

★ Roll Call Number

Agenda Item Number

15-1285

50B

Date July 27, 2015

**HOLD HEARING FOR THE PROPOSED PURCHASE OF LAND IN THE SE AGRIMERGENT BUSINESS PARK BY ELECTRICAL POWER PRODUCTS, INC. (EP2), THROUGH ITS HOLDING COMPANY, ELECTRO MANAGEMENT CORP.**

**WHEREAS**, on April 8, 2013, by Roll Call No. 13-0560, the City Council approved the Amended and Substituted 28E Agreement between the City and the Board of Water Works Trustees of the City of Des Moines, Iowa ("DMWW") regarding the acquisition, preparation and conveyance of land for redevelopment in the City's SE Agrimergent Business Park (also known as the SE AgriBusiness Park Urban Renewal Area); and

**WHEREAS**, on June 8, 2015, by Roll Call No. 15-0928, the City Council received and filed a proposal to purchase City-owned property at SE 43<sup>rd</sup> and Vandalia Road for redevelopment and directed the City Manager to negotiate preliminary terms of agreement with Electrical Power Products, Inc. (EP2) for relocation of its industrial facility; and

**WHEREAS**, on June 22, 2015, by Roll Call No. 15-1092, the City Council received and filed Council Communication No. 15-354 from the City Manager regarding the purchase and development of land in the SE Agrimergent Business Park by EP2, and directed the City Manager to continue to work with EP2 regarding design and financial proposals to facilitate the proposed industrial relocation and expansion project, including terms of development agreement and sale of City-owned property and Board and Commission review and recommendation processes, and to make a recommendation to Council on the final terms and conditions of the development agreement and sale of property; and

**WHEREAS**, in accordance with said direction, City Economic Development staff and EP2 are currently continuing their negotiating of final terms of an Urban Renewal Development Agreement, including but not limited to the following, which Development Agreement is anticipated to be submitted to City Council for consideration at the August 10, 2015 Council meeting:

1. Economic Development Grant by City to EP2 of \$1,266,300 provided from a rebate of the purchase price at the time of sale of the Property to EP2/Electro Management Corp., as described herein.
2. Subject to suitability and quantity available, provision of fill material from City-owned land to elevate the estimated 42 acres an estimated 6'.
3. Economic Development Grant by City to EP2 providing 50% of project generated tax increment (TIF) for 17 years. With an estimated building valuation of \$13,000,000, the amount of the assistance is approximately \$4,352,221. The actual amount will be determined by a Minimum Assessment Agreement approved by the Polk County Assessor and City Council, and based on employee retention over the 17-year period.
4. Phase I of EP2's project will construct an \$18,000,000 building of approximately 180,000-225,000 square feet to relocate the company's estimated 300 employees from 1800 Hull Avenue. Phase II of EP2's project, estimated to be of similar size and scope, is proposed to occur as company growth demands.
5. The City will retain a first right of refusal on the Phase II property for 17 years; and

**WHEREAS**, as stated above and in connection with the proposed Urban Renewal Development Agreement, EP2, on behalf of its holding company Electro Management Corp., has offered to the City the purchase price of \$1,266,300 to purchase approximately 42 acres of City-owned real property located at SE 43<sup>rd</sup> Street and Vandalia Road ("Property") in the SE Agrimergent Business Park, in the vicinity of the 3801 block of Vandalia Road, which Property has now been surveyed by EP2 and approved by the City's Real Estate Division as legally described below; and

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**WHEREAS**, the proposed sale is subject to the above-referenced 28E Agreement between the City and DMWW, which provides in part that property in the SE Agrimergent Business Park shall be marketed to attract large volume water users as customers of DMWW and that the sale of certain property in the Park, including the Property, shall be subject to approval of both the DMWW Board and the City Council; and

**WHEREAS**, due to said 28E Agreement, the terms of the Urban Development Renewal Agreement shall provide that closing on the Property shall be subject to approval of both the DMWW Board and the City Council and/or mutual termination of the 28E Agreement by both parties thereto; and

**WHEREAS**, on July 13, 2015, by Roll Call No. 15-1144, it was duly resolved by the City Council that the request from EP2 for the proposed conveyance of the Property to Electro Management Corp. be set down for hearing on July 27, 2015 at 5:00 P.M., in the Council Chamber at City Hall; and

**WHEREAS**, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place for hearing on said proposed conveyance of the Property; and

**WHEREAS**, in accordance with said notice, those interested in said proposed conveyance of the Property, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of approximately 42 acres of City-owned real property located at SE 43<sup>rd</sup> Street and Vandalia Road in the SE Agrimergent Business Park, in the vicinity of the 3801 block of Vandalia Road, as described herein, are hereby overruled and the hearing is closed.
2. There is no current public need or benefit for the property proposed to be conveyed, and the public would not be inconvenienced by reason of the sale and conveyance of approximately 42 acres of City-owned real property located at SE 43<sup>rd</sup> Street and Vandalia Road in the SE Agrimergent Business Park, in the vicinity of the 3801 block of Vandalia Road, to Electro Management Corp., as holding company for Electrical Power Products (EP2), for the purchase price of \$1,266,300, and said conveyance is hereby approved, subject to approval of the Board of Water Works Trustees of the City of Des Moines, Iowa ("DMWW"), and further subject to City Council approval by resolution of an Urban Renewal Development Agreement between the City, Electro Management Corp. and EP2:

A PARCEL OF LAND IN THE NW1/4 OF SECTION 17, TOWNSHIP 78 NORTH, RANGE 23 WEST OF THE 5<sup>TH</sup> P.M., INCLUDING PARTS OF LOT 13, DAWSON & SWEENEY ESTATE( ALSO KNOWN AS ESTATE OF SWEENEY & DAWSON) , A DISTRICT COURT ESTATE PLAT, AND LOT 6, PARTITION PLAT OF HENDERSON ESTATE, A DISTRICT COURT ESTATE PLAT RECORDED IN DISTRICT COURT JOURNAL BOOK 12, PAGE 26 AND POLK COUNTY AUDITOR'S BOOK 'J', PAGE 22, ALL IN THE CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AS A POINT OF REFERENCE AT THE N1/4 CORNER OF SAID SECTION 17; THENCE S00°01'25"E, 1323.30 FEET ALONG THE EAST LINE OF SAID NW1/4 TO THE NE CORNER OF PARCEL 'B' OF SE1/4 NW1/4, AN OFFICIAL PARCEL RECORDED IN BOOK 8392, PAGE 785 AT THE POLK COUNTY RECORDER'S OFFICE; THENCE N87°32'48"W, 16.52 FEET ALONG THE NORTH LINE OF SAID PARCEL 'B'

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TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE WEST LINE OF THE EAST 16.5 FEET OF SAID NW1/4; THENCE CONTINUING N87°32'48"W, 1300.82 FEET ALONG SAID NORTH LINE TO THE NW CORNER OF SAID PARCEL 'B'; THENCE CONTINUING N87°32'48"W, 120.33 FEET TO A POINT; THENCE, N00°01'25"W, 1291.88 FEET ALONG A LINE THAT IS PARALLEL TO THE EAST LINE OF SAID NW1/4 TO A POINT THAT IS 33.00 FEET SOUTH OF THE NORTH LINE OF SAID NW1/4; THENCE S87°28'58"E, 1291.03 FEET ALONG A LINE THAT IS 33.00 FEET SOUTH OF AND PARALLEL TO SAID NORTH LINE TO POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 136.09 FEET AND A CHORD BEARING S43°45'12"E, AN ARC LENGTH OF 207.73 FEET TO A POINT OF TANGENCY, SAID POINT ALSO BEING ON THE WEST LINE OF THE EAST 16.50 FEET OF SAID NW1/4; THENCE S00°01'25"E, 1160.10 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING AND CONTAINING 42.00 ACRES MORE OR LESS.

3. The City Manager and his designee(s) are directed to finalize negotiations and Urban Renewal Development Agreement with EP2 and Electro Management Corp. in accordance with the proposed terms set forth herein, and to return said Agreement to the Council for approval.

4. Following approval by DMWW of the proposed conveyance and approval by City Council resolution of the proposed Urban Renewal Development Agreement, the Mayor is authorized and directed to sign the Deed for the conveyance as identified above, in form approved by the Legal Department; the City Clerk is authorized and directed to attest to the Mayor's signature; and the City Manager and his designee(s) are authorized to proceed to closing in accordance with standard real estate practices and the terms of the Council-approved Development Agreement.

(Council Communication No. 15- 429 )

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED APPROVED T. M. Franklin Council 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.

Diane Rauh City Clerk