



Legislation Text

File #: 00855, **Version:** 1

Fiscal Note

No expenditure required; however, there is the potential for additional costs in the event a lawsuit would arise between the parties since the City may incur legal expenses that would otherwise be paid by the University of Wisconsin if standard indemnification language were used.

Title

Authorizing the use of non-standard indemnification language in a Permanent Limited Easement for Public Pedestrian /Bicycle Path between the City and Board of Regents of the University of Wisconsin System to provide for the construction and maintenance of the Southwest Bike Path Phase IV from Randall Avenue to Murray Street.

Body

PREAMBLE

The Common Council adopted a resolution (Resolution ID No. 37115) on December 14, 2004, which determined a Public Purpose and necessity and adopting a Relocation Order for the acquisition of Plat of land interests required for proposed improvement of the Southwest Bike Path Phase IV from Randall Avenue to North Shore Drive. The Plat of land interests required the acquisition of a Permanent Limited Easement for Public Pedestrian/Bicycle Path purposes ("Easement") from the Board of Regents of the University of Wisconsin System ("Regents"). The Regents are seeking inclusion in the Easement conveyance language for a revision of the City's standard indemnification clause. The City Attorney's office and the counsel for the Regents have discussed the revision and agreed upon the modification of the City's standard indemnification language.

NOW, THEREFORE, BE IT RESOLVED, that the following indemnity provision is authorized for exclusion and inclusion in a Permanent Limited Easement for Public Pedestrian/Bike Path purposes between the City and the Regents for a permanent easement acquisition for the Southwest Bike Path Phase IV, as follows:

1. The Easement shall exclude the City's standard "Indemnification and Insurance Clause" which is written as follows; "The Grantee shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Grantee and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of this Easement, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees."
2. The Easement shall include the modification of the Regents "Hold Harmless Clause" which is written as follows; "The City agrees to hold Board of Regents of the University of Wisconsin System harmless from any and all claims arising from any negligent act, negligent omission, or intentional tort of the City, its Affiliates or Agents associated with the maintenance and abandonment of the path."