



MEMORANDUM

TO: Bruce K. Walden, Chief Administrative Officer
FROM: Glenn Berman, Manager of Engineering and Administration
DATE: June 18, 2001
RE: LICENSE AND AGREEMENT WITH URBANA SCHOOL DISTRICT #116
CEDAR STREET

INTRODUCTION

The Leal School master site plan has identified a parking area on the west side of Cedar Street between Oregon Street and California Avenue. These spaces would be configured as head-in parking similar to the parking arrangement in front of Wiley School on Anderson Street. The proposed fifteen spaces will be for visitor or accessible parking. Proximate parking for visitors to the school has been a historical problem. In order to create this parking without adversely impacting the existing street width and, at the same time, minimizing the encroachment into the playground area, the proposed parking area will occupy some of the existing City right-of-way. Please refer to the attached map. The license agreement is necessary to authorize and allow such use.

Additionally, since the existing City sidewalk on the west side of Cedar Street will be displaced because of the proposed parking, the School District is granting the City an easement on School District property for the installation of a public sidewalk. The map depicts the location of this new sidewalk.

This license agreement is separate and distinct from discussions about the possible vacation of Birch Street from Oregon Street to California Avenue to the School District. The possible vacation of Birch Street will be discussed at a future time.

BUDGET IMPACTS

The license agreement will have no adverse budgetary impact other than minor Engineering Division staff time spent in reviewing plan documents and inspecting and monitoring City right-of-way for compliance with specifications. The School District will be responsible for all maintenance and repair of the proposed parking area. The City will be responsible for the maintenance and repair of the public sidewalk.

RECOMMENDATION

It is recommended that the Mayor and City Clerk be authorized to sign an "AGREEMENT FOR USE OF RIGHT-OF-WAY (Cedar from Oregon to California)".

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EQUIPMENT SERVICES · OPERATIONS · PUBLIC FACILITIES

AGREEMENT FOR USE OF RIGHT-OF-WAY

[Cedar from Oregon to California]

THIS AGREEMENT, made and entered into this _____ day of _____, 2001, by and between the CITY OF URBANA, a municipal corporation of the State of Illinois (hereinafter "City"), and Urbana School District #116, a Community Unit School District of the State of Illinois (hereinafter "District"),

WITNESSETH:

FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, the City and the District do mutually covenant and agree as follows:

A. Cedar Street is a forty-foot dedicated right-of-way between the north right-of-way of Oregon Street and the south right-of-way of California Avenue.

B. The District is herein granted by the City a limited right to construct a parking area to be built in part upon such right-of-way. This limited right is wholly dependent upon the District, its successors and assigns, fully and faithfully performing and complying with all the terms, conditions, and covenants contained within this Agreement. The District expressly acknowledges and agrees that such limited right is immediately revocable at the option of the City in the event that the District, its successor or assign, fails to perform or comply with any term, condition or covenant set forth within this Agreement. Further, it is expressly understood that, regardless of the existence or not of any breach, the use by the District of the hereinabove described right-of-way shall at all times be subordinate to the City's use of said right-of-way.

C. The purpose of the herein permitted right to construct upon such right-of-way shall be limited solely to the installation and maintenance of a parking area, which is shown on Exhibit A, and use thereof, and for incidental uses directly related thereto. Upon cessation of such use as determined by the Director of Public Works of the City of Urbana (hereinafter "Director"), this Agreement shall immediately lapse and terminate. Any additional use other than that specifically named, without the further express written consent of the City, shall be construed as a violation of this Agreement. The parking area shall conform to the provisions regarding Parking and Access set forth in Article VIII of the Urbana Zoning Ordinance. Accordingly, a variance from Section VIII-3.E of the Zoning Ordinance shall be obtained from the Zoning Board of Appeals and City Council by the Urbana School District to allow exiting vehicles for a non-residential use to back into a public street.

D. When so instructed by the Director, the District will cause the parking area or any portion thereof to be removed, as nearly as possible in conformance with the Director's request, within thirty {30} days after receipt of written notice from the Director. The District is solely and entirely responsible for any and all costs directly or indirectly related to such removal, including but not limited to removal of the depressed curb and gutter and pavement, and replace with barrier curb and gutter and pavement on Cedar Street along the same alignment and to the proper elevation as existed prior to the construction of the parking area.

E. In the event of an emergency, defined as imminent peril to person or property, or when the District has inadequately complied with an order of the Director pursuant to Paragraph (D) above, or at any other time the Director or other responsible City official in good faith deems the procedures of Paragraph (D) impracticable under the circumstances present, the District consents and agrees that the City or its duly authorized agent may remove the parking area, or any portion thereof, and charge all costs and expenses incurred in such removal, disposal, and restoration to the District. Should the District fail in any way to make timely payment to the City for such costs and expenses, the District agrees to pay, in addition to any amount so owed, reasonable attorneys' fees and court costs incurred in the collection of such amount.

F. The District agrees to defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of the contract brought against the City arising from any alleged claims, acts, or omissions in connection with this Agreement, including the construction of the parking area, whether or not suit is filed unless such claim, suit, or cause of action was based solely upon the negligence of the City, its employees, agents, or contractors. Additionally, the District shall indemnify the City for any sums the City becomes obligated to pay as damages arising out of such circumstances except to the extent such damages are due to the negligence of the City, its employees, agents, or contractors.

G. The District acknowledges that it shall be fully responsible and bear all costs associated with any and all pavement maintenance, pavement markings, snow removal, street cleaning, and any other pavement maintenance or repair within the parking.

H. This Agreement shall be expressly binding upon both parties, their successors and assigns. This Agreement shall be valid only upon being duly recorded by the Recorder of Deeds for Champaign County, Illinois.

* * *

CITY OF URBANA, ILLINOIS

By: _____
Tod Satterthwaite, Mayor

ATTEST:

Phyllis Clark, City Clerk

* * *

URBANA SCHOOL DISTRICT #116

By: _____
Superintendent

ATTEST:

Secretary

* * *

Prepared by and please return recorded copy to:

*Jack Waaler, City Attorney
City of Urbana, Illinois
400 South Vine Street
Urbana, Illinois 61801*

ORDINANCE NO. 2001-06-063

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
AN AGREEMENT FOR USE OF RIGHT-OF-WAY
{Cedar Street Between Oregon Street and California Avenue}**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Agreement for Use of Right-of-Way (Cedar Street between Oregon Street and California Avenue) between the City of Urbana and Urbana School District #116, in the form of a copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____, 2001.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2001.

Tod Satterthwaite, Mayor