



MEMORANDUM

TO: Bruce K. Walden, Chief Administrative Officer
FROM: William R. Gray, Public Works Director
Barbara H. Stiehl, Assistant to the Public Works Director
DATE: August 17, 2005
RE: An Agreement to Clarify Ownership of Pedestrian Bridge
(Between 123 West Main Street and the Urbana Parking Deck)

INTRODUCTION

At some time after the construction of the Urbana Parking Deck a pedestrian bridge was constructed to connect the building located at 123 West Main Street to the parking deck. Since no formal record of ownership and maintenance responsibilities can be found, the City of Urbana wishes to clarify that it has no future ownership and maintenance responsibilities for the bridge since it is serving a private interest.

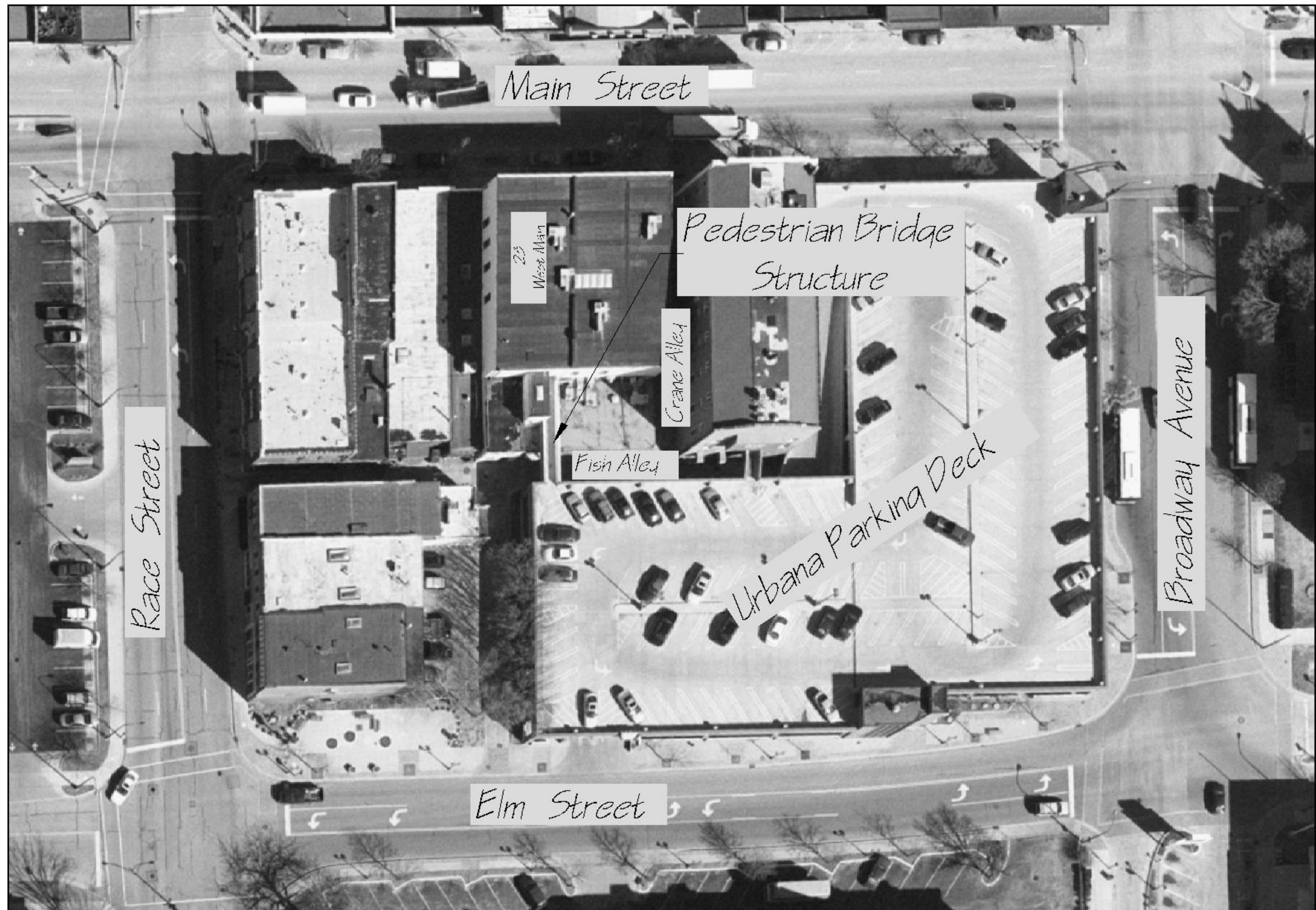
FISCAL IMPACTS

The pedestrian bridge is in serious disrepair and needs to be replaced. Replacement estimates are over \$60,000. The City plans to replace this bridge and the property owner agrees to own and maintain the bridge once the bridge construction is completed. Funds for this work will come from the Motor Vehicle Parking System (MVPS) fund. Additionally, Mr. Omo-Osagie (owner) is indemnifying the City against any future losses, claims, etc. resulting from the pedestrian bridge.

RECOMMENDATION

It is recommended that “AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF URBANA, ILLINOIS AND GABRIEL OMO-OSAGIE,” which incorporates an Agreement for the Use of Right-of-Way, 123 West Main Street, be approved.

Attachments: Exhibit A
Agreement
License Agreement
Ordinance



Main Street

Race Street

23
West Main

Pedestrian Bridge
Structure

Crane Alley

Fish Alley

Urbana Parking Deck

Broadway Avenue

Elm Street

Exhibit "A"
License Agreement
123 West Main Street



City of Urbana
Public Works Department
Engineering Division
Date: 8/4/2005 Drawn by: BWF



AN AGREEMENT BETWEEN THE CITY OF URBANA, ILLINOIS
AND GABRIEL OMO-OSAGIE

WHEREAS, a pedestrian bridge structure between 123 West Main Street, Urbana, and the City Parking Deck was built sometime in the 1970's, and it appears that no records have been found which indicate the ownership and responsibility for maintenance of such structure; and

WHEREAS, at the request of the City, Desman Associates have inspected the structure to determine what repairs are needed to make it structurally sound and safe, and the said Desman Associates have reported that the structure will require replacement costing approximately Sixty Thousand (\$60,000.00) Dollars; and

WHEREAS, the parties have agreed to certain matters to address the structural integrity of the said structure and to clarify responsibility for future maintenance of the structure, and desire to reduce their agreement to writing.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN Gabriel Omo-Osagie and the City of Urbana as follows:

1. Gabriel Omo-Osagie represents that he is the owner of the premises commonly known as 123 West Main Street, Urbana.

2. That the City will contract for the repairs indicated as needed in "the Desman Associates Report", dated May 3, 2005, to be accomplished by June 1, 2006.

3. That upon completion of the work called for in such contract and acceptance of the work by the City, the City shall record the attached License Agreement. The said License Agreement will be accepted by Gabriel Omo-Osagie and executed by him simultaneously with this Agreement.

CITY OF URBANA, ILLINOIS

GABRIEL OMO-OSAGIE

By: _____
Mayor

Date: _____

Date: _____

ATTEST:

Phyllis D. Clark, City Clerk

AGREEMENT FOR USE OF RIGHT-OF-WAY

[123 West Main Street]

THIS AGREEMENT, made and entered into this _____ day of _____, 2005, by and between the CITY OF URBANA, a municipal corporation of the State of Illinois (hereinafter "City"), and Gabriel Omo-Osagie (hereinafter "Owner"),

WITNESSETH:

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

A. That Gabe Omo-Osagie owns the pedestrian foot bridge which is the subject of this Agreement, which bridge is pertinent to the building owned by him and commonly known as 123 West Main Street, Urbana. The City of Urbana hereby Quit Claims any interest that it may have in the pedestrian bridge to Gabe Omo-Osagie.

B. Fish Alley is a 12-foot dedicated right-of-way between the west right-of-way of Crane Alley and east right-of-way of Race Street.

C. The Owner is herein granted by the City a limited right to occupy the right-of-way for the purposes of maintaining a pedestrian bridge structure between the City of Urbana Parking Deck and the structure located at 123 West Main Street within said right-of-way. This limited right is wholly dependent upon the Owner, its successors and assigns, fully and faithfully performing and complying with all the terms, conditions, and covenants contained within this Agreement. The Owner expressly acknowledges and agrees that such limited right is immediately revocable at the option of the City in the event that the Owner, 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 Owner of the hereinabove described right-of-way shall at all times be subordinate to the City's use of said right-of-way.

D. The purpose of the herein permitted right to occupy such right-of-way shall be limited solely to the purposes described above, which are 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.

E. When so instructed by the Director, the Owner will cause the pedestrian bridge structure 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 Owner is solely and entirely responsible for any and all costs directly or indirectly related to such removal and restoration in kind of the right-of-way.

AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
Between the City of Urbana and Gabriel Omo-Osagie
[123 West Main Street]

F. In the event of an emergency, defined as imminent peril to person or property, or when the Owner 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 Owner consents and agrees that the City or its duly authorized agent may remove the pedestrian bridge structure, or any portion thereof, and charge all costs and expenses incurred in such removal, disposal, and restoration to the Owner. Should the Owner fail in any way to make timely payment to the City for such costs and expenses, the Owner agrees to pay, in addition to any amount so owed, reasonable attorneys' fees and court costs incurred in the collection of such amount.

G. The Owner 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 maintenance of the pedestrian bridge structure, 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 Owner 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.

H. The Owner acknowledges that it shall be fully responsible and bear all costs associated with any and all maintenance, replacement or repair of the pedestrian bridge structure.

I. 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.

In witness to their Agreement, the Parties have executed this document this _____
day of _____, 2005.

CITY OF URBANA

OWNER

By: _____
Mayor

By: _____
Gabriel Omo-Osagie

ATTEST:

By: _____
City Clerk

APPROVED:

AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
Between the *City of Urbana* and *Gabriel Omo-Osagie*
[123 West Main Street]

By: _____
Legal Counsel

*****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. 2005-08-125

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH
GABRIEL OMO-OSAGIE

(Pedestrian Bridge)

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

Section 1. That An Agreement for Use of Right-of-Way between the City
of Urbana, Illinois and Gabriel Omo-Osagie, in substantially the form of the
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 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 _____,
2005.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2005.

Laurel L. Prussing, Mayor