



COMMUNITY DEVELOPMENT DEPARTMENT

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Planning • Zoning • Building Safety • Construction Inspection Services • Public Health • Housing Inspections • Code Enforcement

MEMORANDUM

To: Mayor and City Council Members
From: Andrew Fangman, Assistant Community Development Director
Cc: Carol Webb, City Administrator
Jodi Royal-Godwin, Community Development Director
Date: September 10, 2020

Re: Purchase Agreement Regarding the Sale of Surplus City Property - Former Musser Public Library Building – 304 Iowa Avenue

INTRODUCTION: City Staff has negotiated a purchase agreement with the Stanley Center for Peace and Security regarding the former Musser Public Library building located at 304 Iowa Avenue

BACKGROUND:

In June of 2018, the new Musser Public Library and HNI Community opened at 408 E. 2nd Street, relocating from its former location at 304 Iowa Avenue. This ended 117 continuous years of the City of Muscatine operating a library at the northwest corner Iowa Avenue and Third Street.

On June 7, 2018 City Council passed a resolution declaring the building and property that formerly housed the Musser Public Library, located at 304 Iowa Avenue, as surplus and which authorized and directed City staff to take the necessary steps to dispose of this property. On June 21, 2018, City Council approved a resolution setting a public auction to dispose of this property. This auction was held on July 27, 2018 and no bids were received. During the subsequent two years City staff has engaged in a number of informal conversations with a number of parties about their potential interest in purchasing this property. However, none of these inquires resulted in an offer to purchase this surplus property.

This summer the Stanley Center for Peace and Security (formerly the Stanley Foundation), an endowed, private operating foundation funded by the long-term investment of its founders, Max and Betty Stanley, and the Stanley family, determined that the former Musser Public Library would make ideal location, after significant renovation, to become the Center's permanent headquarters. The Stanley Center currently operates out of leased spaced at Laurel Building in downtown Muscatine. The Center is anticipating investing more than \$6 million in renovation of the old library, which upon completion of the renovation, be occupied by a staff of 24. The Stanley Center have also set a goal of this renovation creating Iowa's first fully-certified Living Building. Living Building certification is the world's most rigorous proven-performance standard for buildings. To achieve certification, Living Buildings must connect occupants to light, air, food, nature, and community, be self-sufficient and remain within the resource limits of their site, and create a positive impact on the human and natural systems that interact with them. The renovated structure would also include space dedicated to the center's educational programming in Muscatine. Construction is targeted to begin in the spring of 2021, and for the renovation to be completed in the spring of 2022.

City Staff has negotiated with the Stanley Center, the attached purchase agreement for the old library, which sets a purchase price of \$120,000. The proposed sale would close no later than October 22, 2020. Closing is contingent on the successful rezoning of the property from R-5 Multi-Family Residential, to C-2 Downtown Commercial, and completion by the Stanley Center of structural and environmental due diligence on the property. Prior to closing City Council will be asked to approve a resolution executing this purchase agreement and resulting deed. Additionally, prior to closing City Council will be asked to create an easement for the West Branch Trunk Sewer which runs underneath the old library building. There currently is no easement for this sewer as City ownership of this parcels predates to the construction of the West Branch Trunk Sewer.

RECOMMENDATION:

Staff recommends approval of the attached purchase agreement. This recommendation is based on the following factors. The positive impact, to downtown and the community as a whole, of the Stanley Center's proposed renovation of the old library building. That the sale of this building will allow the City to cease expending resources on a building no longer used or needed by the City. That the proposed purchase price reflects the fair market value of the building.

The Stanley Center's renovation of this building would represent a major investment in downtown Muscatine, this investment and keeping the Stanley Center's staff located in downtown Muscatine; are both important steps in ongoing effort to build an even more vibrant downtown.

Since the relocation of the Musser Public Library from this site, the continued ownership of this property has cost the City approximately \$10,000 per year to maintain the existing building and grounds. This cost includes the ongoing utility expenses and staff time currently devoted to the upkeep of this property.

The purposed purchase price, of \$120,000, is reflective of the fair market value of this parcel and building in their current state. The value of the very attractive downtown location of this property is off-set by several factors. There is currently no available on-site parking. While existing structure is structurally sound, many major building systems, such as the elevator, the boilers, and the HVAC system, have all reach the end of their useful life, and must now be replaced. In order make the building compliant with the Americans with Disabilities Act, numerous other changes to the structure will have to be made.

If City Council approves this purchase agreement, City Staff will then prepare the resolutions and other documents and actions necessary to complete the proposed real estate transaction and place them appropriate future Council agendas.

BACKUP INFORMATION:

1. Purchase agreement
2. Statement from the Stanley Center explaining their project

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (“**Agreement**”) is entered into by and between the City of Muscatine, Iowa, a municipal corporation organized under the laws of the State of Iowa whose address for the purposes of this Agreement is 215 Sycamore Street, Muscatine, Iowa 52761 (“**SELLER**”) and The Stanley Foundation, d/b/a/ Stanley Center for Peace and Security, an Iowa nonprofit corporation whose address for the purposes of this Agreement is 209 Iowa Avenue, Muscatine, Iowa 52761 (“**BUYER**”).

SELLER agrees to sell and convey to BUYER, and BUYER agrees to purchase from SELLER the real property situated in Muscatine County, Iowa, locally known as 304 Iowa Avenue, Muscatine, Iowa 52761 and legally described as:

LOTS 4 AND 5 OF BLOCK 55 OF ORIGINAL TOWN, CITY OF
MUSCATINE, MUSCATINE COUNTY, IOWA, PARCEL ID# 0835460011

together with any easements and appurtenant servient estates, and subject to any reasonable easements of record for public utilities or roads or easements not of record but evidenced by usage, any zoning restrictions, restrictive covenants, and mineral reservations of record, if any, herein referred to as the “Property,” upon the following terms and conditions:

1. **Purchase Price.** The Purchase Price shall be One Hundred Twenty Thousand Dollars (\$120,000.00) to be paid in cash, in good and immediately available funds by wire transfer or cashier's check, at the time of closing.
2. **Property Due Diligence.** SELLER shall provide to BUYER such information and records, already in possession of the SELLER prior to execution of this Agreement, regarding the Property reasonably necessary to enable BUYER to complete its due diligence review of the transaction (“Due Diligence Review”), such as information regarding building assessments, structural plans, West Branch Trunk Sewer or other utility and such similar items as may be reasonably requested by BUYER. SELLER shall also permit the BUYER to conduct its own expense any inspection of the Property that the BUYER deems necessary to complete its Due Diligence Review. BUYER shall not perform any invasive or intrusive inspection without the prior written consent of SELLER, which consent shall not be unreasonably withheld or delayed. BUYER shall promptly restore any damage to the Property and return the Property to the condition prior to any such invasive or intrusive inspection. The BUYER agrees to protect, indemnify, defend and hold the SELLER harmless from and against any claim for liabilities, losses, costs, expenses (including reasonable attorneys’ fees), damages, injuries, liens or claims of lien arising out of or resulting from the inspection of the Property by the BUYER or their agents or consultants. Such obligation to indemnify and hold harmless shall survive any termination of this Agreement. At any time prior to closing, but following the full execution hereof, BUYER may terminate this Agreement if BUYER, in its sole discretion, is not satisfied with its Due Diligence Review.

Additional Terms. SELLER shall retain a utility easement for the West Branch Trunk Sewer and any other utility which easement shall be agreed to by the BUYER prior to closing. As a condition of closing, BUYER requests the following from SELLER: (a) That Property be rezoned C-2; (b)

That the Seller shall not prohibit the installation of a potable water well upon the Property, if such a potable water well complies with all applicable state and federal regulatory requirements; the plumbing code as adopted and amended by the City of Muscatine; and the requirements on any applicable easement;

3. **Abstract and Title.** If the BUYER desires an abstract of title to the Property, the BUYER shall obtain said abstract at no cost to the SELLER.
4. **Survey.** If a survey is required under Iowa Code Chapter 354, or city or county ordinances, SELLER shall pay the costs thereof. BUYER may, at BUYER'S expense prior to closing, have the Property surveyed and certified by a registered land surveyor.
5. **Possession and Closing.** This transaction shall be considered closed and possession of the Property shall be delivered to BUYER upon the filing of title transfer documents and SELLER'S receipt of all funds due at closing from BUYER under this Agreement. Closing to be held on October 22, 2020 or such other date as the parties may agree and shall take place at a location mutually agreed upon by the parties.
6. **Commission.** SELLER and BUYER each represent and warrant to the other that no brokerage commission, finder's fee or other compensation is due and payable with respect to the transaction contemplated by this Agreement. BUYER represents to SELLER that it knows of no fee, commission or payment due to any broker, finder, agent or other person or entity, in connection with the transactions contemplated. SELLER represents to BUYER that it knows of no fee, commission or payment due to any broker, finder, agent or other person or entity, in connection with the transactions contemplated herein. SELLER and BUYER each, one to the other, indemnify, protect, defend and hold the other harmless from and against all losses, claims, costs, expenses and damages (including but not limited to reasonable attorney fees) resulting from the claims of any broker, finder or other such party claiming, by, through or under the acts or agreements of the indemnifying party. The warranties and obligations of the parties pursuant to this paragraph shall survive the termination of the closing. Should any third-party claim a commission is due and owing, both parties agree to cooperate in challenging such claim. Such cooperation shall not be deemed to alter the indemnifications contained in this paragraph in any manner.
7. **Environmental Matters.** SELLER warrants to the best of its knowledge and belief that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Property, and SELLER has done nothing to contaminate the Property with hazardous wastes or substances. SELLER warrants that the property is not subject to any local, state, or federal judicial or administrative action, investigation or order, as the case may be, regarding wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks. SELLER shall also provide BUYER with a properly executed GROUNDWATER HAZARD STATEMENT showing no wells, private burial sites, solid waste disposal sites, private sewage disposal system, hazardous waste and underground storage tanks on the Property unless disclosed here: _____
8. **Condition of Property.** The property as of the date of this Agreement, including buildings, grounds, and all improvements, will be preserved by the SELLER in its present condition until

possession, ordinary wear and tear excepted. SELLER make no warranties, expressed or implied, as to the condition of the property. BUYER acknowledges to and agrees with SELLER that BUYER's purchase of the property shall be "as is," "where is," and "with all faults" and with all patent or latent defects.

9. **Deed.** Upon payment of the Purchase Price, SELLER shall convey the Property to BUYER by a warranty deed subject only to such reasonable title exceptions meeting the title standards of the Iowa State Bar Association and encumbrances as provided herein or as have been approved by BUYER.
10. **Closing Costs.** BUYER shall pay the recording fees in connection with the Deed conveying title to BUYER, and any financing documents encumbering or relating to the Property and other documents BUYER desires to record. BUYER shall pay the premium for issuing the Iowa Title Guaranty or title policy (if any) described herein. Each party shall be responsible for paying its own attorney fees. BUYER shall cause an appropriate closing statement to be prepared in advance of closing for proper execution by both BUYER and SELLER consistent with the terms of this Agreement. BUYER shall be responsible for any settlement fees associated with closing.
11. **Risk of Loss.** SELLER shall bear the risk of loss or damage to the Property prior to closing or possession, whichever first occurs. SELLER agrees to maintain existing insurance and BUYER may purchase additional insurance. In the event of substantial damage or destruction prior to closing, this Agreement shall be null and void; provided, however, BUYER shall have the option to complete the closing and receive insurance proceeds regardless of the extent of damages. The Property shall be deemed substantially damaged or destroyed if it cannot be restored to its present condition on or before the closing date.
12. **Existing Tenancy or Other Interests.** SELLER confirms the Property is not subject to an existing lease or other possessory interest not shown of record. If such an interest exists, SELLER agrees to provide documentation executed by the party holding such interest in which such interest is terminated prior to closing.
13. **Statement as to Liens.** If BUYER intends to assume or take subject to a lien on the Property, SELLER shall furnish BUYER with a written statement prior to closing from the holder of such lien, showing the correct balance due.
14. **Notice.** Any notice under this Agreement shall be in writing and be deemed served when it is delivered by personal delivery or mailed by certified mail, addressed to the parties at the addresses given above.
15. **Remedies of the Parties.**
 - a. If BUYER fails to timely perform this Agreement, SELLER may forfeit it as provided in the Iowa Code (Chapter 656), and all payments made shall be forfeited; or, at SELLER'S 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), SELLER may declare the entire balance immediately due and payable.

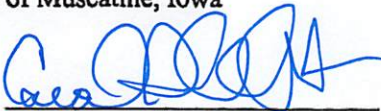
Thereafter this Agreement may be foreclosed in equity and the Court may appoint a receiver.

- b. If SELLER fails to timely perform this Agreement, BUYER has the right to have all payments made returned to them.
 - c. BUYER and SELLER are also entitled to utilize any and all other remedies or actions at law or in equity available to them, and the prevailing party shall be entitled to obtain judgment for costs and attorney fees.
16. **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. This Agreement contains the entire agreement of the parties and shall not be amended except by a written instrument duly signed by SELLER and BUYER. 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.
17. **Certification.** BUYER and SELLER 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.
18. **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.
19. **Approval by Muscatine City Council.** In the performance on this Agreement, SELLER, as an Iowa municipal corporation, shall take all action legally required of a municipal corporation relative to the disposal of real property, including but not limited to required resolutions. This Agreement shall be contingent upon the approval by the Muscatine City Council.
20. **Counterparts and Effectiveness.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, and this Agreement shall only be effective if a counterpart is signed by both BUYER and SELLER and approved by the Muscatine City Council.

ACCEPTANCE. When executed by both BUYER and SELLER, this Agreement shall become a binding contract. If not executed by SELLER and delivered to BUYER on or before the _____ day of _____, 2020 this Agreement shall be null and void.

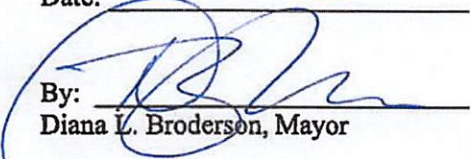
SELLER

City of Muscatine, Iowa

By: 

Carol Webb, City Clerk

Date: 9/16/20

By: 

Diana L. Broderson, Mayor

Date: 9-14-2020

BUYER

The Stanley Foundation
d/b/a Stanley Center for Peace and Security

By: _____
Patrick K. Porter, President.

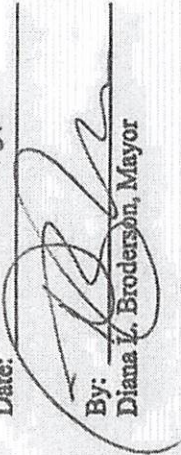
Date: _____

SELLER

City of Muscatine, Iowa

By: 
Carol Webb, City Clerk

Date: 9/16/20

By: 
Diana L. Broderson, Mayor

Date: 9-14-2020

BUYER

The Stanley Foundation
d/b/a Stanley Center for Peace and Security

By: 
Patrick K. Porter, President.

Date: 10/20/2020