Beach (within the prescribed guidelines and procedures) on June 1, 2020.

Source of Funds:

Budgeted Item:

Budget Amendment Needed: