



Legislation Details (With Text)

**File #:** 33697      **Version:** 1      **Name:** Amending Contract for Subdivision Improvements Morgan Plat, Contract 1795.

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

**File created:** 4/8/2014      **In control:** BOARD OF PUBLIC WORKS

**On agenda:** 4/8/2014      **Final action:** 4/29/2014

**Enactment date:** 4/30/2014      **Enactment #:** RES-14-00347

**Title:** Amending Contract for Subdivision Improvements Morgan Plat, Contract 1795. (17th AD)

**Sponsors:** Joseph R. Clausius

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
4/29/2014	1	COMMON COUNCIL	Adopt Under Suspension of Rules 2.04, 2.05, 2.24, and 2.25	Pass
4/23/2014	1	BOARD OF PUBLIC WORKS	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
4/8/2014	1	COMMON COUNCIL	Refer	Pass
4/8/2014	1	Engineering Division	Referred for Introduction	

**Fiscal Note**

There is no fiscal impact. The City is holding funds originated from the Subdivision Contract and will not have any related costs associated with this Subdivision Contract modification.

**Title**

Amending Contract for Subdivision Improvements Morgan Plat, Contract 1795. (17<sup>th</sup> AD)

**Body**

PREAMBLE

The City of Madison and Bartell Limited Partnership (“the Developer”) have entered into a Contract for Subdivision Improvements for the Morgan Plat, dated February 23<sup>rd</sup>, 2005 (“the Subdivision Contract”). In the Subdivision Contract the Developer was required to construct a ped/bike path within a ped/bike easement across Lots 5 and 6 and within a 20-ft wide ped/bike easement to be conveyed on Lot 3, as noted on the recorded plat and as approved by the City Engineer. Since there were no immediate development plans for these properties at the time of plat recording the exact location was to be determined at the time of the site development for the individual lots.

The Developer has since constructed portions of the required ped/bike path improvements and has dedicated the required ped/bike easements within Lots 5 and 6 as required under the Subdivision Contract.

In 2005, the Developer had sold Lot 3 to a private entity for development and as a condition of sale the Developer had required the purchaser, Miller Construction, Inc., to construct the required ped/bike path and convey the necessary 20-ft wide ped/bike easement that was a condition of the Subdivision Contract. Unforeseen circumstances with the economy have caused Lot 3 to never develop as originally proposed and in 2013 the property was conveyed back to the original lender, Anchorbank.

In 2012, the Developer sold his remaining interest in the Morgan Plat to Thompson Engineering, LLC. The City had renewed the existing letter of credit as required under the Subdivision Contract for the completion of the ped/bike path improvements and easements. In 2012, the City made a demand on the letter of credit in the amount of \$50,000 for failure to complete the improvements as required under the Subdivision Contract.

The City and the Developer have since met and discussed the issues that preclude the Developer from completing the improvements as originally required under the Subdivision Contract. It has been determined that the City has protection and the ability to condition the remaining improvements as originally required under the Subdivision Contract to the future owner of Lot 3, as it was a condition in the sales agreement between the Developer and Miller Construction, Inc. It was further conditioned in the sales agreement that the requirement for said improvements will run with the land.

NOW, THEREFORE, BE IT RESOLVED, That the City shall be allowed to remove the requirement for the completion of the remaining ped/bike path improvements and ped/bike easement within Lot 3 from the Subdivision Contract.

BE IT FURTHER RESOLVED, that the City shall release the funds being held in escrow for the completion of the improvements and close out the Contract for Subdivision Improvements for the Morgan Plat.