



Legislation Text

File #: 74309, **Version:** 1

Fiscal Note

Legistar File 70640 enacted April 25, 2022 authorized the City to engage in redevelopment activities in support of the Centro Hispano redevelopment project. This support includes transferring several City-owned lots to Centro for little to no consideration, purchasing Centro's existing property, and leasing the existing property back to Centro until its new facility is ready for occupancy. These efforts are achieved through three separate resolutions being considered simultaneously. Legistar File 74311 authorizes the sale of City-owned properties to Centro. Legistar File 74309 authorizes \$2.2m from Economic Development's Land Banking capital program to purchase Centro's existing property (\$1.7m) and for any related costs (\$500k). Legistar File 74312 leases the existing property back to Centro for little to no consideration.

Title

Authorizing the City's execution of a Purchase and Sale Agreement between the City of Madison and Centro Hispano, Inc. for the City's purchase of the property located at 810 W. Badger Road in the City of Madison. (14th AD)

Body

WHEREAS, Centro Hispano of Dane County ("Centro") is a leading social service provider for the Latinx community of Dane County, providing a range of programs for youth and families, workforce and career training services, and numerous community events and workshops; and

WHEREAS, City staff have worked closely with Centro to secure a site that will provide Centro sufficient space to expand its programs through the construction of an estimated \$20 million, 25,000 square foot facility (the "Centro Redevelopment Project"), replacing its existing space at 810 W. Badger Road ("Property"); and

WHEREAS, in support of the Centro Redevelopment Project, the City intends to transfer fee simple interest in several City-owned lots to Centro for little to no consideration, as well as provide construction capital for the Centro Redevelopment Project through its purchase of the Property at appraised market value for future redevelopment purposes; and

WHEREAS; the City will lease the Property back to Centro at no cost until such time as its new facility is ready for occupancy; and

WHEREAS, the Common Council previously authorized City staff to proceed with reasonable and necessary due diligence and real estate activities supporting the Centro Redevelopment Project, including negotiation of a purchase agreement for the Property (Enactment No. RES-22-00311, File I.D. No. 70640).

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Madison hereby authorizes the execution of a Purchase and Sale Agreement ("Agreement") between the City ("Buyer") and Centro Hispano, Inc. and/or its assigns ("Seller"), for the purchase of the Property on substantially the following terms and conditions:

1. Property. The Seller is the owner of the parcel legally described in Exhibit A, located at 810 W. Badger Road in the City of Madison, Wisconsin. At Closing, City shall purchase and Centro shall sell and convey by Special Warranty Deed (the "Deed") fee simple ownership of Centro's interests in the newly created

Lot 2 of a Certified Survey Map ("CSM") to be furnished and recorded with the Dane County Register of Deeds. Said lots shall have the area, dimensions, and boundaries as shown in Exhibit B for the Property (defined below), pursuant prior to Closing in a form substantially consistent with Exhibit B.

Attached in Exhibit B is a draft of the CSM, of which approximately fifty-three thousand six hundred (53,600) square feet of the newly platted Lot 2 ("Property") shall be conveyed to Buyer, including all rights, easements and appurtenances pertaining thereto and all improvements, trees, bushes, landscaping, foliage, and, to the extent such rights exist, all mineral, oil, gas, hydrocarbon substances, development rights, air rights, water rights, and water stock thereon.

2. Effective Date. The "Effective Date" shall be the later date of execution of the Agreement by the Seller or the Buyer, as indicated on the signature page.
3. Purchase Price. The total purchase price for the Seller's interest in the Property (the "Purchase Price") shall be One Million Seven Hundred Thousand and no/100 Dollars (\$1,700,000.00). The Purchase Price shall be payable in cash at Closing as described in Paragraph 10, subject to the adjustments and prorations provided in this Agreement.
4. Delivery of Documents. Within ten (10) days of the Effective Date and throughout the Due Diligence Period as described in Paragraph 7, the Seller will reproduce at its expense and send, either electronically or by hard copy, to the Buyer, copies of any and all environmental studies, reports, permits, applications and remediation plans or assessments of the Property.
5. Limited Representations and Warranties; AS-IS Condition. Except as otherwise provided herein, the Buyer shall purchase the Property in "AS-IS, WHERE-IS" condition and "with all faults," and shall agree that it relied upon no warranties, representations or statements by Centro, its agents or employees, in entering into this Agreement or in closing the transaction described herein. Except as provided below, the Buyer's closing on the acquisition of the Property shall constitute conclusive evidence that the Buyer is satisfied with the condition of and title to the Property and has waived or satisfied the Buyer's due diligence, as generally described in Paragraph 10 below.
6. Title Insurance. The Seller shall provide to the City, at the Seller's expense, within fifteen (15) days of the Effective Date a commitment from First American Title Insurance Company (the "Title Company") to issue an ALTA Owner's Title Insurance Policy in the amount of the Buyer's 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 this Agreement, and further subject only to liens which will be paid out of the proceeds of the closing and to any exceptions accepted in writing by the Buyer ("Permitted Exceptions"). The City shall notify the Seller of any valid objection to title relative to the Property, in writing, within thirty (30) days of its actual receipt of the title commitment. Seller shall have a reasonable time, but not exceeding fifteen (15) days after receipt of such objection, to remove the objection(s) and closing shall be extended as necessary for this purpose. Should the Seller be unable or unwilling to carry out this Agreement by reason of a valid legal defect in title which the Buyer is unwilling to waive, this Agreement shall become null and void, and the parties shall have no further obligation or liability under this Agreement, except for any which survive the early termination of this Agreement.
7. Due Diligence Period. The City shall have until December 31, 2022 to review, test and inspect all aspects of the Property, at its sole cost and expense (the "Due Diligence Period"). If within the Due Diligence Period the Buyer determines, in its sole discretion, that it does not desire to purchase the

Property, the Buyer may provide written notice to the Seller of such desire and the Agreement shall terminate immediately.

The Buyer shall keep the Property free of all liens in connection with its inspection of the Property and shall cause all such liens to be removed immediately upon being notified of same. If the Buyer does not provide written notice terminating the Agreement on or prior to the Closing Date, the Agreement shall remain in full force and effect, the Buyer shall accept the Property as-is, except as otherwise provided herein, and the parties shall proceed to close the transaction as provided herein. The Due Diligence Period may be extended upon written agreement of the parties.

8. Access to the Property. Buyer and Buyer's authorized agents, engineers, consultants, appraisers, and contractors shall be permitted access to the Property for the purpose of conducting the inspections and testing during the Due Diligence Period including, but not limited to, a Phase 1 or 2 environmental assessment of the Property and/or a physical inspection of the Property at reasonable times with at least twenty-four (24) hours' prior written notice to Seller. Buyer and Buyer's authorized agents, engineers, consultants, appraisers, and contractors seeking access to, and inspection of, the Property shall be at Buyer's sole risk and expense, and Seller shall have no responsibility therefore. Buyer shall, at Buyer's sole cost, repair all damage caused by its inspections or testing so that the condition of the Property is returned to the same condition that existed prior to the inspections or testing.
9. Certified Survey Map. Centro will generate and record a Certified Survey Map (CSM) at its own cost along with all required application materials for submittal to and approval by the City of Madison Planning Commission and Common Council. The CSM shall detail Centro's proposed redevelopment project lot (Lot 1) as well as amended boundaries for the MPD South Station as well as Buyer's current property at 810 W. Badger Road (together, Lot 2), Madison, Wisconsin. As described in Paragraph 1, the entirety of Seller's ownership interests in Lot 2 shall be sold to the City of Madison at the appraised market value Purchase Price as a condition of the transaction contemplated under this Agreement. Without binding any discretionary commission or the Common Council of the City, the City shall provide reasonable cooperation with respect to the preparation, recording, and approval of the CSM and will cooperate to have the CSM recorded prior to Closing so that the Property will be legally existing and separate parcels of land as of Closing.
10. Closing.
 - a. Closing shall occur on or before thirty (30) days from: (a) the expiration of the Due Diligence Period; or (b) the date of the Buyer's receipt of notice from the Seller requesting an earlier date of Closing; or (c) such other date agreed to in writing by the Parties, at the office of the Title Company issuing the commitment for title insurance, unless the Parties agree in writing to an alternate Closing location.
 - b. The Seller agrees to execute and deliver to the Buyer at Closing the Deed, reviewed and accepted by the Buyer prior to Closing, 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, municipal services; easements; 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 this Agreement.
 - d. Real estate taxes applicable to the Property in the year of Closing 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 the payment of any existing special or area assessments, sewer interceptor charges, or any other charges payable to any municipality or utility with regard to the Property as of the date of Closing.
 - f. The Seller shall pay any fees related to the Wisconsin Real Estate Transfer fee.
 - g. The Title Company shall prepare and deliver at Closing the Wisconsin Transfer Return due in connection with conveyance of the Property.
 - h. All costs charged by the Title Company to facilitate Closing shall be shared equally by the Parties.
 - i. The Seller shall leave any remaining supplies relating to the building's mechanical, electrical and plumbing systems.
 - j. Prior to Closing, the Buyer shall obtain authorization from the City of Madison Common Council for the approval and execution of this Agreement by the Buyer. Subject to that authorization, Buyer represents and warrants that it has the authority to enter into this Agreement and to consummate the transactions contemplated hereby.
11. Lease/Pre-Closing Covenants/Conditions. The City hereby acknowledges Seller's desire to remain in occupation of the Property during the construction period for its redevelopment project on CSM Lot 1, on the terms described in the Post-Closing Lease. Seller represents that, except as previously disclosed, the Property is not leased or occupied by any third party, and Seller agrees that it shall not enter into any lease or rental agreement for the Property, or any portion thereof, without the prior written consent of City.
- a. Operation of the Property. Until the earlier of the Closing or the termination of this Agreement, Seller shall:
 - i. Not do anything, or permit anything to be done, that would impair or modify the status of title as shown on the Title Commitment other than releasing liens.
 - ii. Maintain the Property in the same manner as immediately prior to the Effective Date, reasonable wear and tear excepted.
 - iii. Not enter into any contract that, following Closing, will be binding upon Buyer or the Property without, in each instance, obtaining the prior written approval of Buyer.
 - iv. Not cause or permit transfer, conveyance, sale, grant of easement, assignment, pledge, mortgage, or encumbrance of any of the Property.
 - b. Advise Buyer. Until the earlier of the Closing or the termination of this Agreement, Seller shall notify City in writing promptly upon learning or receiving notice of:
 - i. Any violation of any law, ordinance, regulation or law that would or might materially affect any of the Property.
 - ii. Any pending or threatened litigation that affects any of the Property or that could affect the transaction contemplated hereby.
 - c. Conditions. City shall not be obligated to close the transaction contemplated hereunder unless each of the following conditions shall be satisfied on the Closing Date.
 - i. The Title Company shall issue (or commit unconditionally to issue) the Title Policy subject only to the Permitted Exceptions.
 - ii. The representations and warranties of Centro in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of the Closing Date.
 - iii. The Property shall have been platted or subdivided in the configuration and dimensions shown on Exhibit B and all land division requirements shall have been complied with.
 - iv. The CSM will have been approved by all applicable governmental authorities and recorded.
 - v. Centro shall have performed all covenants and obligations and complied with all conditions

required by this Agreement to be performed or complied with by Centro on or before the Closing Date.

- d. If any condition specified herein is not satisfied on or before the Closing, then at Buyer's option, (a) Buyer may extend the Closing Date for such period as Buyer may determine necessary to allow for the satisfaction of such condition, (b) Buyer may waive such condition either at the time originally established for Closing or at any time thereafter, or (c) Buyer may terminate this Agreement by written notice thereof to City, either at the time originally established for Closing.
- e. Seller represents and warrants to Buyer as follows:
- i. Seller has not granted to any party any option, contract or other agreement with respect to the purchase or sale of the Property.
 - ii. The Seller has not received notice that the Property is in violation of any applicable statutes, ordinances, codes, and rules and regulations of any governmental authority having jurisdiction over the Property.
 - iii. There are no actions, suits, proceedings or claims pending or, to the best of Seller's knowledge, threatened with respect to or in any manner affecting any of the Property or the ability of the Seller to consummate the transaction contemplated by this Agreement.
 - iv. There are no threatened condemnation or similar proceedings affecting any of the Property and, to the best of Seller's knowledge, no such proceeding is contemplated by any governmental authority.
 - v. The entering into and consummation of the transactions contemplated hereby will not conflict with or, with or without notice or the passage of time or both, constitute a default under, any contract, lease or other agreement, including, without limitation, the contracts to which Seller is a party or by which Seller may be bound or any law, rule, license, regulation, judgment, order or decree governing or affecting Seller or the Property.
12. Simultaneous Closing. Notwithstanding anything to the contrary set forth elsewhere herein: (i) each party's obligation to proceed with the closing of the transaction contemplated by this Agreement is conditioned upon the simultaneous execution of the Post-closing Lease and the closing of the transaction contemplated in that certain Purchase and Sale Agreement between the parties, executed as of an even date herewith, concerning Centro's acquisition of Lot 1 of the CSM from the City (the "Centro Purchase Agreement"); and (ii) the deadline for the closing of the transaction contemplated by this Agreement shall be extended if necessary to accommodate the simultaneous closing of the transaction contemplated by the Centro Purchase Agreement.

BE IT FURTHER RESOLVED that up to \$2,200,000 in adopted 2022 Capital Budget funding from the Economic Development Division's Land Banking capital program may be used to complete the transaction contemplated in this Agreement, including up to \$1,700,000 to purchase the Property, and up to \$500,000 for any necessary due diligence, property holding costs, general maintenance, and expenses to improve the Property for future parking uses by the Madison Police Department.

BE IT FINALLY RESOLVED that the Mayor, Clerk and City staff are hereby authorized to sign, accept, and record any and all documents and legal instruments required to complete the transaction contemplated in this resolution, on a form and in a manner that has been approved by the City Attorney.