

★ **Roll Call Number**

13-0344

Agenda Item Number

38

Date February 25, 2013

RESOLUTION CONDITIONALLY APPROVING URBAN RENEWAL
AGREEMENT FOR THE SALE OF REAL ESTATE TO HELENA INDUSTRIES,
INC., FOR AN EXPANSION OF ITS REGIONAL OFFICE AND INDUSTRIAL
FACILITY AT 3525 VANDALIA ROAD

WHEREAS, Helena Industries, Inc. ("Helena"), is a multi-state business with a regional office and industrial facility located in the City of Des Moines, at 3525 Vandalia Road in the SE AgriBusiness Park Urban Renewal Area, and,

WHEREAS, Helena has declared its intention to secure space for its future growth and expansion by either acquiring a portion of the adjoining City-owned real estate or by moving its regional office and industrial facility to a new location with room to accommodate its future growth and expansion; and,

WHEREAS, on April 20, 2009, the City Council received and filed a communication from Helena Industries, Inc. ("Helena"), regarding the purchase of 20 acres of the adjoining City-owned real estate and directed the City Manager to proceed with further review and negotiation; and,

WHEREAS, Helena's planned expansion of its regional office and industrial facility was delayed by changes in market conditions and concerns regarding the recertification of the nearby levy along the north bank of the Des Moines River; and,

WHEREAS, Helena is now prepared to proceed with a larger expansion of its corporate campus and seeks to purchase 30 acres of the adjoining City-owned real estate pursuant to the terms of an *Urban Renewal Agreement for the Sale of Real Estate* (the "Agreement") negotiated by the City Manager and more specifically described below, which is on file and available for public inspection in the office of the City Clerk; and,

WHEREAS, on December 3, 2012, by Roll Call No. 12-1837, the City Council resolved that the proposed Agreement and sale of real estate to Helena be set down for hearing on December 17, 2012, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on December 6, 2012, as provided by law, setting forth the time and place for hearing on the proposed Agreement and sale of real estate; and,

WHEREAS, on December 17, 2012, by Roll Call No. 12-1968, on January 14, 2013, by Roll Call No. 13-0075, and on January 28, 2013, by Roll Call No. 13-0162, the City Council continued the public hearing until February 25, 2013, at 5:00 p.m.; and,

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WHEREAS, in accordance with said notice those interested in said proposed Agreement and sale of City-owned real estate, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, on December 6, 1999, by Roll Call No. 99-3719, the City Council approved a 28E Agreement with Des Moines Water Works ("DMWW") whereby DMWW contributed 1/3 of the funding to purchase the parcel containing the 30 acres now proposed to be sold to Helena, and the City agreed that any sale of the parcel would be subject to approval by DMWW; and,

WHEREAS, the City is awaiting formal approval of the proposed sale to Helena by DMWW.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed Agreement and sale of City-owned real estate as described below are hereby overruled and the hearing is closed.
2. The City Council hereby makes the following findings in support of the Agreement:
 - a) Helena's obligations under the Agreement to use and improve the real estate described below for an expansion of its regional office and industrial facility will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Agrimergent Technology Park within the SE AgriBusiness Urban Renewal Area in accordance with the Urban Renewal Plan and the Agrimergent Technology Park Plan; (ii) it will retain existing job opportunities within the Urban Renewal Area that might otherwise be lost and is anticipated to lead to a future growth in such job opportunities; (iii) it will assist in the maintenance and expansion of the tax base in the Urban Renewal Area; and, (iv) it will encourage further private investment in the Urban Renewal Area to reverse the historic pattern of disinvestment.
 - b) The undertaking by Helena to remain and expand within the SE AgriBusiness Urban Renewal Area is a speculative venture that will not occur without the sale of the real estate as provided by the Agreement.
 - c) The City Council believes that the sale and development of the real estate and the provision of the economic incentives pursuant to the Agreement are in the vital and best interests of City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the SE AgriBusiness Urban Renewal Project has been undertaken, and warrant the sale of the real estate and the provision of the economic incentives as set forth in the Agreement.

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- d) The sale of the City-owned real estate described below is for development as an industrial building or facility and such sale is therefore exempt from the competitive disposition requirements set forth in Iowa Code §403.8.
- e) The City cannot give final approval to the proposed sale of the real estate described below to Helena without obtaining the consent of the Des Moines Water Works.

3. The proposed *Urban Renewal Agreement for the Sale of Real Estate* to Helena Industries, Inc., whereby the City is to sell and convey to Helena the 30 acres of City-owned real estate more specifically as follows:

A part of Lots 2, 3 and 4 of Henderson Estate, being an Official Plat in Section 18, Township 78 North, Range 23 West of the 5th P.M., in the City of Des Moines, Polk County, Iowa, and described as follows:

Commencing at the Northeast corner of said Section 18; thence North 87°31'38" West along the North line of said Northeast 1/4, a distance of 1388.35 feet; thence South 2°27'46" West, 50.00 feet to the Point of Beginning; thence South 87°31'38" East, 983.68 feet; thence South 0°20'49" East, 1722.54 feet to the northeasterly right-of-way line of the Burlington Northern Santa Fee Railroad; thence North 48°45'27" West along said northeasterly right-of-way line, 1370.15 feet; thence North 2°27'46" East, 862.48 feet to the Point of Beginning, containing 30.00 acres.

and the City is to provide an Economic Development Grant in the maximum amount of \$168,000 to be paid from project generated tax increment revenues over a five year period, and Helena is to pay the City \$450,000 for the purchase of the real estate and to commence construction of a new building by November 1, 2014, containing at least 100,000 square feet of floor area for office, manufacturing or liquid terminal storage, for industrial use by Helena and related businesses, is hereby conditionally approved. The condition of this approval is that the sale be approved by the Des Moines Water Works.

4. Subject to approval of the sale by Des Moines Water Works, and confirmation of the same by the City Manager:

- a) The Mayor is authorized and directed to sign the *Urban Renewal Agreement for the Sale of Real Estate* on behalf of the City of Des Moines, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such document.
- b) The Mayor and City Clerk are further authorized and directed to execute the Special Warranty Deed on behalf of the City, as required by and defined in the Agreement, subject to prior approval of the same by the City Legal Department.
- c) The City Manager is authorized and directed to administer the Agreement and the timely performance of the City's obligations under the Agreement.

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d) Upon requisition by the City Manager or the City Manager's designee, the Finance Department is hereby authorized and directed to advance the installments on the Economic Development Grant as provided in the Agreement.

(Council Communication No. 13- 104)

MOVED by Meyer to adopt. The City Council encourages the Des Moines Water Works to hold a special meeting to approve the agreement.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
 Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	6			1

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.

MOTION CARRIED APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk