



Legislation Text

File #: 20461, **Version:** 1

Fiscal Note

Total costs for purchase, taxes, closing, and site stabilization activities are estimated at \$256,460. Funds of \$156,460 will be available in the 2011 Capital Budget (PCED Project #23 - Land Banking), if adopted as recommended by the Board of Estimates. Funds for site stabilization activities of \$100,000 will be available in the 2011 Capital Budget (PCED Project #4 - TID #36), if adopted as recommended by the Board of Estimates. These costs will be financed using general obligation borrowing. The debt repayment will be charged to TID#36 and repaid with increment if sufficient increment is available from future development within the district. The most recent year's property taxes on this property were roughly \$5,600. City purchase will reduce the annual increment revenue received in TID #36 by this amount until the property is resold for a taxable use.

Title

Authorizing the execution of a Purchase and Sale Agreement with Perry J. Schappe 1987 Revocable Trust (the "Seller") for the purchase of property owned by the Seller located at 819 East Washington Avenue and authorizing the use of Land Banking Funds for the acquisition.

Body

The Perry J. Schappe 1987 Revocable Trust owns a property located at 819 East Washington Avenue (the "Property") which it has offered to sell to the City of Madison. The Property totals 10,890 square feet or .25 acres. The Office of Real Estate Services has negotiated terms with the Seller for the acquisition of the Property. The purchase price is supported by an appraisal obtained by the City.

The primary reason to acquire the Property is to preserve, to the fullest extent possible, the principles of coherent urban infill redevelopment that are highlighted in the adopted Comprehensive Plan, the Tenney-Lapham Neighborhood Plan, and the East Washington Capitol Gateway Corridor Plan.

The purchase price of the Property is below market price. Following the completion of a more in-depth site and development plan for the Property, consistent with the adopted plans for the area, the City will sell or transfer the Property for redevelopment at market price, resulting in uses that are largely taxable.

The adopted 2010 Capital Budget and the proposed 2011 Capital Budget, if adopted as submitted, provide funding to purchase and stabilize developable parcels of land. The acquisition is contingent upon adoption of the 2011 Capital Budget with additional Land Banking funding authorization for the purchase and funding authorization in TID#36 for the stabilization of the Properties. Priority for the use of Land Banking funds is to be given to parcels for which a development plan exists or special area plan has been approved, but no development is forthcoming due to overall economic conditions or the financial condition of the developer, thereby making the parcels available at a below market price. Funds used for this purpose will be reimbursed through subsequent sale or ground lease of the parcels as part of the redevelopment plan or plan implementation process. Any parcels purchased by the City using these funds are to be sold or transferred at market price. Upon sale by the City, the parcels are expected to remain taxable. As further provided in the 2010 Capital Budget language, the Department of Planning and Community and Economic Development developed implementation guidelines for the use of Land Banking Funds. The Land Banking Fund Guidelines (attached) were approved by the Economic Development Committee on February 3, 2010. The acquisition of the Properties is consistent with the adopted 2010 and proposed 2011 Capital Budget language and the Land Banking Fund Guidelines.

NOW, THEREFORE BE IT RESOLVED that the Mayor and City Clerk are hereby authorized to execute a

Purchase and Sale Agreement (the "Agreement") with Perry J. Schappe 1987 Revocable Trust (the "Seller"), or its assigns, for the purchase by the City of Madison (the "Buyer") of a property owned by the Seller located at 819 East Washington Avenue (the "Property"), as legally described below and shown on the attached exhibit, on the following terms and conditions:

1. Properties. The Buyer shall purchase and the Seller shall sell and convey by Warranty Deed (the "Deed") fee simple ownership of the Property, including all improvements located thereon and all appurtenances thereto.
2. Purchase Price. The total purchase price of the Seller's interest in the Property (the "Purchase Price") shall be Fourteen and no/00 Dollars (\$14.00) per square foot multiplied by the number of square feet of the Property, as shall be verified by the survey to be provided by the Seller in accordance with Paragraph 6. The Purchase Price shall be payable in cash at closing, subject to the adjustments and prorations herein provided.
3. Effective Date. The "Effective Date" shall be the later date of execution of the Agreement by the Buyer or the Seller, as indicated on the signature page.
4. Delivery of Documents. Within ten (10) days of the Effective Date, the Seller shall make available to the Buyer for review all environmental studies, reports, permits, applications and remediation plans or assessments of the Property and all studies, reports, plans or assessments related to the condition of the improvements on the Property including, but not limited to, asbestos, lead-based paint inspections and other hazardous waste inspections related to the physical condition of the improvements on the Property in the Seller's possession or control.
5. Inspection Contingency. The Buyer, at its sole expense, may obtain an inspection of all buildings and related improvements located on the Property and/or a Phase I environmental assessment of the Property. The Buyer shall have ninety (90) days from the Effective Date (the "Inspection Contingency Period") to terminate the Agreement by written notice to the Seller based on the Buyer's objection to any matter shown in an inspection report or Phase I environmental assessment or other due diligence conducted by the Buyer, which materially affects the Property or the Buyer's use of the Property, or if the Buyer determines in its sole discretion that the Property is not acceptable to the Buyer for any reason, or "no reason." If the Buyer does not terminate the Agreement hereunder, then the Buyer is deemed to have waived this Inspection Contingency and any right to object to the condition of the Property or any improvements located thereon, and the sale will be an "as is" sale. In no event shall the Seller be required to cure any matter to which the Buyer objects relating to the condition of the Property or any improvements located thereon.

Should the Buyer determine, at its sole discretion, prior to the end of the Inspection Contingency Period that it needs additional budget authorization for remediation of the Property, demolition of the improvements located on the Property, or any other necessary improvements required to reposition the Property for redevelopment, the Buyer may extend the Inspection Contingency Period an additional sixty (60) days to obtain such budget authorization by providing written notice to the Seller at least five (5) days prior to the expiration of the Inspection Contingency Period.

6. Survey. The Seller shall provide to the Buyer, at the Seller's expense at least ten (10) days prior to closing, an ALTA/ACSM Land Title Survey of the Property that meets the 2005 Minimum Standard Detail Requirement, certified as of a current date in favor of the Buyer and title company providing the title insurance described in Paragraph 9.
7. Access to Property. The Buyer and the Buyer's authorized agents and contractors shall be permitted access to the Property for the purpose of conducting a Phase I environmental assessment of the

Property and/or a physical inspection of any building and related improvements located on the Property at reasonable times with at least twenty-four (24) hour notice to the Seller. All notices shall be given to Cathy Schappe Holmes unless another person is identified to receive notice by Cathy Schappe Holmes. Buyer will repair all damages caused by its inspections, at Buyer's cost, so that the condition of the Property is returned to as good or better condition as existed prior to the inspection.

8. Seller's Vacation of Property. The Seller shall have ninety (90) days from the satisfaction or waiver of the Inspection Contingency, including any extension that is provided herein, to vacate the Property. Vacating the Property means that the Seller will remove all personal property from the Property that is not identified to remain on the Property. As a part of the Inspection Contingency, the Seller will perform a walk-through of the Property with the Buyer's agents and will identify any personal property that will be left upon the Property. Upon vacating the Property and prior to closing, the Seller will again do a final walk-through with the Buyer's agents. If the Buyer objects to any of the personal property that is left by the Seller upon the premises, the Seller will remove the objectionable personal property prior to closing.

9. Title Insurance.

a. The Seller shall provide to the Buyer at the Seller's expense at least ten (10) business days prior to closing a commitment from a title insurance company licensed in Wisconsin to issue title insurance in the amount of the Purchase Price upon the recording of proper documents, together with a gap endorsement. The commitment shall show title to the Property, as of a date no more than fifteen (15) days before such title proof is provided to the Buyer, to be in the condition called for in the Agreement, and further subject only to liens which will be paid out of the proceeds of the closing and to any standard title insurance exceptions acceptable to the Buyer. The Buyer shall notify the Seller of any valid objection to title, in writing, prior to closing. The Seller shall have a reasonable time, but not exceeding fifteen (15) days, to remove the objections and closing shall be extended as necessary for this purpose. Should the Seller be unable or unwilling to carry out the Agreement by reason of a valid legal defect in title which the Buyer is unwilling to waive, the Agreement shall be void.

10. Closing.

a. Closing shall occur within fifteen (15) days after the Seller's vacation of the Property, at the office of the title insurance company issuing the commitment for title insurance, unless the parties agree in writing to another date or place.

b. The Seller agrees to execute and deliver to the Buyer at closing the Deed conveying the Property to the Buyer free and clear from all liens and encumbrances, excepting the following: Municipal and zoning ordinances and agreements entered under them; recorded easements for the distribution of utility and municipal services, and recorded building and use restrictions and covenants.

c. The Buyer shall pay all recording/filing fees except that the Seller shall pay the recording/filing fees for such documents as are required to be recorded / filed in order to cause title to the Property to be in the condition called for by the Agreement.

d. All real estate taxes with respect to the Property shall be prorated between the Buyer and the Seller as of the date of closing based upon the latest known assessment and latest known mill rate.

e. The Seller shall be responsible for any and all special assessments, area assessments,

interceptor charges or any other charges payable to any municipality or utility with regard to the Property as of the date of closing.

11. Brokerage Fees. Both parties warrant that no brokerage fees have been or will be incurred as a result of this sale.

BE IT FURTHER RESOLVED that funds for the acquisition and stabilization of the Property are authorized from the City's Capital Budget as follows: the acquisition costs include the Purchase Price \$152,460, City portion of pro-rated real estate taxes \$2,000 (assumes April 1, 2011 closing date) and miscellaneous closing costs \$2,000. The stabilization costs include the demolition of improvements and remediation of land \$100,000 (actual costs to be determined prior to closing).

BE IT STILL FURTHER RESOLVED that the disposal of the Property shall be by direct sale or through a Request for Proposals process once the site review analysis and a redevelopment plan are completed.

BE IT STILL FURTHER RESOLVED that the Mayor and City Clerk are authorized to execute, deliver accept and record any and all documents and take such actions as shall be necessary or desirable to accomplish the purpose of this resolution in a form approved by the City Attorney.

Legal Description

Lot 4, Block 144, Original Plat of the City of Madison