



# City of Madison

**Agenda Item No. 38**  
**7/2/19 Council Meeting**

## Master

**File Number: 56383**

**File ID:** 56383

**File Type:** Resolution

**Status:** Report of Officer

**Version:** 2

**Reference:**

**Controlling Body:** FINANCE  
COMMITTEE

**File Created Date :** 06/17/2019

**File Name:** PSA Amendment - Eurofins / Madison Merchant Real Estate Inc. CIC Lot 4

**Final Action:**

**Title:** **SUBSTITUTE** - Amending the Purchase and Sale Agreement with Madison Merchant Real Estate, Inc. ("Buyer") for the sale of Lot 4 CSM No. 14573 ("Site"), located within the Center for Industry and Commerce ("CIC"), for the purpose of accommodating additional stormwater management construction costs by alleviating the requirement of Buyer to pay approximately \$421,229 of special assessments at closing, and amending the City's Special Assessment Fund budget to provide Buyer with an additional \$432,206 to use toward stormwater management construction. (17th A.D.)

**Notes:**

**Sponsors:** Satya V. Rhodes-Conway and Shiva Bidar

**Effective Date:**

**Attachments:** V1.pdf, FILE ID 54274.pdf, FILE ID 53799.pdf

**Enactment Number:**

**Author:** Matthew B. Mikolajewski - Director, Economic Development

**Hearing Date:**

**Entered by:** afreedman@cityofmadison.com

**Published Date:**

### Approval History

Version	Date	Approver	Action
1		Brent Sloat	Delegate
<b>Notes</b>	Delegated: Out Of Office		
1		Elizabeth York	Delegate
1		Brent Sloat	Delegate
<b>Notes</b>	Delegated: Out Of Office		
1		Elizabeth York	Delegate
1		Brent Sloat	Approve
2		Brent Sloat	Approve

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Economic Development Division	06/17/2019	Referred for Introduction				
	<b>Action Text:</b>		This Resolution was Referred for Introduction				
	<b>Notes:</b>		Finance Committee				
1	COMMON COUNCIL	06/18/2019	Refer	FINANCE COMMITTEE		06/24/2019	Pass
	<b>Action Text:</b>		A motion was made by Bidar, seconded by Harrington-McKinney, to Refer to the FINANCE COMMITTEE. The motion passed by voice vote/other.				
1	FINANCE COMMITTEE	06/24/2019	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER				Pass
	<b>Action Text:</b>		A motion was made by Bidar, seconded by Harrington-McKinney, to RECOMMEND TO COUNCIL TO ADOPT upon receiving a substitute that reflects the use of escrow funds for incremental costs associated with building a 100-year stormwater management facility - REPORT OF OFFICER. The motion passed by voice vote/other.				
1	COMMON COUNCIL	07/02/2019					

## Text of Legislative File 56383

### Fiscal Note

The proposed resolution authorizes that a Purchase and Sale Agreement, authorized by adopted RES-18-00832 (Legistar File #53799), is amended to remove the requirement that the "Buyer" pay any special assessments at closing and that \$432,206 of Center for Industry & Commerce (CIC) property sale proceeds is transferred into an escrow account at closing to be used by the Buyer toward the construction of their stormwater needs on the Site upon completion. The \$432,206 transfer will be funded by Special Assessment Fund balance.

The total direct cost to the City of this resolution is \$853,435. The first \$421,229 is the alleviation of special assessment required to be paid by the Buyer at closing. The remaining \$432,206 is a transfer out of the City's Special Assessment Fund to be provided via an escrow agreement to the Buyer at closing. It would have been the City's intent to use this \$853,435 to pay off Special Assessment Fund balances on other property owned by the City in the Center for Industry & Commerce.

The Site contemplated for sale through this resolution is approximately 22 acres in size. The Site is currently owned by the City and not generating property taxes. The Buyer proposes to construct a \$42 million facility that will be taxable. As there is no Tax Increment District within the Center for Industry and Commerce, property tax revenue will be realized soon after completion and occupancy of the project.

The current Special Assessment Fund ("Fund") balance for the Center for Industry & Commerce is \$2,119,837. The sale contemplated by the proposed resolution will reduce this balance by \$929,366. The \$929,366 is the final cost to reconstruct Ronald Reagan Drive, of which the City pays the entire special assessment balance of \$929,366 at closing (\$508,137 agreed to in the Purchase and Sale Agreement plus \$421,229 that is currently the responsibility of the Buyer but will be alleviated by the proposed amendment). An additional \$326,263 might be

paid through an optioned sale of Lot 2 of CSM No. 14573 ("Lot 2"). These two transactions would reduce the balance to \$864,208. The City currently has \$646,603 available from nearby ICP property sales (Legistar #54274) that are intended to be applied to outstanding CIC special assessments in this Fund. This would further reduce the balance to \$217,605 (or, \$543,868 if the aforementioned Lot 2 sale option were not exercised). It is anticipated that this remaining balance within the Fund will be repaid by proceeds from the sale of the remaining City-owned property within CIC; however, the timing of these sales, and in turn repayment, is uncertain. Should the sale contemplated under this resolution not move forward, the CIC balance of the Fund would be \$1,041,028.

**Title**

SUBSTITUTE - Amending the Purchase and Sale Agreement with Madison Merchant Real Estate, Inc. ("Buyer") for the sale of Lot 4 CSM No. 14573 ("Site"), located within the Center for Industry and Commerce ("CIC"), for the purpose of accommodating additional stormwater management construction costs by alleviating the requirement of Buyer to pay approximately \$421,229 of special assessments at closing, and amending the City's Special Assessment Fund budget to provide Buyer with an additional \$432,206 to use toward stormwater management construction. (17<sup>th</sup> A.D.)

**Body**

WHEREAS, the City of Madison executed a Purchase and Sale Agreement ("PSA") with Madison Merchant Real Estate, Inc. ("Buyer"), on behalf of Eurofins, on February 2, 2019 (Legistar #53799) for the sale of Lot 4 CSM No. 14573 ("Site"), located within the Center for Industry & Commerce ("CIC"), to accommodate the retention of 375 Eurofins (formerly Covance Food Solutions) employees within the City of Madison; and,

WHEREAS, Eurofins will construct a 105,000 s.f. facility at a cost of approximately \$42 million at the Site; and,

WHEREAS, the City recently reconstructed Ronald Reagan Drive adjacent to the Site, and as part of the PSA, the City estimated the Site's pro rata share of the total cost of this street reconstruction project to be \$1,284,269, with the City agreeing to pay \$508,137, and the Buyer agreeing to pay \$776,132 of special assessments at closing of the purchase of the Site; and,

WHEREAS, at the time this sale was negotiated, CIC was grandfathered under older City stormwater standards requiring stormwater management at a 10-Year storm event level; and,

WHEREAS, the flooding of late summer 2018 caused the City to reconsider grandfathering older platted subdivisions, and now requires all new development (including the Eurofins' project) to manage stormwater to a 100-Year storm event level; and,

WHEREAS, the cost of this additional stormwater capacity on the proposed Eurofins' Site will increase the project budget by as much as \$1.3 million, and this cost was not anticipated at the time the City negotiated its transaction with Eurofins; and,

WHEREAS, the City desires to retain this important long-time Madison employer within the City, as well as meet stormwater management requirements more in-line with the growing threat of flooding within the community; and,

WHEREAS, the final cost to reconstruct Ronald Reagan Drive was lower than anticipated, with a pro rata share cost to Site of \$929,366, of which the City would be required to pay \$508,137 and the Buyer responsible for paying \$421,229 under the current PSA; and,

WHEREAS, the City would be able to use the \$1,025,718 that the Buyer will pay the City for the Site at closing to pay this entire balance of \$929,366 of special assessments for the Site, as well as the City's closing costs, such that the City will be able to recover all of its costs related to the sale of the Site; and,

WHEREAS, if the City pays the entire special assessment balance of \$929,366 at closing (\$508,137 agreed to in the PSA plus \$421,229 that is currently the responsibility of the Buyer), the Buyer would have available the entire balance of \$776,132 for special assessments that was originally included in the Buyer's budget, and the Buyer would be able to apply these funds toward the additional stormwater work; and,

WHEREAS, the City also has \$432,206 in sale proceeds from other property sales in CIC available in the Special Assessment Fund, which were intended to be applied to outstanding special assessments on other City-owned CIC properties; and,

WHEREAS, in balancing the need to repay other outstanding CIC special assessments and the need to retain Eurofins employees in the City of Madison, the Common Council finds that it would be better to apply these funds toward Eurofins' stormwater needs so that this project can move forward; and,

WHEREAS, when combining the \$776,132 of savings by no longer being required to pay the original estimated special assessments with a cash contribution of \$432,206, the Buyer will have over \$1.2 million to use toward the anticipated additional stormwater costs of \$1.3 million; and,

WHEREAS, City Engineering will continue to work with Buyer to identify ways to reduce the total cost of stormwater management for the Site; and,

WHEREAS, doing so will accomplish the following goals: retain 375 Eurofins employees in the City of Madison with the likely growth of additional employment over time, enable the construction of a 105,000 s.f. facility at a cost of approximately \$42 million, provide appropriate stormwater management to help the City with growing stormwater needs, and sell a parcel within CIC to a local employer in such a way that recovers City costs related to the sale,

NOW THEREFORE BE IT RESOLVED that Section 14 of the February 2, 2019 Purchase and Sale Agreement (Legistar # 53799) regarding Lot 4 CSM No. 14573 ("Site"), is hereby amended to remove the requirement that the Buyer pay any special assessments at closing. This includes all special assessments related to the recent reconstruction of Ronald Reagan Drive, including the approximately \$4,000 of streetlight assessments that have not yet been levied on the Site. Buyer will continue to be responsible for any other future special assessments against the Site on or following the date of closing; and,

BE IT FURTHER RESOLVED that the Special Assessment Fund budget is amended to permit the transfer of \$432,206 of CIC property sale proceeds previously earmarked to pay other Special Assessments in CIC into an escrow account at closing to be used by Buyer toward the construction of their stormwater needs on the Site upon completion thereof; and,

BE IT FURTHER RESOLVED that Buyer shall submit evidence to the City of costs incurred related to stormwater management construction, and that the City shall reimburse Buyer for costs above \$776,132 out of escrow until the \$432,206 is exhausted; and,

**BE IT FURTHER RESOLVED that the evidence submitted to disburse funds out of escrow must demonstrate that the funds are being used to reimburse costs associated with providing stormwater management on the Site at the difference between a 10-Year storm event level and a 100-Year storm event level; and,**

BE IT FURTHER RESOLVED that the City Attorney shall draft necessary provisions within the Purchase and Sale Agreement to memorialize this proposed escrow arrangement, along with any other escrow-related documents; and,

BE IT FURTHER RESOLVED that upon conclusion of construction of the stormwater facilities, any remaining funds in escrow shall be returned to the Special Assessment Fund and applied to outstanding CIC special assessments as originally contemplated; and,

BE IT FURTHER RESOLVED that the City Attorney is authorized to make additional changes to the Purchase and Sale Agreement to accomplish the goals of this resolution; and,

BE IT FURTHER RESOLVED that all other material terms of the Purchase and Sale Agreement will remain the same; and,

BE IT FINALLY RESOLVED that the Mayor and City Clerk are hereby authorized to execute the amended Purchase and Sale Agreement and further execute and record any escrow and closing documents necessary to carry out the terms of the Purchase and Sale Agreement in a form to be approved by the City Attorney.