



## Legislation Text

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**File #: 78612, Version: 1**

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### Fiscal Note

The proposed resolution approves a second addenda to a contract for public improvements (Contract No. 9126). The first addenda was approved via Resolution #23-00239 (File #76509). The cost to the City for utility improvements is not to exceed \$25,000. Funding is available in Munis Account 14142-402-170. No additional appropriation is required.

### Title

Approving Addendum No. 2 to Westwind, Contract No. 9126 (9th AD)

### Body

WHEREAS, on August 19, 2022, the developer, Westwind Madison Inc., hereinafter the “Developer” had entered into a *Contract For the Construction of Public Improvements that will be Accepted by the City of Madison* (Westwind, Contract No. 9126) hereinafter the “Contract” with the City of Madison, and;

WHEREAS, on March 24, 2023, the developer, Westwind Madison Inc., hereinafter the “Developer” had entered into Addendum No. 1 to Contract For the Construction of Public Improvements that will be Accepted by the City of Madison (Westwind, Contract No. 9126) to reduce the scope of the initial construction phase, hereinafter the Phase 1, and;

WHEREAS, the Developer has requested to increase the scope of the out-of-phase utility work for constructability reasons; and,

WHEREAS, the Developer and the City have since mutually agreed to revise the Phase 1 plans to increase the scope of out-of-phase utility improvements as part of the Phase 1 construction, and;

WHEREAS, Section 16.23(9) of the Madison General Ordinances requires the developer to install the public improvements necessary to serve the subdivision; and,

WHEREAS, Section 16.23(9) of the Madison General Ordinances allows the developer to install the improvements in construction phases provided that a Declaration of Conditions, Covenants, and Restrictions is executed for those lots included in future construction phases until such time as surety is provided to the City to guarantee the installation of the public improvements to serve said lots.

NOW, THEREFORE, BE IT RESOLVE:

1. That the Mayor and City Clerk are hereby authorized and directed to execute Addendum No. 2 to Westwind, Contract No. 9126, with Westwind Madison, Inc.
2. That the plans and specifications for the public improvements necessary to serve this phase of the subdivision are hereby approved.
3. That the developer is authorized to construct the public improvements in accordance with the terms of the Contract For the Construction of Public Improvements That Will be Accepted by the City of Madison at the sole cost of the developer, except as follows: Reimbursement not to exceed the statutory limit for the cost of street improvements that benefit the City and abut lands owned by the City, in accordance with Section 16.23(9)(d)(6)(d).

4. That the Mayor and City Clerk are hereby authorized to sign and grant easements or right-of-way release or procurement documents, maintenance agreements or encroachment agreements, as necessary and grant or accept dedication of lands and/or easements from/to the Developer/Owner for public improvements located outside of existing public fee title or easement right-of-ways.
5. The Common Council is approved to accept ownership of the improvements in the Maintenance Area if a maintenance agreement is executed and recorded as a condition of this contract.
6. The developer shall be permitted to assign this contract for the purposes of obtaining financing in a form to be approved by the City Attorney.