



Legislation Details (With Text)

**File #:** 50932      **Version:** 1      **Name:** 11365 PSA Amendment CIC Lot 4 Schlueter

**Type:** Resolution      **Status:** Passed

**File created:** 3/14/2018      **In control:** FINANCE COMMITTEE

**On agenda:** 4/10/2018      **Final action:** 4/10/2018

**Enactment date:** 4/18/2018      **Enactment #:** RES-18-00301

**Title:** Amending the Purchase and Sale Agreement between the City and John Schlueter for the acquisition of Lot 4 in The Center for Industry & Commerce.

**Sponsors:** Samba Baldeh

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
4/10/2018	1	COMMON COUNCIL	Adopt	Pass
3/26/2018	1	FINANCE COMMITTEE	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
3/20/2018	1	COMMON COUNCIL	Refer	Pass
3/14/2018	1	Economic Development Division	Referred for Introduction	

**Fiscal Note**

The proposed resolution approves a Purchase and Sale Agreement between the City of Madison and John Schlueter for acquisition of property within The Center for Industry and Commerce (CIC). The total purchase price of Lot 4 by John Schlueter is \$2,214,368. After subtracting extraordinary special assessments to be paid by the City and closing costs, the estimated net proceeds from the sale is \$1,632,764. Proceeds from the sale will be distributed to the General Land Acquisition Fund and applied towards paying off special assessments on City-owned properties located elsewhere within the CIC.

**Title**

Amending the Purchase and Sale Agreement between the City and John Schlueter for the acquisition of Lot 4 in The Center for Industry & Commerce.

**Body**

WHEREAS, on August 1, 2017 the Common Council approved the sale of a number of lots within the City owned Center for Industry and Commerce ("CIC") to John Schlueter ("Buyer") via Resolution Enactment No. RES-17-00653, File No. 48041; and

WHEREAS, on October 27, 2017 a Purchase and Sale Agreement ("PSA") with Buyer was executed for Lot 4 of the CSM ("Property"); and

WHEREAS, the realignment of Ronald Regan Avenue within CIC, the vacation of southern Graaskamp Way and the creation of Lots 1 through 4 was depicted via certified survey map number 14573 that was recorded on August 3, 2017 as map no. 14573, document no. 5346632, volume 100 pages 312-320 (the "CSM"); and

WHEREAS, the City needs to build Ronald Regan Avenue and John Wall Drive, remove existing infrastructure due to the realignment of Ronald Regan Avenue per the CSM, and relocate a swale that bisects Lots 3 & 4 of the CSM to the northern part of said lots. This work will be performed per public works contract #7843 ("PW"); and

WHEREAS, Engineering segregated the estimated special assessments for Lot 4 into two categories: (i) the pro-rata share to build Ronald Reagan Avenue per the CSM and the related street utility construction costs ("Normal Special Assessments"), and (ii) the specific lot improvement items relating thereto such as: the removal and rebuilding of the drainage swale that services CIC; the removal and rebuilding of the sanitary sewer infrastructure; removal of soil not suited for development; addition of fill to bring the lot level with the Ronald Reagan Avenue and the related grading thereof ("Extraordinary Special Assessments"); and

WHEREAS, Engineering is estimating that Lot 4's share of the Normal Special Assessments is \$776,132.70 ("NSA"), and the Extraordinary Special Assessments equate to \$508,137.79 ("ESA"). The total of the Normal Special Assessments and the Extraordinary Special Assessments equals \$1,284,269.49 ("Total Estimated Special Assessments"); and

WHEREAS, the City and Buyer reached an agreement regarding a revised Purchase Price due to the existence of a swale on Lot 4 that services CIC and market conditions; and

WHEREAS, the City realized that scope of work related to the Extraordinary Special Assessments was necessary to make the site marketable. As a result, the City is willing to absorb these costs and pay the cost relating thereto into an escrow account at Closing per the terms described in the Escrow Agreement and below.

NOW, THEREFORE, BE IT RESOLVED that the PSA is hereby amended as follows:

Paragraph 3 "Purchase Price" shall be deleted and replaced with the following:

3. Purchase Price. The purchase price for City's interest in the Property ("Purchase Price") shall be Two and 28/100 Dollars (\$2.28) per square foot of Property, totaling approximately Two Million Two Hundred Fourteen Thousand Three Hundred Sixty-Eight and 00/100 Dollars (\$2,214,368). The Purchase Price shall be payable in cash at Closing, as described in Paragraph 15, subject to the adjustments and prorations provided in this Agreement.

Paragraph 6 "Due Diligence Period" shall have the first paragraph therein deleted and replaced with the following terms:

Buyer shall have until September 10, 2018 (the "Due Diligence Period"), subject to the City's Put described in Paragraph 30, to (i) obtain, at Buyer's sole cost, acceptable financing, appraisal, and if deemed by Buyer as necessary, a new Certified Survey Map, (ii) conduct any physical and/or environmental tests, studies, or investigations deemed necessary by Buyer, and (iii) confirm that Buyer shall obtain any and all municipal, state, and federal approvals, permits, licenses, consents of use, and zoning approvals from all governmental or private bodies/agencies having jurisdiction over Buyer's intended use of the Property.

Paragraph 15.d. shall be deleted and replaced with the following:

- d. Buyer shall be responsible for any future special assessments after July 7, 2017 against the Property on or following the date of Closing. The City has disclosed the Total Estimated Special Assessments for the Property for the PW. The City has agreed to pay for the Extraordinary Special Assessments up to \$508,137.79. In the event the final Extraordinary Special Assessments is greater than the ESA, Buyer will pay any difference. If the final Extraordinary Special Assessments is less than the ESA, any savings will be refunded to the City. At Closing, the Buyer will pay the NSA and the City will pay the ESA into an escrow account with First American Title. The terms relating the ESA and NSA will be outlined in the Escrow Agreement.

The following terms shall be added as Paragraph 29:

29. General Contractor. The City's general contractor Parisi Construction Co., Inc. ("GC") will be performing work on Lot 4 in accordance with the plans and specifications & addendums 1 through 3 ("PlansSpecs") provided to Buyer. The PlansSpecs will be referenced in Exhibit B and attached to the First Amendment to the PSA. Buyer is responsible for the cost of installation of all private utilities to service the Property, and shall notify the private utility companies where it would like the infrastructure to be located within the 10' utility easement. Per the PW, the GC will commence its work in early April 2018, and will complete all its work within CIC within 182 days of the commencement of the work. The City Inspector will work with Buyer and/or its consulting engineer on questions relating to the timing of work on Lot 4 and other questions relating thereto. The Buyer will provide the City and GC for no cost a temporary land access easement for Lot 4 during the term of the PW.

The following terms shall be added as Paragraph 30:

30. Put. It is agreed that the City shall not market the Property for sale, or accept any offers for the purchase of the Property except as provided in this Paragraph. The City may commence marketing the Property for sale after May 15, 2018. On or after June 15, 2018, if the City receives an offer from a third party ("Put Offer"), which it deems acceptable in its sole discretion, then the City shall notify Buyer in writing ("Put Notification") that it has a Put Offer, and Buyer must either waive the Due Diligence Period in writing within ten business days from the date of the Put Notification or agree to terminate this Agreement ("Put Response").

If Buyer's Put Response is to waive the Due Diligence Period, then Buyer shall close on the Property within 30 days of the City's Put Notification and the Earnest Money deposit becomes non-refundable as of the Put Response date. On the other hand, if Buyer's Put Response is not to close early on the Property then the Agreement shall terminate and the Earnest Money deposit will be released to Buyer.

BE IT FURTHER RESOLVED that all other terms and conditions of the PSA shall remain in full force and effect; and

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