

★ Roll Call Number
19-2067

Agenda Item Number

65 ✓

Date December 16, 2019

HEARING AND APPROVAL OF URBAN RENEWAL DEVELOPMENT AGREEMENT FOR CONVEYANCE OF CITY-OWNED PROPERTY LOCATED IN THE VICINITY OF 200 SE 15TH STREET TO DES MOINES INDUSTRIAL, LLC FOR DEVELOPMENT OF A MULTI-MODAL TRANSLOADING FACILITY WITHIN THE SE AGRIBUSINESS URBAN RENEWAL AREA FOR \$1,434,000.00

WHEREAS, on January 26, 1998, by Roll Call No. 98-275, the City Council of the City of Des Moines approved the SE AgriBusiness Urban Renewal Plan, and such Plan has been amended 11 times (the urban renewal plan so amended is herein referred to as the "Plan"), covering real property located between SE 14th Street and SE 43rd Street and extending north from the Des Moines River to Dean Avenue; and

WHEREAS, City staff and Des Moines Industrial, LLC ("Buyer") have negotiated terms relating to the sale of City-owned property located in the vicinity of 200 SE 15th Street ("Property") and located in the SE AgriBusiness Urban Renewal Area, for the purchase price of \$1,434,000.00, for construction and operation of a multi-modal transloading facility, including a minimum 115,200 square foot warehouse building, a minimum 37,500 square foot bulk mineral storage building, and related parking and access drives, rail trackage, signage, signals, safety measures, and site improvements (collectively "Improvements" or "Project"), which purchase price equals fair market value for the Property as determined by the City's Real Estate Division; and

WHEREAS, City staff and Des Moines Industrial, LLC have further negotiated terms of an Urban Renewal Development Agreement ("Development Agreement") for the sale and development of the Property, which terms include but are not limited to:

- conditions precedent to closing on the sale of the Property, and receipt of the Certificate of Completion for the Improvements and the Economic Development Grant;
- the requirement that the Developer design and construct reconfiguration of stormwater detention basins contained within the Property which the Developer wishes to utilize for stormwater management purposes;
- a closing credit to the Developer in the amount of \$47,768.00 in the event that City or Developer opt not to vacate and transfer SE 15th Street, and in the amount of \$150,000.00 or \$0.74 per square foot in the event that City or Developer opt not to vacate and transfer all or a portion of East Market Street;
- the requirement that Development submit and receive approval of a Conceptual Development Plan to be reviewed by the Urban Design Review Board and considered for approval by City Council;
- provision to Developer of an Economic Development Grant in an estimated cash value amount of \$3,162,458.00 (\$2,501,709.00 net present value) to be paid in semi-annual installments on a declining scale, providing 100 percent of project generated tax increment (TIF) funding for the land and Improvements in years 4-7, 75 percent of project generated tax increment (TIF) funding for the land and improvements in years 8-10, 50 percent of project generated tax increment (TIF) funding for the land and improvements in years 11-14, and 42 percent of project generated tax increment (TIF) funding for the land and improvements in year 15;
- provision to Developer of a Supplemental Economic Development Grant in the amount of \$50,000.00, to be paid upon issuance of the Certificate of Completion for the Improvements; and
- special remedies for the City relating to major delay in completion of the Improvements, failure to close on the purchase of the Property, failure to comply with funding and operational agreements related to the transloading facility, and future closure of the Improvements; and



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WHEREAS, the proposed Development Agreement and the Site Layout Plan related thereto are on file and available for inspection in the office of the City Clerk; and

WHEREAS, the proposed use of the Property and Improvements constitute industrial buildings and facilities in accordance with Iowa Code Section 403.8; and

WHEREAS, there is no known current or anticipated public benefit or need for the Property proposed to be sold, and the City will not be inconvenienced by the sale of said Property.

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 any and all statements of interested persons and arguments of counsel, any objections to the proposed Development Agreement are hereby overruled, and the hearing is closed.
2. The City Council hereby makes the following findings in support of the proposed Development Agreement with Des Moines Industrial, LLC:
 - a. Developer's obligations under the Development Agreement to construct the Project furthers the objectives of the SE AgriBusiness Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents, and to maintain and expand taxable values and employment opportunities within the Urban Renewal Project Area.
 - b. The economic development incentives for the development of the Project are provided by the City pursuant to the Urban Renewal Law and Chapter 15A of the Code of Iowa, and Developer's obligations under the Agreement to construct the Improvements will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Project Area in accordance with the Urban Renewal Plan; (ii) it will create and preserve an environment to protect the health, safety, general welfare and quality of life of City residents as well as maintain and increase taxable values and good quality employment in the area; (iii) it will encourage the elimination of vacant and under-utilized parcels, blighting influences and environmental deficiencies which detract from the functional unity, aesthetic appearance and economic vitality of the Urban Renewal Area; (iv) it will aid to establish conditions to attract new investment and prevent the recurrence of blight; (v) it will encourage and support development which enhances and makes the best possible use of public facilities resources and investments; (vi) it ensures that the Urban Renewal Area is adequately served with public utilities and services to support contemporary development requirements; (vii) it will encourage intensive, coordinated development of public improvements and of commercial and industrial agribusiness and related facilities to ensure efficient and effective use of available land and investments; (viii) it will improve truck and rail traffic and circulation within the Urban Renewal Area; and (ix) it will aid with the Urban Renewal Plan objective to provide for the orderly expansion of appropriate and diverse service, manufacturing and industrial uses in Des Moines.
 - c. The construction of the Project is a speculative venture and the construction and the construction and resulting benefits would not occur without the sale of the Property and the economic incentives provided by the Development Agreement.
 - d. The redevelopment of the Property pursuant to the Development Agreement, and the fulfillment generally of 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 Project has been undertaken, and warrant the sale of the Property and the provision of the economic assistance set forth in the Agreement.
3. The Development Agreement, as on file in the office of the City Clerk, is hereby approved; the Mayor is authorized and directed to execute the Agreement on behalf of the City of Des Moines and the City Clerk to attest



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to his signature; and the City Manager or his designee(s) are authorized and directed to monitor compliance by the Developer with said Agreement.

4. The Director of the Office of Economic Development or her designee are directed to submit a copy of the fully executed Development Agreement to the Finance Department to enable the Finance Director to make any appropriate disclosure filings in accordance with the City's adopted revised Disclosure Policy.

5. The sale of the Property, legally described as follows, to Des Moines Industrial, LLC for the purchase price of \$1,434,000.00, subject to (i) Developer's fulfillment of the conditions precedent, (ii) Council approval of an ordinance vacating the required City right-of-way contained within the Property, and (iii) a closing credit in the amount of \$47,768.00 in the event that City or Developer opt not to vacate and transfer the SE 15th Street portion of the Property as described above and in the Development Agreement, is hereby approved in accordance with the terms of said Agreement; the Mayor is authorized and directed to execute all necessary closing documents and Special Warranty Deed conveying the Property on behalf of the City; and the City Manager or his designee(s) are authorized and directed to proceed to closing on the conveyance in accordance with said Agreement upon the satisfaction of all conditions precedent to closing contained in said Agreement:

Property excluding East Market Street:

DISPOSAL PARCEL 2017-81, RECORDED IN BOOK 16485 PAGE 889 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA AND BEING A PORTION OF LOTS 38 AND 39, CAPITAL ADDITION, AND A PORTION OF LOTS 36, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 39; THENCE NORTH 00°(DEGREES) 17'(MINUTES) 46"(SECONDS) WEST, 33.21 FEET ON THE WEST LINE OF SAID LOT; THENCE NORTH 89°42'14" EAST, 120.42 FEET; THENCE NORTH 01°11'18" WEST, 78.83 FEET; THENCE NORTH 89°51'12" EAST, 314.91 FEET TO THE WEST RIGHT OF WAY LINE OF SE 18TH STREET; THENCE SOUTH 00°08'48" EAST, 131.06 FEET ON SAID WEST RIGHT OF WAY LINE; THENCE NORTH 90°00'00" WEST, 381.07 FEET TO THE SOUTH LINE OF SAID LOT 38; THENCE NORTH 71°33'42" WEST, 55.65 FEET ON THE SOUTH LINE OF SAID LOTS 38 AND 39 TO THE POINT OF BEGINNING;

AND

STORM WATER MANAGEMENT PARCEL 2017-78, RECORDED IN BOOK 16485 PAGE 889 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA AND BEING A PORTION OF LOTS 28 THRU 31, AND ALL OF LOTS 32 THRU 34, 40 THRU 44, AND A PORTION OF VACATED ALLEY ADJOINING SAID LOTS, A PORTION OF VACATED ELM STREET ADJOINING LOTS 31 THRU 34, ALL IN CAPITAL ADDITION AND A PORTION OF LOTS 34, AND 35, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AND A PORTION OF FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD, ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 40; THENCE SOUTH 00°(DEGREES) 17'(MINUTES) 46"(MINUTES) EAST, 99.11 FEET ON THE EAST LINE OF SAID LOT 40 TO THE NORTH LINE OF SAID FORMER CHICAGO, ROCK ISLAND, & PACIFIC RAILROAD; THENCE SOUTH 71°33'42" EAST, 55.65 FEET ON SAID NORTH LINE; THENCE NORTH 90°00'00" WEST, 394.14 FEET; THENCE WESTERLY 130.98 FEET ON A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 5115.00 FEET, A CHORD OF WHICH BEARS NORTH 89°15'59" WEST, 130.97 FEET; THENCE NORTH 78°45'06" EAST, 41.57 FEET; THENCE NORTH 45°26'58" EAST, 419.76



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FEET TO THE NORTH RIGHT OF WAY LINE OF SAID VACATED ELM STREET; THENCE SOUTH 89°54'52" EAST, 91.71 FEET ON SAID NORTH RIGHT OF WAY LINE; THENCE SOUTH 00°17'46" EAST, 184.00 FEET ON THE EAST LINE OF SAID LOT 34, CAPITAL ADDITION AND ITS NORTHERLY AND SOUTHERLY EXTENSION THEREOF TO THE NORTHWEST CORNER OF SAID LOT 40; THENCE SOUTH 89°54'50" EAST, 39.23 FEET ON THE NORTH LINE OF SAID LOT 40 TO THE POINT OF BEGINNING;

AND

ALL OF VACATED EAST ELM STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 1, 2 AND 3 OF SAID CAPITAL ADDITION;

AND

ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOTS 35, 36 AND 37 OF SAID CAPITAL ADDITION;

AND

PARCEL A, RECORDED IN BOOK 14883 PAGE 81 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA AND BEING A PORTION OF LOT 1, OFFICIAL PLAT OF BLOCK 33 OF BROOKS & COS ADDITION, AN OFFICIAL PLAT; AND A PORTION OF BLOCK 33, BROOKS & COS ADDITION, AN OFFICIAL PLAT, AND A PORTION OF LOTS 8 THRU 19, COTTAGE ADDITION, AN OFFICIAL PLAT; AND LOTS 11 THRU 27 AND A PORTION OF LOTS 28 THRU 31, A PORTION OF VACATED ELM STREET ADJOINING LOTS 6 THRU 19, CAPITAL ADDITION, AN OFFICIAL PLAT; AND A PORTION OF PART OF BLOCK 34, BROOKS & COS ADDITION TO CITY OF DES MOINES, AN OFFICIAL PLAT; AND ALL OF LOTS 4 AND 5 AND A PORTION OF LOTS 3 AND 6, AND A PORTION OF THE VACATED ALLEY ADJOINING LOTS 3 AND 4, CHOICE ADDITION TO DES MOINES IOWA, AN OFFICIAL PLAT; AND A PORTION OF VACATED SOUTHEAST 16TH STREET, AND A PORTION OF THE VACATED RIGHT OF WAY OF THE FORMER CHICAGO, ROCK ISLAND, AND PACIFIC RAILROAD (C.R.I. & P. RAILROAD), AND A PORTION OF A VACATED RAILROAD, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 33; THENCE SOUTH 89°(DEGREES) 54'(MINUTES) 41"(SECONDS) EAST, 1142.21 FEET ON THE SOUTHERLY RIGHT OF WAY LINE OF EAST MARKET STREET TO THE NORTHEAST CORNER OF SAID LOT 11, CAPITAL ADDITION; THENCE SOUTH 00°17'46" EAST, 132.00 FEET ON THE EAST LINE OF SAID LOT 11, CAPITAL ADDITION, TO THE SOUTHEAST CORNER OF SAID LOT 11, CAPITAL ADDITION; THENCE SOUTH 89°54'56" EAST, 182.88 FEET ON THE NORTH RIGHT OF WAY LINE OF VACATED ELM STREET; THENCE SOUTH 45°26'58" WEST, 419.76 FEET; THENCE SOUTH 78°45'06" WEST, 41.58 FEET; THENCE 483.09 FEET ON A 5115.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD LENGTH OF 482.91 FEET AND BEARS SOUTH 85°49'38" WEST; THENCE SOUTH 83°07'17" WEST, 125.73 FEET; THENCE NORTH 16°26'52" WEST, 99.67 FEET; THENCE NORTH 88°58'52" WEST, 351.66 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET; THENCE NORTH 00°03'46" EAST, 384.98 FEET ON SAID EAST RIGHT OF WAY LINE TO THE POINT OF BEGINNING;

AND



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STORM WATER MANAGEMENT PARCEL 2017-77, RECORDED IN BOOK 16485 PAGE 889 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA AND BEING A PORTION OF LOTS 1 THRU 8 AND A PORTION OF VACATED RACON STREET ADJOINING LOT 1, ALL IN COTTAGE ADDITION, AND A PORTION OF LOT 1, BLOCK 33, BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, ALL OFFICIAL PLATS, ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: REFERRING TO THE SOUTHWEST CORNER LOT 102 IN SAID COTTAGE GROVE ADDITION, THENCE NORTH 00°(DEGREES) 03'(MINUTES) 46"(SECONDS) EAST, 384.17 FEET ON THE EAST RIGHT OF WAY LINE OF SOUTHEAST 15TH STREET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°03'46" EAST, 147.68 FEET ON SAID EAST RIGHT OF WAY LINE; THENCE SOUTH 88°58'52" EAST, 351.64 FEET; THENCE SOUTH 16°26'52" EAST, 99.67 FEET; THENCE SOUTH 83°07'17" WEST 382.72 FEET TO THE POINT OF BEGINNING;

AND

Southeast 15th Street Portion of the Property (To be presented separately to Council for vacation):

ALL THAT PART OF VACATED SOUTHEAST 15TH STREET RIGHT OF WAY LYING SOUTH OF THE SOUTH RIGHT OF WAY LINE OF VACATED EAST MARKET STREET, AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 15 FEET OF LOT 8 IN BENNETT PLACE, AN OFFICIAL PLAT, AND ALL LYING WITHIN BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

-EXCEPT THE SOUTH 15 FEET OF EAST 15 FEET OF LOT 8-, LOTS 1 THROUGH 24, ALL IN BENNETT PLACE, AN OFFICIAL PLAT;

AND

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 1 THROUGH 8 IN SAID BENNETT PLACE;

AND

ALL OF THE VACATED SOUTHEAST 14TH COURT RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 9 THROUGH 16 IN SAID BENNETT PLACE;

AND

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 17 THROUGH 24 IN SAID BENNETT PLACE;

AND

LOTS 25 THROUGH 31, -EXCEPT THAT PART OF SAID LOTS LYING WEST OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 31, SAID POINT BEING 29.75 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 31, THENCE SOUTH TO A POINT ON THE



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SOUTH LINE OF SAID LOT 31, SAID POINT BEING 29.5 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 31; THENCE SOUTH TO A POINT ON THE NORTH LINE OF SAID LOT 28, SAID POINT BEING 29 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 28; THENCE SOUTH TO A POINT ON THE NORTH LINE OF SAID LOT 27, SAID POINT BEING 28.75 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 27; THENCE SOUTH TO A POINT ON THE SOUTH LINE OF SAID LOT 26, SAID POINT BEING 28.5 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 26; THENCE SOUTH TO A POINT ON THE SOUTH LINE OF SAID LOT 25, SAID POINT BEING 28 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 25, AND SAID POINT BEING THE POINT OF TERMINUS OF SAID LINE-, ALL IN SAID BENNETT PLACE;

AND

-EXCEPT THE WEST 28 FEET THEREOF-, AND -EXCEPT THE EAST 50 FEET THEREOF-, ALL THAT PART OF BLOCK 49 OF SAID BROOKS AND COS ADDITION TO THE CITY OF DES MOINES LYING NORTH OF THE NORTH RIGHT OF WAY LINE OF EAST MARTIN LUTHER KING JR PARKWAY, SAID NORTH RIGHT OF WAY LINE BEING ESTABLISHED AND RECORDED IN BOOK 15696 PAGE 382 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA;

ALL NOW FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 21.82 ACRES (950,562 SQUARE FEET).

AND

Market Street Portion of the Property (To be presented separately to Council for vacation)

-EXCEPT THE WEST 60 FEET THEREOF-, ALL THAT PART OF VACATED EAST MARKET STREET RIGHT OF WAY LYING EAST OF THE WEST LINE OF BROOKS AND COS ADDITION, AN OFFICIAL PLAT, AND LYING WEST OF THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET, ALL IN SAID BROOKS AND COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 4.68 ACRES (203,985 SQUARE FEET).

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

MOVED BY Gatto TO ADOPT.

*Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
* COWNIE				
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	6			

MOION CARRIED

APPROVED

J. M. Frank Cownie Mayor

CERTIFICATE

I, P. KAY CMELIK, 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.

P. Kay Cmelik

City Clerk