

ORDINANCE NO. 2002-03-025

AN ORDINANCE APPROVING AN AMENDMENT TO AN
AGREEMENT BETWEEN CITY OF URBANA AND CHAMPAIGN COUNTY
RESPECTING PUBLIC EVENTS AT THE LOT ADJACENT TO THE CHAMPAIGN
COUNTY COURTHOUSE

WHEREAS, in Ordinance No. 2002-02-016, the Urbana City Council approved a certain agreement entitled "An Agreement Between City of Urbana and Champaign County Respecting Public Events at the Lot Adjacent to the Champaign County Courthouse", which Agreement differed in one section thereof from the language of a similar Agreement previously passed by the County Board; and

WHEREAS, subsequent thereto, members of the Urbana City Council conferred with members of the County Board and reached a compromise to reconcile the differences in language; and

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

Section 1. The Agreement previously approved in Ordinance No. 2002-02-016 is hereby approved as amended (as reflected in Section E in the attached complete copy of the Agreement).

Section 2. 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 _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

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

Tod Satterthwaite, Mayor

AN AGREEMENT
BETWEEN CITY OF URBANA AND CHAMPAIGN COUNTY
RESPECTING PUBLIC EVENTS AT THE LOT ADJACENT TO THE
CHAMPAIGN COUNTY COURTHOUSE

THIS INTERGOVERNMENTAL AGREEMENT is made as of the date below the signature of the last entity to sign it (“effective date”), by and between the City of Urbana, Illinois, a municipal corporation (“City of Urbana”); and Champaign County, Illinois, (“County”).

WITNESSETH:

WHEREAS, pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, and 5 ILCS 220/1, et seq., the parties to this contract are authorized to enter into an intergovernmental agreement;

WHEREAS, in the spirit of intergovernmental cooperation, the County wishes to support the City of Urbana in promoting the annual Urbana Sweet Corn Festival, and other public celebrations in the life of the larger County community; and

WHEREAS, in the spirit of intergovernmental cooperation, the City of Urbana has expended staff time and funds to assist the County in the realization of its plans in the development of the Champaign County Courthouse, and specifically, in the development of the streetscape abutting the Courthouse project, and related electrical improvements;

NOW, THEREFORE, in consideration of the promises stated herein, and other good and valuable consideration, the County and the City of Urbana agree as follows:

A. The County agrees to allow the City of Urbana use of, or sponsor others for the use of, the lot marked as A on the site plan attached hereto as Attachment A and

incorporated herein by reference, and to use the electrical facilities contained thereon, subject to the conditions contained in this Agreement.

B. The City of Urbana, agrees, at its expense, to install that part of the electrical system servicing the lot for special events (including additional outlets, but excluding overhead lighting) and to be responsible for the maintenance of this system and reasonable upgrades, as determined by the City of Urbana, throughout the life of this Agreement. The County makes no warranties to the City of Urbana about the condition of the electrical system, and specifically does not warrant that it shall be adequate for the use of the lot by the City of Urbana pursuant to this Agreement;

C. The City of Urbana agrees the lot will only be used pursuant to this Agreement for events open to the general public (including events for which an admission charge is required), or parking, staging, or storage for such events;

D. The City of Urbana agrees the lot will only be used pursuant to this Agreement on weekends and/or legal holidays recognized by either the City of Urbana or the County.

1. For purposes of this Agreement, a weekend shall start on 5:30 p.m. Friday evening, and end at 11:00 p.m. Sunday evening.
2. For weekend events, the City of Urbana, its agents, and vendors using the lot pursuant to this Agreement may enter the Lot prior to 5:30 p.m. Friday, or after 11:00 p.m. Sunday, provided that
 - a. This entry is included in the notice sent pursuant to Paragraph E, and is approved in advance by the Sheriff and a County Administrator; and

- b. This entry is not extended beyond that which is reasonably necessary to prepare for the event or restore the lot and electrical system to their condition prior to the event, and specifically, the entry is not extended to the general public.

E. The City of Urbana agrees to provide written notice of intent to use the lot for such purposes to the Sheriff of Champaign County, the County Administrator, and the County Board Chair at least three (3) weeks prior to such event. The County Board Chair or the Sheriff may deny permission to use the lot for articulable reasons including, but not limited to, public safety, failure to abide by this Agreement in the past, or conflicting use or maintenance of the Champaign County Courthouse. Requests will not be denied unreasonably or unlawfully, and any denial of a request shall be in writing, with a reason stated for the denial. Unless requests are denied in writing within seven working days, they shall be deemed approved. The three-week notice may be waived by agreement of the County Board Chair and the Sheriff, for good cause shown.

Champaign County agrees the lot and electrical facilities may be used pursuant to this Agreement for the City of Urbana's Sweet Corn Festival (or successor public event of similar scope and duration), to be held one weekend (as defined by this Agreement) in August of each year. Access to the lot and electrical facilities may be restricted for the Sweet Corn Festival in 2002, only for reasons related to public safety or the safe, timely, and efficient construction of the Champaign County Courthouse Addition. After the 2002 Sweet Corn Festival, no prior approval shall be required for use of the lot and electrical system for purposes of the Sweet Corn Festival or successor public event,

pursuant to this Agreement. However, the City of Urbana shall promptly notify the County Administrator and the Sheriff of the date of this festival each year, once it is set.

F. The City of Urbana shall notify the County Administrator within forty-eight hours of cancellation or rescheduling of the Sweet Corn Festival, successor public event, or any event for which approval has been obtained under Paragraph E. Separate approval must be obtained pursuant to Paragraph E for any rescheduled date, however, the timelines for notice and approval contained in Paragraph E do not apply.

G. Upon vacating the lot, the City of Urbana shall leave it in the same or substantially the same condition as it was upon arrival. The City of Urbana shall reimburse the County for the reasonable cost of repairing any property damage caused during the City of Urbana's use of the parcel, whether caused by the public, reasonable law enforcement response to the public, vendors, or the staff or agents of the City of Urbana.

H. To the extent permitted by state and federal law, and City Ordinance pre-dating this Agreement, the City of Urbana shall defend and indemnify the County, and hold the County harmless for any and all claims, whether arising in law or equity, arising from the use of the lot and electrical facilities pursuant to this Agreement. The City of Urbana's obligation to defend, indemnify, and hold the County harmless pursuant to this Agreement includes, but is not limited to:

1. Claims for economic loss, personal injury, incidental damages, consequential damages, and punitive damages;
2. Claims arising in tort, contract, or otherwise, including tort claims against the County in its capacity as landowner, for defects on the property;

3. Claims brought by members of the public, and claims brought by or against agents, assignees, or employees of the City of Urbana;
4. Any Constitutional or civil rights claims arising from the public administration of the event.
5. The types of claims listed in this Paragraph are by way of example and are not to be construed as a limitation on the City of Urbana's obligations under this Paragraph.

I. The City of Urbana's obligation, pursuant to Paragraph H, to defend, indemnify and hold the County harmless shall not extend to claims:

1. Brought against law enforcement officers or agencies responding to incidents during the event.
2. Arising solely from the negligence or intentional misconduct of the County or its agents, other than claims against the County for negligence in acting in its capacity as landowner.

J. Should the City of Urbana, its staff or agents, become aware of any defects in the property in Attachment A, or land adjacent thereto, during its use of the lot pursuant to this Agreement, which pose a foreseeable risk of personal injury or further property damage, the City of Urbana shall immediately notify the County Administrator in writing of such defect. The City of Urbana shall promptly give the County Administrator any and all information in the control of the City, its staff, or agents, which is reasonably necessary to cure the defect. This disclosure is subject to such other constraints as are placed on the City of Urbana by state or federal statute or regulation;

contract pre-dating this Agreement; or Urbana municipal ordinance pre-dating this Agreement;

K. The City of Urbana shall be responsible for maintaining insurance for the lot and electrical system for the periods of use of the lot pursuant to this Agreement, whether such use is by the City of Urbana, its agents, vendors, or public service organizations or community interests groups, pursuant to Paragraph O. Said insurance shall be adequate to meet all legal requirements and all reasonably foreseeable claims against the City of Urbana or the County arising from said use.

L. The City of Urbana, and its agents, shall have access to the electrical transformer servicing the lot, for purposes of installing and maintaining the electrical system for the lot.

M. If change in applicable law alters the powers or responsibilities of the parties relative to this Agreement, the parties shall renegotiate this Agreement in good faith.

N. Nothing contained herein shall require either the City of Urbana or the County to take any action that would be a violation of state or federal law or a violation of County or Urbana Municipal ordinance pre-dating this agreement, or which would cause default on any debt instrument, or any contract which pre-exists this Agreement.

O. Except as stated in this Paragraph, this Agreement may not be assigned by the City of Urbana. The City of Urbana may allow vendors to use the lot and electrical system in conjunction with events allowed under this Agreement; and may sponsor events on the lot organized by public service organizations or community interest groups.

Such use by vendors, public service organizations, or community interest groups shall be subject to the following conditions:

1. Such use is otherwise consistent with this Agreement and is otherwise allowed by law;
2. The City of Urbana assumes responsibility for compliance with this Agreement by all such vendors, public service groups, or community interest groups;
3. The City of Urbana agrees to indemnify and defend the County, and hold the County harmless for any claims of the type listed in Paragraph H arising out of such use of the lot and/or electrical system by parties other than the City of Urbana.

P. The City of Urbana warrants that the use of the lot and electrical system pursuant to this Agreement by the City of Urbana, its agents and staff, its assignees pursuant to Paragraph O, and the public at large shall be lawful; shall not pose a risk to public safety; and shall not create a public nuisance.

Q. Time is of the essence in this Agreement;

R. Failure to strictly enforce the terms of this Agreement on one or more occasions shall not be deemed a waiver of the right to strictly enforce this Agreement on any future occasion.

S. Should Champaign County expand the Courthouse Facility and related structures into the areas governed by this Agreement, this Agreement shall terminate and have no further prospective effect. The City of Urbana's obligation pursuant to this

Agreement to defend and indemnify the County or hold the County harmless shall survive such termination.

T. Either party may terminate this Agreement upon six month's written notice to the other party. The City of Urbana's obligation pursuant to this Agreement to defend and indemnify the County or hold the County harmless shall survive such termination. Should the County terminate this Agreement prior to January 1, 2027, other than as provided in Paragraph S, the County shall reimburse the City for a share of the project cost of installing the electrical system pursuant to Paragraph B. This share shall be determined by amortizing the total project cost of installation across 25 years, so that the County pays the total project cost minus the total amortized amount for the period prior to termination.

U. At any time when the lot in Attachment A is being used by the City, its agents or assignees pursuant to this Agreement, the City shall reserve parking in the area marked as B in Attachment A (the parking lot near the drive through mail drop-off) for use by Judges, the Sheriff, the Public Defender, the State's Attorney, and their respective agents and staff.

V. Unless otherwise stated herein, all notices pursuant to this Agreement shall be sent to the following persons and addresses:

Champaign County:

County Administrator
Brookens Administrative Center
1776 East Washington
Urbana, Illinois 61802

City of Urbana

Chief Administrative Officer
Urbana Municipal Building
400 South Vine Street
Urbana, Illinois 61801

CITY OF URBANA, ILLINOIS

CHAMPAIGN COUNTY BOARD

By: _____
Mayor

By: _____
County Board Chair

Attest: _____
City Clerk

Attest: _____
Champaign County Clerk, and
ex officio Clerk of the
Champaign County Board

Date: _____

Date: _____