CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: January 7, 2019

ITEM: Resolution - Opening and Closing Public Hearing and accepting bid, approving Purchase Agreement, and authorizing the conveyance of property at 8086 S Orilla Road, Norwalk, Warren County, Iowa to Ronald and Donna Thomas.

FINANCIAL IMPACT: $78.502.63 (positive impact to City)

SYNOPSIS: On December 19, 2018, following approval by the City Council to advertise the sale of property generally described as Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, except a twenty-foot wide temporary construction easement along the east boundary line of the property to be retained by the City (property locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa), the City received the attached two bids, with the highest bid of $78.502.63 from Ronald and Donna Thomas. Acceptance of a bid was contingent upon receiving a signed Purchase Agreement. On December 26, 2018, and due to the holiday season, City Council approved continuance of this public hearing in order to allow more time to obtain signatures on the Purchase Agreement. The attached Resolution accepts the bid, approves the Purchase Agreement and conveyance of the property, and authorizes the filing of all relevant documents.

OUTSTANDING ISSUES: Successful bidder must pay bid price at the time of closing, on or before January 21, 2019, in exchange for the quit claim deed to the property.

RECOMMENDATION: Approve the Resolution opening and closing the public hearing, accepting bid, approving Purchase Agreement, and authorizing conveyance of the property located at 8086 S Orilla Road, Norwalk, Warren County, Iowa to Ronald and Donna Thomas.

Lead Staff Member: Richard J. Scieszinski, City Attorney

STAFF REVIEWS

Department Director	Richard J. Scieszinski, City Attorney
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Dates(s) Published	December 6, 2018
Published In	N/Warren Town and County News
Dates(s) Published	December 13, 2018

SUBCOMMITTEE REVIEW (if applicable)

Committee	Finance & Administration		
Date Reviewed	Date (if any)		
Recommendation	Yes X	No	Split

Prepared by/return to: Greta Truman, Asst. City Attorney, PO Box 65320, West Des Moines, IA 50265 (515) 222-3673

RESOLUTION NO._____

RESOLUTION OPENING AND CLOSING PUBLIC HEARING, ACCEPTING BID, APPROVING PURCHASE AGREEMENT, AND AUTHORIZING THE CONVEYANCE OF PROPERTY FOR THE SALE OF REAL PROPERTY DESCRIBED AS PARCEL "AD" OF LOT 1 OF THE NW 1/4 OF THE NW 1/4 SECTION 3-77-25, LOCALLY KNOWN AS 8086 S ORILLA ROAD, NORWALK, WARREN COUNTY, IOWA, TO RONALD AND DONNA THOMAS

WHEREAS, in conjunction with the construction of a portion of the Veterans Parkway Improvement Project, the City acquired houses located on property necessary for construction of the Project; and

WHEREAS, on November 26, 2018, the City Council of the City of West Des Moines authorized advertisement and receipt of bids for the sale of real property generally comprising of Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa (hereinafter "Property"); and

WHEREAS, public notice for the request for bids was published in the Des Moines Register on December 1, 2018, and in the North Warren Town and County News on December 6, 2018, in conformance with Iowa Code 362.3, with the bids to be received and opened on December 19, 2018; and

WHEREAS, public notice for notice of public hearing was published in the Des Moines Register on December 6, 2018, and in the North Warren Town and County News on December 13, 2018, in conformance with Iowa Code 364.7; and

WHEREAS, following public notice and receipt of bids, Ronald and Donna submitted the high bid of $78.502.63 for Parcel "AD" and agreed to execute all required documents for purchase of the Property; and

WHEREAS, on December 26, 2018, and due to the holiday season, the City Council of the City of West Des Moines approved continuance of this public hearing to January 7, 2019, in order to allow more time to obtain signatures on the proposed Purchase Agreement; and

WHEREAS, this being the time and place for the public hearing regarding award of bids for the sale described above.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:

1. Pursuant to Code of Iowa Section 364.7, publication of notice regarding the sale of property located at 8086 S Orilla Road, Norwalk, Warren County, Iowa has been properly made.

2. The public hearing regarding sale is hereby closed.

3. Ronald and Donna Thomas have submitted the highest responsible bid for the purchase of the Property described as Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa, except a twenty-foot wide temporary construction easement along the east boundary line of the property to be retained by the City.

4. Contingent upon the receipt of all required documents, acceptance of the bid for sale of the Property to Ronald and Donna Thomas is approved. Conveyance of the Property shall occur following receipt and approval of all required documents.

PASSED AND ADOPTED this 7th day of January, 2019.

_____
Steven K Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

OFFICAL BID SHEET – Purchase of City-Owned House and Lot: Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa, subject to any and all easements of record, including a 20-foot wide temporary construction easement along the east boundary of the property to be retained by the City.

BIDS DUE NO LATER THAN 2:00 PM, WEDNESDAY, DECEMBER 19, 2018

BID ..... $ 78,502.63

The undersigned understands that the City reserves the right to reject any or all proposals or to waive any formality or technicality established by the owner and agrees to all terms and conditions contained in the **PURCHASE AGREEMENT**.

Bid submitted by:

INDIVIDUAL / BUSINESS NAME: RONALD P. AND DONNA M THOMAS

BY: _____ TITLE: _____

INDIVIDUAL / BUSINESS ADDRESS: 4373 SE ORILLA RD

CITY/STATE: WEST DES MOINES IA ZIP: 50061

PHONE: 515.490.9802 EMAIL: rondonmat@gmail.com DATE OF BID: 12-06-2018

PHONE: 515.490.9835 ADDRESS: 4373 SE ORILLA RD WDM IA 50061

BIDDER'S ACKNOWLEDGMENT AND ACCEPTANCE OF ABOVE DOCUMENT

Ronald P. Thomas DATE: 12-6-18

Donna M Thomas DATE: 12-06-2018

Submit in a sealed envelope, plainly marked "Bid for City-Owned House and Lot: "Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa" to:

City Clerk's Office
West Des Moines City Hall
4200 Mills Civic Parkway, Suite 2B
PO Box 65320
West Des Moines, Iowa 50265

OFFICAL BID SHEET – Purchase of City-Owned House and Lot: Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa, subject to any and all easements of record, including a 20-foot wide temporary construction easement along the east boundary of the property to be retained by the City.

BIDS DUE NO LATER THAN 2:00 PM, WEDNESDAY, DECEMBER 19, 2018

BID ..... $ 47,777 00

The undersigned understands that the City reserves the right to reject any or all proposals or to waive any formality or technicality established by the owner and agrees to all terms and conditions contained in the **PURCHASE AGREEMENT**.

Bid submitted by:

INDIVIDUAL / BUSINESS NAME: Nathan + Jennifer Katzer

BY: _____ TITLE: _____

INDIVIDUAL / BUSINESS ADDRESS: 7986 S Orilla Road

CITY/STATE: Cumming, IA ZIP: 50061

PHONE: 515-822-2586 EMAIL: nkatzer@gmail.com DATE OF BID: 12/19/18

PHONE: _____ ADDRESS: _____

BIDDER'S ACKNOWLEDGMENT AND ACCEPTANCE OF ABOVE DOCUMENT

Nathan Katzer DATE: 12/19/18

Jennifer L Katzer DATE: 12-19-18

Submit in a sealed envelope, plainly marked "Bid for City-Owned House and Lot: "Parcel "AD" of Lot 1 of the NW 1/4 of the NW 1/4 Section 3-77-25, locally known as 8086 S Orilla Road, Norwalk, Warren County, Iowa" to:

City Clerk's Office
West Des Moines City Hall
4200 Mills Civic Parkway, Suite 2B
PO Box 65320
West Des Moines, Iowa 50265

COPY

Prepared by: Greta Truman, Assistant City Attorney, PO Box 65320, West Des Moines, IA 50265-0320 (515) 222-3673
Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines IA 50265 (515) 222-3600

PURCHASE AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED this 26th day of DECEMBER, 2018, by and between the City of West Des Moines, Iowa ("CITY" OR "SELLER"), and RONALD & DONNA THOMAS ("BUYER"), for the purchase and transfer of real property locally known as 8086 S Orilla Road, Norwalk and legally described as:

Legal Description - Parcel "AD"

All that part of Lot 1 of the Subdivision of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) of Section 3, Township 77 North, Range 25 West of the 5th P.M., Warren County, Iowa, more particularly described as follows:

Commencing at the Northwest corner of the NW1/4 NW1/4 of said Section 3; thence South 00°00'53" East, along the West line of said NW1/4 NW1/4, a distance of 191.06 feet; thence South 88°25'52" East, a distance of 33.01 feet to the East Right-of-Way line of 40th Avenue, also being the Point of Beginning: thence South 88°37'32" East, a distance of 266.03 feet; thence South 42°07'36" West, a distance of 106.46feet; thence North 88°41'55" West, a distance of 194.51 feet, to a point on the East Right-of-Way line of said 40th Avenue; thence North00°03'32" West, along said East Right-of-Way line, a distance of 80.92 feet to the Point of Beginning, and containing 18,595 square feet of land, more or less, subject to all easements of record and a 20-foot wide temporary construction easement along the east boundary line of the property to be retained by the City. ("PROPERTY").

1. SELLER agrees to sell and transfer ownership of the PROPERTY to BUYER for the full bid price of $ 78,502.63 ("PURCHASE PRICE") as set forth in the attached bid solicitation and response, and for other valuable consideration, including, but not limited to, BUYER performing all obligations as set forth below.

2. BUYER shall deposit the PURCHASE PRICE in cash, cashier's check, or certified check payable to the City of West Des Moines no later than 5:00 p.m. (CST), at the time of closing on or before January 21, 2019, in exchange for the quit claim deed to the property. BUYER agrees that failure to comply with this provision will constitute a breach of this Agreement resulting in termination of any and all rights of BUYER to purchase, own and possess the PROPERTY.

3. BUYER acknowledges the PROPERTY is being conveyed in "as-is" condition.

4. BUYER releases SELLER from any and all obligations to prove marketable title. BUYER understands the PROPERTY will be conveyed via quit claim deed.

5. INDEMNIFICATION/HOLD HARMLESS AGREEMENT. BUYER acknowledges and agrees that the PROPERTY is being sold in "AS IS" condition. BUYER acknowledges that the CITY, as SELLER, has not inspected the PROPERTY for any deficiencies, defects, or hazardous materials. BUYER understands the CITY has never occupied the Improvements. BUYER acknowledges that it is possible that repairs may be needed to the Improvements before the Improvements are habitable and that it is the BUYER'S sole responsibility to perform those repairs. With that acknowledgment and understanding, BUYER agrees to indemnify, hold harmless and defend the CITY, as SELLER, its officials, employees, agents, contractors and assigns, from any and all claims, demands, causes of action, liabilities, losses,

occupation of the Improvements and land, and construction of any additional improvements to the PROPERTY. This indemnification and hold harmless applies to and includes, but is not limited to, the payment of all penalties, fines, judgments, awards, decrees, attorney's fees, expert witness fees, investigation fees, settlements, related costs or expenses, interest, and any reimbursements to the SELLER, its officials, employees, agents, contractors, and assigns for all legal expenses and costs incurred by it. This indemnification and hold harmless agreement is effective upon execution and shall be unlimited as to amount or duration. This instrument binds the BUYER and the BUYER'S executors, administrators, successors, assignees, and heirs.

6. The terms and conditions of this Agreement shall run with the land and be binding upon the BUYER'S executors, administrators, successors, assignees, and heirs. It is the BUYER'S responsibility to notify any executors, administrators, successors, assignees, and heirs of the existence of this Agreement.

BUYER'S SIGNATURE

I, the undersigned, hereby represent that I possess the requisite authority to sign this Agreement on behalf of the BUYER, either in an individual or representative capacity, and agree that the BUYER shall be bound by all of the terms and conditions set forth in this Agreement.

Signed by: Ronald P. Thomas
RONALD P. THOMAS
Print Name

Date: 12-26-18

Signed by: Donna M Thomas
DONNA M THOMAS
Print Name

STATE OF IOWA)
) ss
COUNTY OF POLK)

Individual capacity:
This document was acknowledged before me the 26th day of December, 2018 by Ronald P. Thomas and Donna M. Thomas.

NOTARIAL SEAL IOWA
MEGAN S. TOMLINSON
Commission Number 705393
MY COMMISSION EXPIRES
9-20-2021

Notary

CITY OF WEST DES MOINES, IOWA

Signed by: Greta Truman
Greta Truman, Asst. City Attorney
(Print Name and Title, if applicable)

Date: 1-3-19

STATE OF IOWA)
) ss
COUNTY OF POLK)

This record was acknowledged before me on the 3 day of January 2019, by Greta Truman.

Notary

NOTARIAL SEAL IOWA
MEGAN S. TOMLINSON
Commission Number 705393
MY COMMISSION EXPIRES
9-20-2021