

January 5, 2009

Date

RESOLUTION SETTING DATE OF HEARING TO APPROVE URBAN RENEWAL DEVELOPMENT AGREEMENT WITH L & B ENTERPRISES, LLC AND TO CONVEY DISPOSITION PARCEL NO. 31 A LOCATED AT THE INTERESECTION OF THOMPSON AND DE WOLF STREETS IN THE GUTHRIE AVENUE BUSINESS PARK URBAN RENEWAL AREA

WHEREAS, on September 26, 1988 by Roll Call No. 88-4238, the City Council of the City of Des Moines approved the Urban Renewal Plan for the Guthrie Avenue Business Park Urban Renewal Project (hereinafter referred to as "Plan"), an area generally bounded by Guthrie Avenue to the north, Washington Avenue to the south, the Union Pacific Railroad right-of-way to the east and East 17th Street to the west and said Plan has subsequently been amended; and

WHEREAS, L & B Enterprises, LLC ("Offeror") and the City of Des Moines Office of Economic Development have negotiated an Urban Renewal Development Agreement for private redevelopment of Disposition Parcel No. 31A ("Property") in the Guthrie Avenue Business Park, which agreement is attached herein as Exhibit "A"; and

WHEREAS, L & B Enterprises, LLC has submitted an Offer to Purchase Disposition Parcel 31A ("Offer") for \$70,000, which offer is attached herein as Exhibit "B"; and

WHEREAS, the attached Urban Renewal Development Agreement ("Agreement"), tendered herewith and executed by the Offeror, provides for redevelopment of a 2.1 acre parcel. including a minimum 10,000 square foot light industrial manufacturing building, parking and landscaping at an estimated development cost of approximately \$1.3 million; and

WHEREAS, said Agreement provides that Offeror will purchase the Property for a purchase price of \$70,000.00; and

WHEREAS, the City Council of the City of Des Moines, Iowa further proposes to convey the following described City-owned property known as "Disposition Parcel 31" to Offeror for the consideration of \$70,000; and

Part of Block 28 and 29, T.E. Brown's Official Plat of the North ½ of the Northeast ¼ of Section 36, Township 79 North, Range 24 West of the 5th P.M., except the Northeast 40 acres of same, and part of the vacated Thompson Avenue and part of the vacated East 19th Street and part of Blocks 3 and 4, East End Addition, an Official Plat, Des Moines, Polk County, Iowa, more particularly described as follows:

Beginning at the Northwest corner of Lot 24, Block 28 of said T.E. Brown's Official Plat; thence North 89° (Degrees) 51'(Minutes) 03"(Seconds) East along the North line of said Lot 24 extended a distance of 514.23 feet; thence South 01°15'38" East, 178.79 feet; thence North 89°56'22" West, 517.68 feet to the West line of Lot 46, Block 4, of said East End Addition; thence North 00°03'49" East along the West line of said Block 4 extended a distance of 101.86 feet to the centerline of vacated Thompson Avenue; thence North 00°27'26" West along the Southerly extension of the West line of said Lot 24, Block 28,

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and the West line of said Lot 24, 75.00 feet to the point of beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. (Said tract of land contains 2.11 acres more or less.)

WHEREAS, Proposal meets the minimum needs of the City for such redevelopment, appears to be comprehensive and legal in form and content and will be reviewed by the Urban Design Review Board at its January 6, 2009 meeting, at which time the Board will recommended acceptance of the Offeror's Proposal to this Council; and

WHEREAS, the proposed Minimum Development Requirements included in the Agreement, will be reviewed by the Urban Design Review Board at its January 6, 2009 meeting, at which time the Board will recommended approval to the Council; and

WHEREAS, The City of Des Moines proposes to convey the property by way of a Special Warranty Deed in the form attached herein as Exhibit 'C'

WHEREAS, Section 403.8, Code of Iowa, provides:

A municipality may sell, lease or otherwise transfer real property or any interest in real property acquired by it, and may enter into contracts for such purposes in an urban renewal area for residential, recreational, commercial, industrial or other uses, or for public use, subject to such covenants, conditions and restrictions, including covenants running with the land, it deems to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas, or to otherwise carry out the purposes of this chapter. However, the sale, lease, other transfer, or retention, and any agreement relating to it, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall devote the real property only to the uses specified in the urban renewal plan, and they may be obligated to comply with other requirements the municipality determines to be in the public interest, including the requirements to begin within a reasonable time any improvements on the real property required by the urban renewal plan. The real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan except as provided in subsection 3. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and the objectives of the plan for the prevention of the recurrence of slum or blighted areas. The municipality in an instrument of conveyance to a private purchaser or lessee may provide that the purchaser or lessee shall not sell, lease, or otherwise transfer the real property, without the prior written consent of the municipality, until the purchaser or lessee has completed the construction of any or all improvements which the purchaser or lessee has become obligated to construct. Real property acquired by a municipality which, in accordance with the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest, consistent with the carrying out of the urban renewal plan. A contract for a transfer under the urban renewal plan or a part or parts of the contract or plan as the municipality determines, may be recorded in the land records of the county in such a manner to afford actual or constructive notice of the contract or plan.

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WHEREAS, it is necessary and appropriate that the City Council take certain actions with respect to the Property in order to accept the Offer for the Purchase of the Property and approve the Agreement; and

WHEREAS, such necessary and appropriate actions of the City Council shall include the following:

Setting a date for:

1. Approval of the Urban Renewal Development Agreement
2. Acceptance of the Offer to Purchase Property
3. Approving the form of the Special Warranty Deed

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The action of this Council be considered to be and does hereby constitute final notice to all concerned of the intention of this Council to give final approval of the Offeror's Proposal to purchase and redevelop the Property and enter into the Agreement with the Offeror.
2. This roll call and Attachments "A," "B" and "C" shall be on file at the Office of the City Clerk and at the Office of Economic Development, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
3. That the meeting of the City Council at which the above proposal, including the Urban Renewal Development Agreement and the Offer to Purchase is to be considered shall be held at a special meeting in Council Chambers, City Hall, Des Moines, Iowa at 7:30 a.m. on January 12, 2009, at which time the City Council will hear both those who oppose and those who favor the proposal.

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4. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than four (4) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 of the Iowa Code.

(Council Communication No. 09- *012* Attached)

Moved by _____ to approve.

APPROVED AS TO FORM:



 Michael F. Kelley
 Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VCLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
 Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

 City Clerk