



MEMORANDUM

TO: Bruce K. Walden, Chief Administrative Officer
FROM: William R. Gray, Public Works Director
DATE: August 31, 2005
RE: An Agreement to Clarify Ownership of Pedestrian Bridge
(Between 123 West Main Street and the Urbana Parking Deck)

This memorandum is in response to committee member questions and feedback at the August 22, 2005 Committee of the Whole meeting. There are three matters of interest:

1. Five bids were opened on Monday, August 29th and the low bid to remove and replace the pedestrian bridge is \$72,950.
2. The pedestrian walkway linking 123 W. Main to the Urbana Parking Deck is a valuable amenity for 2nd floor tenants. The bridge is used by dozens of clients and employees of the businesses located there every day, including law firms such as Pavia & Marsh and Ryan & Timmerman, as well as ABRIS Ltd. Architects and Planning offices. Linking to the parking deck makes it very convenient (as well as more private) for people coming and going between those offices. Reconstruction of the parking deck bridge was a key component, along with offering assistance through the City's façade loan program, in coming to an agreement with the building owner to commit to improving this highly visible and important building in downtown.

Gabe's Place, the owner of the building, will use the façade loan money to remove the exterior covering and restore the three facades to their historic and more aesthetically pleasing appearance. Also, money will be spent for the remodeling of the first floor space to accommodate a restaurant, as well as to remove the rear carport to provide outdoor seating space for a future tenant. Those items add up to an estimated \$220,000 investment on the part of the building owners.

The removal of the current façade to return it to an appearance more resembling the historic façade, the remodeling of the first floor space, and the creation of outdoor seating space for restaurant use are in line with the intent of the Downtown Strategic Plan to create a Main Street Entertainment District, a "key pedestrian district oriented to niche markets stressing food, entertainment and downtown housing". This project also follows the action plan put forth in the "Build Downtown" initiative, by investing and promoting investment in downtown, and promoting visible, outdoor activities in downtown. It is believed that the cost of repairing the pedestrian bridge and subsidizing the façade loan will produce much more in benefit received

through leverage of the owner's investment, improved appearance of an important downtown building, and improved marketability and usability of currently underutilized space.

3. The two agreements have been modified, see attached. The Agreement between the City of Urbana, Illinois and Gabriel Omo-Osagie has been modified in the first two whereas to reflect historical information; the third whereas reflects the low bid amount; the fourth whereas includes inspections. The Agreement for Use of Right-Of-Way in Paragraph A is revised to correct the owner's name "Gabriel"; and in Paragraph H there is language that stipulates required inspections of the pedestrian bridge by the owner.

Attachments: Agreement
 License Agreement
 Ordinance

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

WHEREAS, it appears that pursuant to an agreement between the City and the former owners of 123 West Main Street, Urbana, dated the 1st day of June, 1983, the pedestrian bridge structure between the City parking deck and 123 West Main Street, Urbana, was built under a construction contract let by the City of Urbana, but the expenses of the construction were paid for by the former owners; and

WHEREAS, other than the agreement referred to above, it appears that no records have been found which clarify the ownership and responsibility for the 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 and the low bid is seventy-two thousand, nine hundred fifty dollars (\$72,950); 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 perform periodic inspections, 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 Gabriel 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 Gabriel 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.

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

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

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, inspections, replacement or repair of the pedestrian bridge structure. The Owner agrees to have the pedestrian bridge structure inspected by a qualified bridge inspector at intervals no greater than every two (2) years and provide the City with a copy of said inspection report.

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

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

APPROVED:

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