

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Council Bill No. B 296-07

**AN ORDINANCE**

authorizing the City Manager to execute a waiver of claim and indemnity agreement with Bedford Walk Homeowners Association to allow construction of a bridge with abutments for a walking trail in utility, drainage and private walkway easements located on Lot 260 of Bedford Walk Plat 1 and Lot 193 of Bedford Walk Plat 4; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is authorized to execute a waiver of claim and indemnity agreement with Bedford Walk Homeowners Association to allow construction of a bridge with abutments for a walking trail in utility, drainage and private walkway easements located on Lot 260 of Bedford Walk Plat 1 and Lot 193 of Bedford Walk Plat 4, a copy of which, marked "Attachment A," is attached to this ordinance.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor

**WAIVER OF CLAIM AND INDEMNITY AGREEMENT**

This waiver of claim and indemnity agreement entered into on this day of \_\_\_\_\_, 2007 between the City of Columbia, Missouri, (“City”) and Bedford Walk Homeowners Association (“Association”).

WHEREAS, Association is the owner of a trail through lots 260 of Bedford Walk Plat 1 and 193 of Bedford Walk Plat 4; and

WHEREAS, Association wishes to construct a bridge with abutments (“the improvements”) for the trail within a utility, drainage and private walkway easement on said property (“the drainage easement”) as shown on Exhibit A which is attached to and made a part of this agreement; and

WHEREAS, Association has requested permission to build on the utility, drainage and private walkway easement under the provision of Section 106.2.2 of the Building Code as amended by Section 6-17 of the Code of Ordinances; and

WHEREAS, Section 106.2.2, as amended, requires assurances in the form of a bond or a waiver of claim and indemnity agreement before the issuance of a building permit allowing the construction and maintenance of a structure in a utility easement; and

WHEREAS, Developer understands and agrees that its use of the utility, drainage and private walkway easement will be subordinate to the right of the City and to use the land for utility and drainage purposes.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. In consideration of the passage of an ordinance by the City Council allowing construction of the improvements in the utility, drainage and private walkway easement, Association hereby waives any claims against the City or any public utility having or placing in the future any utility or appurtenances within the utility easement, or any of their agents, officers or employees for any future damage to the improvements.
2. Developer agrees to indemnify the City and any public utility which has facilities located in the utility, drainage and private walkway easement from any loss, claim, damage or liability arising out of the construction or maintenance of the improvements over and upon the utility, drainage and private walkway easement, whether such loss, claim, damage or liability accrues to the Association, any tenant, guest, invitee of the Association as owner of the bridge and trail, or of their agents, the public at large or any officer or employee of the City.

IN WITNESS WHEREOF, the parties have fully executed this agreement on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

\_\_\_\_\_  
BY: H. William Watkins, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor

Bedford Walk Homeowners Association

  
\_\_\_\_\_  
BY: Allen Goree

Title: *President*

ATTEST:

  
\_\_\_\_\_

Title: *agent*



Source  
John Glascock



Agenda Item No. \_\_\_\_\_

**TO:** City Council  
**FROM:** City Manager and Staff   
**DATE:** August 17, 2007  
**SUBJECT:** A Waiver of Claim and Indemnity Agreement Allowing the Bedford Walk Homeowners Association to Construct a Bridge

**Fiscal Impact**

- Yes
- No

Other Info.

**Executive Summary**

Staff has prepared for Council consideration an ordinance allowing Bedford Walk Homeowners Association to construct and maintain a bridge for a walking trail in a utility easement. A diagram known as "Exhibit A" of the area described is attached to the right of use permit.

**Discussion**

Bedford Walk Homeowners Association desires to construct a bridge with abutments for a walking trail on lot 260 of Bedford Walk Plat 1 and lot 193 of Bedford Walk Plat 4. This construction would take place in a utility, drainage, and private walkway easement. The purpose of this bridge is to complete the trail path through the subdivisions.

The proposed plans have been reviewed by City staff and other utility providers with no objections.

**Suggested Council Action**

Approval of the ordinance.