



## Legislation Text

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**File #:** 15778, **Version:** 2

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### Fiscal Note

No expenditure is required. The proposed indemnification language has been reviewed by the City's Risk manager. The City's risk exposure is increased by this clause, but the exposure is covered by insurance, subject to its terms and conditions.

### Title

SUBSTITUTE Authorizing the use of non-standard indemnification language in an Easement for Public Pedestrian and Bicycle Path purposes between the City and University Research Park, Incorporated.

### Body

WHEREAS, The Common Council adopted Resolution ID No.14912 approving the Plans and Specifications and authorizing the Board of Public works to advertize and receive bids for contract NO. 6035, University Research Park Path between Tocora Lane and Science Drive; also Accepting a Permanent Limited Easement for Pedestrian and Bicycle purposes and a Temporary Limited Easement for construction purposes from University Research park, Inc. across Lot 4, University Research park - University of Wisconsin, Madison property; also revising the "No Vehicular Access" restriction placed on the Plat of University Research park - University of Wisconsin, Madison to say " No Vehicular Access by Motorized Vehicles,"

WHEREAS, the University Research Park, as a condition of granting the City the easement for the bike path at Tocora Lane desires legal indemnification from the City for bodily injury and property damage arising from the City's negligent acts or omissions arising under the easement; and,

WHEREAS, pursuant to APM-1-1, the inclusion of such a provision requires the express approval of the Common Council;

NOW, THEREFORE, BE IT RESOLVED, that the following indemnity provision is authorized for inclusion in the Easement for Public Pedestrian and Bicycle Path purposes between the City and University Research Park, Incorporated for construction of a path between Tocora Lane and Science Drive, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the following indemnity provision is authorized for inclusion in the Easement for Public Pedestrian and Bicycle Path purposes between the City and University Research Park, Incorporated for construction of a path between Tocora Lane and Science Drive, as follows:

The City shall be liable to and agrees to indemnify, defend and hold harmless the Grantor 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, for damages because of personal bodily injury, including death at any time resulting therefrom, sustained by any person or persons while using the pedestrian/bike path described in this easement.

The City shall be liable to and agrees to indemnify, defend and hold harmless the Grantor and its officers, officials, agents and employees, successors and assigns from and against all loss or expense, including liability costs and attorney's fees, by reason of any claim or suit, for damages because of bodily injury or property damage arising from or caused by the City's negligent acts or omissions arising under the Easement, except that the City shall not be liable if a claim or suit arises from the negligence and willful acts of Grantor, its officers, officials, agents, employees, successors or assigns. Nothing in this provision shall be construed as a

waiver of any of the statutory caps on damages to which the city may be entitled pursuant to Wis. Stat. § 893.80, or any other applicable statutory section.