



## Legislation Text

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**File #:** 00795, **Version:** 1

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### **Fiscal Note**

Funding for this settlement of \$345,000 is available in Stormwater Utility Reserves. There is no anticipated impact upon cost controls or the tax levy.

### **Title**

Authorizing the Mayor and City Clerk to execute a condemnation of land and related documents between the City of Madison and Nesbitt Farms, LLC and Wilshire Developments II, LLC., and amending the 2005 Stormwater Capital Budget to appropriate the \$345,000 settlement and increase in the award of compensation and litigation costs.

### **Body**

#### **PREAMBLE**

On August 18, 1998, the Common Council adopted a relocation order for acquiring a fee interest in land for the installation of a regional storm water retention pond for the control and treatments of storm water runoff from the drainage basin in the vicinity of Nesbitt Road.

On December 13, 1999, the City of Madison recorded an award of compensation for \$178,530 for the necessary land. The owners of the land, Nesbitt Farms, LLC and Wilshire Development II, LLC., filed an appeal of the compensation award in Dane County Circuit Court, Case No. 01CV3368.

WHEREAS, the City of Madison and Nesbitt Farms, LLC and Wilshire Developments II, LLC have agreed to settle all disputes relating to the award of compensation and litigation costs in this case, by payment to the owners, Nesbitt Farms, LLC and Wilshire Developments II, LLC., of a total of \$345,000; and

WHEREAS, Nesbitt Farms, LLC and Wilshire Developments II, LLC, have agreed to release any and all claims against the City of Madison relating to this action.

NOW, THEREFORE, BE IT RESOLVED that the City hereby accepts the settlement to pay the total amount of \$345,000 to the owners, Nesbitt Farms, LLC and Wilshire Developments II, LLC.

BE IT FURTHER RESOLVED that the 2005 Stormwater Utility Capital Budget is amended by the addition of a Project #25 entitled "Retention Pond Settlement", and consisting of \$345,000 in funding to be derived from Stormwater Utility Reserves; and

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized to execute a Settlement Agreement as described in this Resolution, and any related documents, all in a form subject to the approval of the City Attorney.