



## Legislation Text

File #: 80200, Version: 1

### Fiscal Note

The proposed resolution authorizes the execution of a Purchase and Sale Agreement between the City of Madison and Lincoln Capital Acquisition LLC for a portion of the property located at 2007 Roth Street. The estimated total cost of the acquisition is \$1,000,000. Funds are available in the Parks Division's 2023 Adopted Capital Budget Land Acquisition Program (Munis #14210). No additional appropriation is required.

### Title

Authorizing the execution of a Purchase and Sale Agreement between Lincoln Capital Acquisition LLC, or their successors and assigns ("Seller") and the City of Madison ("Purchaser") for the acquisition of a portion of the property located at 2007 Roth Street ("Property") for the Parks Division. (District 12)

### Body

WHEREAS, the Oscar Mayer Special Area Plan adopted by the City of Madison Common Council on July 21, 2020 (Legistar File No. 59745) recommends increasing parks, urban open spaces and recreational opportunities throughout the planning area, specifically by designating approximately 16 acres of the Hartmeyer property as an active park; and,

WHEREAS, the Property includes approximately 303,314 square feet of wetland, with the balance of 345,512 square feet of developable upland; and,

WHEREAS, the Seller is required to dedicate 405,902 square feet of this Property to the City of Madison Parks Division as part of an adjacent development project; and,

WHEREAS, the City of Madison desires to include the wetland area as part of the park that will be created with the land division and development, consistent with the Oscar Mayer Special Area Plan; and,

WHEREAS, a portion of the developable upland is potentially encumbered (to be designated as a private Outlot), but it is in the City's interest to acquire these lands as part of the future park property; and,

WHEREAS, the City and the Seller have agreed that the portion of the Property that will not be dedicated to the City, including portions of the wetland and the Outlot are valued at approximately \$1 million; and,

WHEREAS, the City of Madison will purchase the entire Property from the Seller for \$1 million; and,

WHEREAS, as part of the sale of the Property at this value, the Seller's park land dedication requirement for their adjacent development project (405,902 square feet) will be satisfied.

NOW, THEREFORE, BE IT RESOLVED that the City's Common Council hereby authorizes the City's execution, as Purchaser, of a Purchase and Sale Agreement ("Agreement") with the Seller for the purchase of the Property, substantially on the following terms and conditions:

1. Purchaser. City of Madison, a Wisconsin municipal corporation ("Purchaser").
2. Seller. Lincoln Capital Acquisition LLC, or their successors and assigns ("Seller").

3. Property. A portion of the real property located at 2007 Roth Street, Madison, Wisconsin ("Property"), totaling approximately 648,826 square feet (shown as Lot 3 in the proposed Certified Survey Map attached hereto, which shall be revised to create Outlot 1 within a portion of Lot 3 prior to or as of the Effective Date, as defined herein).
4. Purchase Price. The total purchase price for the Property (the "Purchase Price") shall be One Million Dollars (\$1,000,000.00). The Purchase Price shall be payable in cash at Closing, as defined herein, subject to mutually agreed upon adjustments and prorations.
5. Effective Date. The "Effective Date" shall be the later date of execution of the Agreement by the Seller or the Purchaser, as indicated on the signature page thereof.
6. Conveyance. The Purchaser shall purchase and the Seller shall sell and convey by Quit Claim Deed (the "Deed") fee simple title to the Property.
7. Due Diligence. Seller shall provide all available property related documents, plans/drawings, reports, service contracts, leases, etc., currently in its possession to Purchaser within ten (10) business days after the Seller's execution of the Agreement.

Further, Seller shall provide to Purchaser copies of any existing Title Insurance Policy, any existing environmental reports and/or soil reports, and the revised Certified Survey Map creating Outlot 1 within Lot 3, upon Seller's execution of the Agreement.

8. Contingencies of Sale. The Agreement and the Seller's sale of the Property to Purchaser are contingent upon the following:
  - a. Recording a Certified Survey Map that legally defines the Property to be purchased.
  - b. The Seller's closing on all of the land currently addressed as 2007 Roth Street.
9. Closing Date. Closing to occur within (10) days after completion of Contingencies of Sale, in the event the Closing is not conducted under the instructions of an Escrow Agreement whereby the contingencies are accomplished simultaneously.
10. Closing Costs.
  - a. Purchaser and Seller shall share the closing costs in a manner consistent with the market.
  - b. The Seller shall pay the Wisconsin Real Estate Transfer Fee, as well as the preparation of the transfer return by the Title Company.
  - c. 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.
11. Taxes and Special Assessments. Seller shall pay any and all taxes and special assessment fees attributable to the Property, up to the day of Closing. Purchaser is responsible for any future taxes and special assessments attributable to the Property after Closing.
12. Title Insurance. The Seller shall provide to the Purchaser, at the Seller's expense, no later than within ten (10) days prior to Closing, a commitment from an agreed upon "Title Company" to issue an ALTA Owner's Title Insurance Policy in the amount of the Purchase Price upon the recording of proper documents, together with a gap endorsement and owner's affidavit. The commitment shall show title to the Property, as of a date no more than ten (10) days before such title proof is provided

to the Purchaser, to be in the condition called for in the Agreement, and further subject only to liens or judgments which will be paid out of the proceeds of the Closing and to any exceptions acceptable to the Purchaser. The Purchaser shall notify the Seller of any valid objection to title, in writing, prior to Closing. If the Seller cannot remove the objections prior to Closing, Closing may be extended upon mutual agreement of the Seller and Purchaser 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 Purchaser is unwilling to waive, the Agreement shall be void.

13. Draft Agreement. Purchaser agrees to provide Seller with a draft Agreement within five (5) business days of Common Council approval of the terms stated herein.
14. Notices. All notices to be given under the terms of this Agreement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below. If electing to utilize electronic mail, said emails shall be sent to the email addresses provided below with an active read receipt and shall include a statement that the electronic mail constitutes notice under the terms of this Agreement.

For the Purchaser: City of Madison  
Economic Development Division  
Office of Real Estate Services  
Attn: Manager  
P.O. Box 2983  
Madison, WI 53701-2983  
hradlinger@cityofmadison.com & ores@cityofmadison.com

For the Seller: Lincoln Capital Acquisition LLC  
401 Wilshire Boulevard, Suite #1070  
Santa Monica, CA 90401  
ATTN: Kevin McDonell and Kyle Brasser

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

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