

MEETING DATE: 1/3/22

ITEM: 9B

AGENDA ITEM SUMMARY

Subject: Public hearing on sale of vacant lot at 312 15th Ave and conveyance of property

Background Summary:

A few weeks ago, we had someone reach out to the city and inquire about possibly purchasing the now vacant lot at 312 15th Ave. We had previously gone out for bids on this lot this last spring but did not receive any bids. We instructed the potential bidder to submit a bid at a time to be determined. As we discussed possible dates for the taking of bids, another interested party called the city to ask about bidding on this lot as well. We established with both parties that sealed bids were to be submitted by close of business on December 15th. We received only one bid, which was opened at the December 15 planning session. The bid was for \$1300, which was below our established minimum bid of \$1500, which we had set last April when we first requested bids. After consulting with city attorney Brad Slotter, it was determined that we could accept this bid and can set a public hearing for the conveyance. We set this public hearing for the January 3 meeting. Once the public hearing is held, we can adopt a resolution conveying this property.

We recommend approval of this resolution approving conveyance.

RESOLUTION NO. 03-2022

RESOLUTION APPROVING CONVEYANCE OF REAL PROPERTY

WHEREAS, the City of Charles City has received an offer for the purchase of certain real estate described below from Michael S. Hebert for the sum of \$1,300.00 subject to approval of said sale by the Council after public hearing pursuant to §364.7 of the Iowa Code; and

WHEREAS, the City of Charles City, Iowa, has held a public hearing on the 3rd day of January, 2022, upon prior notice to the public as required by §362.3 of the Iowa Code, on the proposed sale of the following-described property to Michael S. Hebert:

The East 75 feet of the West 175 feet of Lot 1 and the East 50 feet of the West 150 feet of Lot 2, all in Block 132 in Lane's Addition to St. Charles, now incorporated in and a part of Charles City, Iowa

locally known as 312 15th Avenue, Charles City, Iowa

("the Property").

WHEREAS, no objections have been received, and it is in the best interests of the City to proceed with the sale of the Property to the adjoining owner, Michael S. Hebert, on the terms set forth herein.

NOW, THEREFORE, BE IT RESOLVED:

1. That the sale and conveyance of the Property to Michael S. Hebert upon the terms set forth in the attached Offer to Buy Real Estate and Acceptance be and is hereby approved.
2. That the Mayor and City Clerk are authorized to execute the Offer to Buy and to further execute a Quit Claim Deed for the conveyance of the Property, and to take all actions necessary to complete the above-described transaction, including execution of ancillary documents.
3. Upon execution of the Deed, the City Clerk is authorized and directed to forward the original Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of hearing to the Floyd County Recorder for the purpose of causing said documents to be recorded.

Council Member _____ moved adoption of the foregoing Resolution; Council Member _____ seconded the motion to adopt. On roll call, the voting was as follows:

Ayes: _____

Nays: _____

Passed and approved this _____ day of _____, 2022.

Dean Andrews, Mayor

Attest:

Trudy O'Donnell, City Clerk

OFFER TO BUY REAL ESTATE AND ACCEPTANCE

TO: City of Charles City, Iowa (SELLER)

The undersigned BUYER hereby offers to buy and the undersigned SELLER by its acceptance agrees to sell the real property situated in Charles City Floyd County, Iowa, legally described as:

The East 75 feet of the West 175 feet of Lot 1 and the East 50 feet of the West 150 feet of Lot 2, all in Block 132 in Lane's Addition to St. Charles, now incorporated in and a part of Charles City, Iowa

(Locally known as 312 15th Avenue, Charles City, Iowa; Parcel ID Number: 120615301800)

together with any easements and appurtenant servient estates, but subject to any reasonable easements of record, and zoning restrictions, herein referred to as the "Property," upon the following terms and conditions provided BUYERS, on possession, are permitted to use the Property for any use permitted by applicable laws and ordinances.

1. PURCHASE PRICE. The Purchase Price shall be \$1300_____ and BUYER shall pay the full purchase price in cash, certified funds, or wire transfer at the time of closing with adjustment for closing costs to be added or deducted from this amount.

2. REAL ESTATE TAXES. Seller shall pay all real estate taxes that are due and payable as of the date of possession and constitute a lien against the Property, including any unpaid real estate taxes for any prior years. BUYER shall be responsible for all subsequent real estate taxes. There will be no proration of real estate taxes for the current fiscal year. BUYER will be solely responsible for all taxes due and payable September of 2022 and thereafter.

3. SPECIAL ASSESSMENTS. A. SELLER shall pay in full all special assessments which are a lien on the Property as of the date of acceptance.

B. BUYER shall pay all other special assessments.

4. RISK OF LOSS AND INSURANCE. SELLER shall bear the risk of loss or damage to the Property prior to closing or possession, whichever first occurs.

5. POSSESSION AND CLOSING. Closing shall occur on or before January 15, 2022, unless otherwise mutually agreed upon by the parties. SELLER agrees to permit BUYER to inspect the Property within 72 hours prior to closing to assure that the premises are in the condition required by this Agreement. This transaction shall be considered closed upon the filing of title transfer documents and receipt of all funds then due at closing from BUYER under the Agreement.

6. FIXTURES. Included with the Property shall be all fixtures that integrally belong to, are specifically adapted to or are a part of the real estate, whether attached or detached.

7. **CONDITION OF PROPERTY.** BUYER is purchasing the Property in its "AS IS" existing condition. Buyer acknowledges that Seller has made no representations or warranties, express or implied, as to the condition of the property or as to value, fitness for use, state of title, or environmental matters, and Buyer hereby waives any claims based on the condition of the property and releases and discharges the Seller and its employees, officers, and agents from any such claims, liabilities, and causes of action.

8. **ABSTRACT AND TITLE.** SELLER is not required to provide an abstract of title to the Property and does not make any representations or warranties as to the state of title to the Property.

Buyer may, at Buyer's expense, obtain an abstract of title to the Property continued through the date of acceptance of this Agreement, and deliver it to BUYER's attorney for examination prior to closing. If closing is delayed due to SELLER's inability to provide marketable title, this Agreement shall continue in force and effect until either party rescinds the Agreement after giving ten days written notice to the other party.

9. **DEED.** Upon payment of the purchase price, SELLER shall convey the Property to BUYER by Municipal "Quit Claim" Deed.

10. **REMEDIES OF THE PARTIES.** A. If BUYER fails to timely perform this Agreement, SELLERS may forfeit it as provided in the Iowa Code (Chapter 656), and all payments made shall be forfeited; or, at SELLERS' option, upon thirty days written notice of intention to accelerate the payment of the entire balance because of BUYER'S default (during which thirty days the default is not corrected), SELLERS may declare the entire balance immediately due and payable. Thereafter this agreement may be foreclosed in equity and the Court may appoint a receiver.

B. If SELLERS fail to timely perform this Agreement, BUYER have the right to have all payments made returned to them.

C. BUYER and SELLERS are also entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain judgment for costs and attorney fees as permitted by law.

11. **NOTICE.** Any notice under this Agreement shall be in writing and be deemed served when it is delivered by personal delivery or by certified mail return receipt requested, addressed to the parties at the address given below.

12. **CERTIFICATION.** Buyer and Sellers 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.

13. GENERAL PROVISIONS. In the performance of each part of this 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 Agreement shall apply to and bind the successors in interest of the parties. This Agreement shall survive the closing. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this 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.

14. INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM. Seller represents and warrants to Buyer that the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the property.

15. ADDITIONAL PROVISIONS:

A. CONTINGENCY. Seller's obligations under this Offer to Buy are contingent on the approval of this Offer to Buy by the City Council of the City of Charles City, Iowa, and after such notice and hearing required by law.

B. CLOSING COSTS. Sellers are responsible for preparation of this Agreement, deed preparation, transfer tax, and recording fees. Buyer is responsible for any fees associated with abstracting, title examination, and inspection expenses.

C. REPRESENTATION. This agreement is prepared by the attorney for the Seller. Buyer has been advised of this representation and have been informed of Buyer's right to obtain independent legal counsel to review the Agreement on their behalf. Buyer has either obtained independent legal counsel or has intentionally declined to do so.

D. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original. Signatures which have been photocopied, sent by facsimile, or scanned and sent by electronic delivery shall have the same force and effect as original signatures.

Dated 29 Nov 2021

BUYER



Michael S. Hebert

SELLER

CITY OF CHARLES CITY

By: _____
Dean Andrews, Mayor

ATTEST:

Trudy O'Donnell, City Clerk