

RESOLUTION NO. 7778-R6

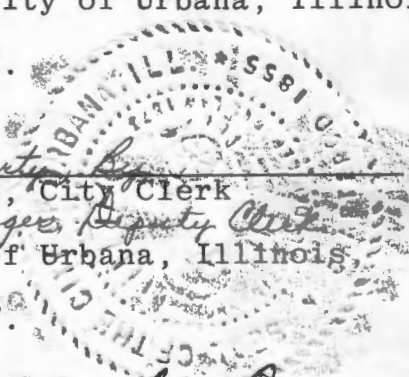
A RESOLUTION APPROVING AN AGREEMENT FOR
MAINTENANCE AND IMPROVEMENTS OF CERTAIN
PARKING LOTS LOCATED IN THE CITY OF URBANA

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA,
ILLINOIS, as follows:

1. That the Agreement by and between Daily & Associates,
Engineers, Inc. and the City of Urbana, Illinois, a copy of which
is attached hereto and hereby incorporated by reference, be and
the same is hereby approved.

2. That the Mayor of the City of Urbana, Illinois, be
and the same is hereby authorized to execute said Agreement for
and on behalf of the City of Urbana.

PASSED by the City Council of the City of Urbana, Illinois,
this 15th day of August, 1977.


Duane Eckerty, City Clerk
Beverly Ambarger, Deputy Clerk

APPROVED by the Mayor of the City of Urbana, Illinois,
this 18th day of August, 1977.

Jeffrey T. Markland
Jeffrey T. Markland, Mayor

7778-R6

THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN RESOLUTION
NO. #7778-R6 AND IS INCORPORATED THEREIN BY REFERENCE.

Beverly Umbarger
Acting City

Date: _____



AF 7778-R6
09.1

AGREEMENT
BETWEEN
OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Part I. PARTIES AND PROJECT

THIS AGREEMENT is made on the _____ Day of August
in the year 1977 between the City of Urbana, a municipal corporation in the state of
Illinois

_____ the Owner
and Daily & Associates, Engineers, Inc.

816 Dennison Drive

Champaign, Illinois 61820

_____, the Engineer, for the following Project:

The following improvements to the Urbana Parking Lots

(Nos. 1, 2, 8, and 10 F as designated by the Urbana Parking Division):

1. Preparation of parking lot surface including cleaning & sweeping,
surface & base repair, cleaning and filling of joints & cracks,
and use of Mirfa fabric or Petromat to control reflective cracking.
2. Bituminous Concrete overlay of 1" min. thickness.
3. Replacement of precast parking blocks as needed.

The Owner and the Engineer agree as follows:

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Part II. ENGINEERING CHARGES:

MULTIPLE OF DIRECT PERSONNEL EXPENSE

A. In accordance with the Terms and Conditions of this Agreement, the ENGINEER shall provide professional services for which the OWNER shall compensate the ENGINEER as follows:

A.1 Basic Services—As defined in Paragraph 1.1 and Additional Services, as defined in Paragraph 1.2, as follows:

A.1.1 Principals' ~~time at the rate of~~ Direct Personnel Expense (as defined in Article 3) two point
~~times a multiple of~~ six seven (2.67). ~~For the purpose of~~

~~times a multiple of~~ _____

A.1.2 Employees' time (other than Principals') at a multiple of Two point six seven (2.67)
times the employees' Direct Personnel Expense as defined in Article 3.

A.1.3 Cost of services of other professional consultants at a multiple of one point one zero (1.10)
times the amount billed to the ENGINEER by the professional consultants for such services.

A.2 Initial Payment—Execution of this Agreement shall be accompanied by an initial payment by the OWNER of
No dollars (\$) 0.00) which shall be credited
to the OWNER's account.

A.3 Reimbursable Expenses—As defined in Article 4, times a multiplier of one point zero zero (1.00).

A.4 ESTIMATE OF ENGINEERING SERVICES

The following Estimates of Engineering Services for the phases outlined in Part III, Article 1 of this Agreement are included to assist the OWNER in his evaluation of the related costs involved. Since the costs associated with the Construction Phase and Additional Services are dependent on the Contractor's schedule of work, an exact figure for the total engineering services can not be determined. The estimate of costs for the engineering services for the Construction Contract Document Phase is \$6600 but is not an upper limit.

A.4.1 ESTIMATE OF ENGINEERING SERVICES

A.4.1.1 Construction Contract Documents Phase

	<u>Description of Services</u>	<u>Costs</u>
A.	Field Surveys to define size and topo of lots	\$ 300
B.	Field recon. of lots to determine the present (August 1977) condition in relationship to surface and base repair, parking block replacement, etc.	\$ 400
C.	Meetings with City, contractors, Asphalt Institute, etc., relating to various aspects of the project.	\$ 500
D.	Prepare construction plans for improvements to lots to be resurfaced.	\$2,800
E.	Determine quantities and prepare Estimate of Costs .	\$ 500
F.	Prepare Specifications for project	\$ 400
G.	Prepared proposal forms and notice to bidders	\$ 400
H.	Administration	\$ 500
I.	Contingency (10%)	\$ 600
J.	Misc. direct costs	<u>\$ 200</u>

ESTIMATE OF COST = \$6,600

ESTIMATE OF COSTS

A.4.1.1	Construction Contract Documents Phase	\$6,600 (from prev. sht.	
A.4.1.2	Bidding or Negotiating Phase	\$ 600	
A.4.1.3	Construction Phase	\$ 400	
A.4.1.4	Additional Services		
	(Resident Project Representative Services)		
	Personnel Costs	\$1,200	
	Plant Inspection, Material		
	Testing, etc.	<u>\$ 200</u>	
		\$1,400.....	
		<u>\$1,400</u>	
		<u>\$9,000</u>	Total Estimate of Costs for Engineering Services

Part III. TERMS AND CONDITIONS

Article 1. ENGINEER'S SERVICES

1.1 Basic Services

The ENGINEER agrees to perform professional services in connection with the Project, including normal civil, structural, mechanical and electrical services and normal architectural services related thereto, as set forth below and contained within this Agreement:

1.1.2 Schematic Design Phase N/A

During the Schematic Design Phase the ENGINEER shall:

1.1.2.1 Consult with the OWNER to ascertain the OWNER's requirements for the Project.

1.1.2.2 Advise the OWNER as to the necessity of his obtaining additional services such as described within Article 1, paragraph 1.2 "Additional Services" and if authorized by the OWNER, shall provide, or assist him in procuring such additional services.

1.1.2.3 Prepare a preliminary engineering study and report, which will consist of schematic design documents and reports of studies as necessary for review and written approval by the OWNER.

1.1.2.4 Prepare a statement of the ENGINEER's Opinion of the Construction Cost based upon the preliminary designs developed under this Phase.

1.1.2.5 Furnish _____ copies of the Schematic Design Documents for the OWNER's review and approval.

1.1.3 Design Development Phase N/A

Upon receipt of the OWNER's written authorization to proceed with the Design Development Phase, the ENGINEER shall:

1.1.3.1 Advise the OWNER as to the necessity of his obtaining further additional services and if authorized by the OWNER, shall provide, or assist him in procuring such services.

1.1.3.2 Prepare from the approved Schematic Design Studies, for approval by the OWNER, the Design Development Documents consisting of design criteria, drawings and outline specifications to develop and establish the scope of the Project.

1.1.3.3 Prepare a statement of the ENGINEER's Opinion of the Construction Cost for the Project based upon designs established to this point.

1.1.3.4 Furnish _____ copies of the Design Development Documents for the OWNER's review and approval.

1.1.4 Construction Contract Documents Phase

Upon receipt of the OWNER's written authorization to proceed with the Construction Contract Documents Phase, the ENGINEER shall:

1.1.4.1 Prepare the required Contract forms including proposal forms and notice to bidders, drawings, technical specifications and other documents as required to complete the Construction Contract Documents.

1.1.4.2 Furnish to the OWNER engineering data and documents so that the OWNER may secure approval from governmental authorities having jurisdiction over the Project.

1.1.4.3 Advise the OWNER of any adjustments to previous ENGINEER's Opinion of the Construction Cost when changes in requirements, general market conditions or other conditions so warrant.

1.1.4.4 At the OWNER's request, assist the OWNER's legal counsel in connection with his review of the Construction Contract Documents for their legally related aspects.

1.1.4.5 Furnish five (5) copies of the Construction Contract Documents for the OWNER's review and approval.

1.1.5 Bidding or Negotiating Phase

Upon receipt of the OWNER's written approval of the Construction Contract Documents Phase and latest Opinion of the Construction Cost, and written authorization to proceed with the Bidding or Negotiating Phase, the ENGINEER shall:

1.1.5.1 Assist the OWNER in obtaining bids or negotiating bid proposals, in analyzing bids and proposals, and in awarding the Construction Contract.

Refer to Art. 7.5 (pg. 11)

1.1.6 Construction Phase for revision to this article

~~Upon award of any Construction Contract based upon the Construction Contract Documents compiled by the ENGINEER, the Construction Phase of this Agreement shall commence and the ENGINEER shall:~~

1.1.6.1 Act as the OWNER's representative with duties and responsibilities and limitations of authority as described in the General Conditions to the Construction Contract. The OWNER shall not modify the Construction Contract Documents without the written consent of the ENGINEER.

1.1.6.2 Advise and consult with the OWNER during the Construction Phase and the ENGINEER shall issue the OWNER's authorized instructions to the Contractor.

1.1.6.3 Make periodic visits to the site of the construction to observe the progress and quality of the construction work and to determine, in general, if the results of the construction work are in accordance with the Drawings and the Specifications. On the basis of his on-site observations as an ENGINEER, he shall endeavor to guard the OWNER against apparent defects and deficiencies in the permanent work constructed by the Contractor but does not guarantee the performance of the Contractor. The ENGINEER shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the construction work. The ENGINEER is not responsible for construction means, methods, techniques, sequences or procedures, time of performance, programs, or for any safety precautions in connection with the construction work. The ENGINEER is not responsible for the Contractor's failure to execute the work in accordance with the Construction Contract.

1.1.6.4 Review the Contractor's request for progressive payment, and based upon said on-site observation, advise the OWNER as to the ENGINEER's opinion of the extent of the work completed in accordance with the terms of the Construction Contract as of the date of the Contractor's payment request and issue, for processing by the OWNER, a Certificate for Payment in the amount owed the Contractor. The issuance of Certificates for Payment shall constitute a declaration by the ENGINEER to the OWNER, based upon said on-site observations, review and data accompanying the request for payment, that the Contractor's work has pro-

gressed to the point indicated; that to the best of the ENGINEER's knowledge, information and belief, the quality of the Contractor's work is in accordance with the Construction Contract Documents (subject to subsequent tests and review required by the Construction Contract Documents, to correction of minor deviations from the Construction Contract Documents and to qualifications stated in the Certificate for Payment); and that the Contractor is entitled to the amount stated. The issuing of the Certificate for Payment by the ENGINEER shall not represent that he has made any investigation to determine the uses made by the Contractor of sums paid to the Contractor.

1.1.6.5 Make recommendations to the OWNER on all claims relating to the execution and progress of the construction work. The ENGINEER's decisions in matters relating to the ENGINEER's design shall be final.

1.1.6.6 Notify the OWNER of permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the OWNER for its correction and, at the request of the OWNER, have recommendations implemented by the Contractor.

1.1.6.7 Review shop drawings, samples, and other submittals of the Contractor only for general conformance to the design concept of the Project and for general compliance with the Construction Contract.

1.1.6.8 Prepare Change Orders for the OWNER's approval.

1.1.6.9 Conduct a construction progress review related to the Contractor's date of completion; receive written guarantees and related data assembled by the Contractor; and issue to the OWNER a Certificate of Final Payment.

1.1.6.10 The ENGINEER shall not be responsible for the defects or omissions in the work result of the Contractors, or any Subcontractors, or any of the Contractor's or Subcontractor's employees, or that of any other persons or entities responsible for performing any of the work result as contained in the Construction Contract.

1.2 Additional Services

If authorized in writing by the OWNER, the ENGINEER agrees to furnish or obtain from others, additional professional services in connection with the Project, as set forth below and contained within this Agreement:

1.2.1 Preparation of applications and supporting documents for government grants, loans or advances.

1.2.2 Making drawings from field measurements of existing construction when required for planning additions or alterations thereto.

1.2.3 Services due to changes in the scope of the Project or its design, including but not limited to, changes in size, complexity, schedule or character of construction.

1.2.4 Revising studies, reports, design documents, drawings or specifications which have previously been approved by the OWNER, or when such revisions are due to causes beyond the control of the ENGINEER.

1.2.5 Preparation of design documents for alternate bids or for out-of-sequence work requested by the OWNER.

1.2.6 Preparation of detailed renderings, exhibits or scale models for the Project.

1.2.7 Providing special analysis of the OWNER's needs such as owning and operating analysis, OWNER's operating and maintenance manuals, OWNER's special operating drawings or charts, and any other similar analysis.

1.2.8 Providing planning surveys, site evaluations and comparative studies of prospective sites.

1.2.9 Providing any type of field surveys for design purposes, "stake out" of the location of the work, and any other special field surveys.

1.2.10 Furnishing additional copies of reports and additional prints of Drawings and Specifications in excess of those stipulated in the Agreement.

1.2.11 Investigations involving detailed consideration of operations, maintenance and overhead expenses; the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations; detailed quantity surveys of material and labor; and material audits or inventories required by the OWNER.

1.2.12 Additional services when the Project involves more than one Construction Contract, or separate equipment contracts.

1.2.13 Preparing special Change Orders when requested by the OWNER which are not within the scope of Article 1, "ENGINEER'S SERVICES," paragraph 1.1.6.8.

1.2.14 Making a review of the Project prior to expiration of the guarantee period and reporting observed discrepancies under guarantees provided by the Construction Contract.

1.2.15 Preparing a set of reproducible record drawings conforming to construction records provided to the ENGINEER, made by the Contractor during the construction process.

1.2.16 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) defective or incomplete work of the Contractor, (3) prolongation of the initial Construction Contract time beyond the contract time, (4) acceleration of the work schedule involving services beyond established office working hours, and (5) the Contractor's default under Construction Contract due to delinquency or insolvency.

1.2.17 Providing assistance in the initial start-up, testing, adjusting or balancing, or operation of equipment or systems, or training personnel for operation or maintenance of equipment or system.

1.2.18 Providing design services relating to future facilities, systems and equipment which are not intended to be constructed or operated as a part of the Project.

1.2.19 Providing services as an expert witness for the OWNER in connection with litigation or other proceedings involving the Project.

1.2.20 Providing other services not otherwise provided for in this Agreement, including services normally furnished by the OWNER as described in Article 2, "OWNER'S RESPONSIBILITIES."

1.2.21 Providing Resident Project Representative services to give the OWNER more extensive on-site representation during the Construction Phase.

Article 2. OWNER'S RESPONSIBILITIES

The OWNER shall:

2.1 Provide to the ENGINEER all criteria, design and construction standards and full information as to the OWNER's requirements for the Project.

2.2 Designate in writing a person authorized to act as the OWNER'S representative. The OWNER or his representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the ENGINEER's services.

2.3 Furnish to the ENGINEER a complete land survey of the Project site which shall include but not be limited to service and utilities locations with depths and invert grades, easements, rights-of-way, contours, grades, streets, alleys, pavements, adjoining property, encroachments, zoning and deed restrictions, existing buildings, improvements and tree locations.

2.4 Furnish soils data including but not limited to reports, test borings, test pits, probings, subsurface exploration, soil bearing values, percolation tests, ground corrosion and resistivity tests, all with appropriate professional interpretation.

2.5 Furnish laboratory tests, air and water pollution tests, reports and inspections of samples, materials or other items required by law or by governmental authorities having jurisdiction over this Project.

2.6 Provide legal, accounting, and insurance counseling services necessary for the Project, legal review of the Construction Contract Documents, and such auditing services as the OWNER may require to account for expenditures of sums paid to the Contractor.

2.7 Furnish permits and approvals from all governmental authorities having jurisdiction over this Project and from others as may be necessary for completion of the Project.

2.8 Furnish above services at the OWNER's expense and in such manner that the ENGINEER may rely upon them in the performance of his services under this Agreement.

2.9 Obtain bids or proposals from contractors for work relating to this Project and bear all costs relating thereto.

2.10 Protect and preserve all survey stakes and markers placed at the Project site prior to the assumption of this responsibility by the Contractor and bear all costs of replacing stakes or markers damaged or removed during said time interval.

2.11 Guarantee full and free access for the ENGINEER to enter upon all property required for the performance of the ENGINEER's services under this Agreement.

2.12 Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project or other event which may substantially affect the ENGINEER's performance of services under this Agreement.

2.13 Compensate the ENGINEER for services rendered under this Agreement.

Article 3 DIRECT PERSONNEL EXPENSE

Direct Personnel Expense is defined as the direct labor costs incurred by the ENGINEER directly attributable to the Project by the payment of the actual salaries and wages to the employees of the ENGINEER, but not including indirect payroll connected costs and other non-Project related costs.

Article 4 REIMBURSABLE EXPENSES

4.1 Reimbursable Expenses are in addition to compensation to the ENGINEER for Basic and Additional Services and include expenditures made by the ENGINEER, his employees or his consultants in the interest of the Project. Reimbursable Expenses include but are not limited to:

4.1.1 Expense of transportation, subsistence and lodging when traveling in connection with the Project.

4.1.2 Expense of long distance or toll telephone calls, telegrams, messenger service, field office expenses, and fees paid for securing approval of authorities having jurisdiction over the Project.

4.1.3 Expense of all reproduction, postage and handling of Drawings, Specifications, reports or other Project-related work product of the ENGINEER.

4.1.4 Expense of computer time including charges for proprietary programs.

4.1.5 When authorized in advance by the OWNER, expense of overtime work requiring higher than normal rates, and expense of preparing perspectives, renderings or models.

Article 5 PAYMENTS TO THE ENGINEER

5.1 Progress payments shall be made in proportion to services rendered and as indicated within this Agreement and shall be due and owing within thirty days of the ENGINEER's submittal of his monthly statement. Past due amounts owed shall include a charge at the maximum legal rate of interest from the thirtieth day.

5.2 If the OWNER fails to make monthly payments due the ENGINEER, the ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

5.3 No deductions shall be made from the ENGINEER's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractors.

5.4 If the Project is delayed or if the ENGINEER's services for the Project are delayed or suspended for more than three months for reasons beyond the ENGINEER's control, the ENGINEER may, after giving seven days written notice to the OWNER, terminate this Agreement and the OWNER shall compensate the ENGINEER in accordance with the termination provision contained hereafter in this Agreement.

Article 6 GENERAL PROVISIONS

6.1 Ownership of Documents

All Drawings, Specifications and other work product of the ENGINEER for this Project are instruments of service for this Project only and shall remain the property of the ENGINEER whether the Project is completed or not. Reuse of any of the instruments of service of the ENGINEER by the OWNER on extensions of this Project or on any other project without the written permission of the ENGINEER shall be at the OWNER's risk and the OWNER agrees to defend, indemnify and hold harmless the ENGINEER from all claims, damages, and expenses including attorneys' fees arising out of such unauthorized reuse of the ENGINEER's instruments of service by the OWNER OR BY OTHERS ACTING THROUGH THE OWNER. Any reuse or adaptation of the ENGINEER's instruments of service occurring after the written agreement of the ENGINEER shall entitle the ENGINEER to further compensation in amounts to be agreed upon by the OWNER and the ENGINEER.

6.2 Delegation of Duties

Neither the OWNER nor the ENGINEER shall delegate his duties under this Agreement without the written consent of the other.

6.3 Termination

This Agreement may be terminated by either party by seven days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party. If this Agreement is terminated, the ENGINEER shall be paid for services performed to the termination notice date including Reimbursable Expenses due plus Termination Expenses. Termination Expenses are defined as Reimbursable Expenses directly attributable to termination, plus 15% of the total compensation earned to the time of termination to account for ENGINEER's rescheduling adjustments, reassignment of personnel and related costs incurred due to termination.

6.4 Extent of Agreement

This Agreement represents the entire and integrated agreement between the OWNER and the ENGINEER and supercedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only

by written instrument signed by both the OWNER and the ENGINEER.

6.5 Governing Law

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the principal place of business of the ENGINEER.

6.6 General

6.6.1 Should litigation or arbitration occur between the two parties relating to the provisions of this Agreement, all litigation or arbitration expenses, collection expenses, witness fees, court costs and attorneys fees incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.

6.6.2 Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

6.6.3 In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

6.6.4 The ENGINEER has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences, or procedures required for the Contractor to perform his work but not relating to the final or completed structure; omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.

6.6.5 The ENGINEER intends to render his services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project and makes no warranty either express or implied.

6.6.6 Any Opinion of the Construction Cost prepared by the ENGINEER represents his judgment as a design professional and is supplied for the general guidance of the OWNER. Since the ENGINEER has no control over the cost of labor and material, or over competitive bidding or market conditions, the ENGINEER does not guarantee the accuracy of such Opinions as compared to Contractor bids or actual cost to the OWNER.

Article 7. SPECIAL PROVISIONS

7.1 Insurance and Indemnity

7.1.1 **Engineer's Insurance**—The ENGINEER shall acquire and maintain statutory workmen's compensation insurance coverage, employer's liability, comprehensive general liability insurance coverage and professional liability insurance coverage. The limits and deductible applicable to both comprehensive general liability and professional liability shall be established under a separate agreement between the parties.

7.1.2 **Contractor's Insurance**—Prior to the commencement of the work, the OWNER shall require the Contractor and any Subcontractors to submit evidence that he (they) have obtained for the period of the Construction Contract and the guarantee period comprehensive general liability insurance coverage (including completed operations coverage). This coverage shall provide for bodily injury and property damage arising directly or indirectly out of, or in connection with, the performance of the work under the Construction Contract, and have a limit of not less than \$ 100,000 for all damages arising out of bodily injury, sickness or death of one person and an aggregate of \$ 300,000 for damages arising out of bodily injury, sickness and death of two or more persons in any one occurrence. The property damage portion will provide for a limit of not less than \$ 1,000,000 for all damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of the work under the Construction Contract and in any one occurrence including explosion, collapse and underground exposures.

Included in such coverage will be contractual coverage sufficiently broad to insure the provision of paragraph 7.1.4 "Indemnity". The comprehensive general liability insurance will include as additional named insureds: the OWNER; the ENGINEER; and each of their officers, agents and employees.

7.1.3 **Builders Risk "All Risk" Insurance**—Before commencement of the work, the OWNER will require that the Contractor and any Subcontractors submit written evidence that he (they) have obtained for the period of the Construction Contract, Builders Risk "All Risk" Completed Value Insurance Coverage (including earthquake and flood) upon the entire Project which is the subject of the Construction Contract. Such insurance shall include as additional named insureds: the OWNER; the ENGINEER; and each of their officers, agents, employees and any other persons with an insurable interest as maybe designated by the OWNER.

Such insurance may have a deductible clause but not to exceed \$5,000, except that the earthquake deductible may be in accordance with generally accepted insurance practices in the locale where the coverage is issued.

7.1.4 **Indemnity**—The OWNER will require that any Contractor or Subcontractors performing work in connection with Drawings and Specifications produced under this Agreement to hold harmless, indemnify and defend, the OWNER and the ENGINEER, their consultants, and each of their officers, agents, and employees from any and all liability claims, losses or damage arising out of or alleged to arise from the Contractor's (or Subcontractor's) negligence in the performance of the work described in the Construction Contract Documents, but not including liability that may be due to the sole negligence of the OWNER, the ENGINEER, their consultants or their officers, agents and employees.

7.3 Resident Construction Review Services

7.3.1 If requested by the OWNER or recommended by the ENGINEER and approved in writing by the OWNER, the ENGINEER shall provide one or more full time Resident Project Representatives to assist the ENGINEER in order to render more extensive representation at the Project site during the Construction Phase. Such Resident Construction Review Services shall be paid for by the OWNER as Additional Services as defined within this Agreement. The limits of the authority, duties and responsibilities of a Resident Project Representative shall be described before such services begin by written instruments labeled Exhibit A, attached to, and made a part of this Agreement.

7.3.2 By means of the more extensive on-site observations of the work in progress, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the Contractor's work, but the furnishing of such services shall not include construction review of the Contractor's construction means, methods, techniques, sequences or procedures, or of any safety precautions and programs in connection with the work, and the ENGINEER shall not be responsible for the Contractor's failure to carry out the work in accordance with the Construction Contract.

7.4 Limitation of Liability

The OWNER agrees to limit the ENGINEER's liability to the OWNER and to all Construction Contractors and Subcontractors on the Project, due to the ENGINEER's professional negligent acts, errors or omissions, such that the total aggregate liability of the ENGINEER to those named shall not exceed fifty thousand (\$50,000) dollars or the ENGINEER's total fee for services rendered on this Project, whichever is greater.

7.5 REVISION TO ARTICLE 1.1.6 (Construction Phase)

Article 1.1.6 shall be revised as follows:

"Owner reserves the right to terminate the contract without obligation prior to initiation of the Construction Phase. Should Owner desire the Engineer's services for the Construction Phase, written notification will be required to that effect, and upon award of any Construction Contract based upon the Construction Contract Documents compiled by the Engineer, the Construction Phase of this Agreement shall commence and the Engineer shall:..."

This Agreement executed the day and year written at the beginning of the Agreement.

OWNER:

ENGINEER:

Eugene J. Daily

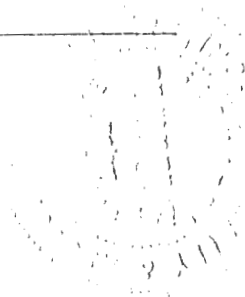
President

Eugene J. Daily

Lyn A. Denton

Secretary

Lyn A. Denton



AF 7/18/12

EXHIBIT "A"

This Exhibit is attached to and made a part of the Agreement between the OWNER, the City of Urbana and the ENGINEER, Daily & Associates, Engineers, Inc.

dated _____, 197 7, for the Project known as improvements to the Urbana Parking Lots (Nos. 1, 2, 8, and 10 F as designated by the Urbana Parking Division).

**LIMITATIONS OF AUTHORITY, DUTIES AND RESPONSIBILITIES
OF THE RESIDENT PROJECT REPRESENTATIVE**

1. The Resident Project Representative shall act under the direct supervision of the ENGINEER, shall be the ENGINEER's agent in all matters relating to on-site construction review of the Contractor's work, shall communicate only with the ENGINEER and the Contractor (or Contractors), and shall communicate with subcontractors only through the Contractor or his authorized superintendent. The OWNER shall communicate with the Resident Project Representative only through the ENGINEER.
2. The Resident Project Representative shall review and observe on-site construction activities of the Contractor relating to portions of the Project designed and specified by the ENGINEER as contained in the Construction Contract Documents.
3. Specifically omitted from the Resident Project Representative's duties are any review of the Contractor's safety precautions, or the means, methods, sequences, or procedures required for the Contractor to perform the work but not relating to the final or completed Project. Omitted design or review services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.
4. The specific duties and responsibilities of the Resident Project Representative are enumerated as follows:
 - a. Schedules: Review the process schedule, schedule of Shop Drawing submissions and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning their acceptability.
 - b. Conferences: Attend preconstruction conferences. Arrange a schedule of progress meetings and other job conferences as required in consultation with ENGINEER and notify those expected to attend in advance. Attend meetings, and maintain and circulate copies of minutes thereof.
 - c. Liaison:
 - (1) Serve as ENGINEER'S liaison with CONTRACTOR, working principally through CONTRACTOR'S superintendent and assist him in understanding the intent of the Contract Documents. Assist ENGINEER in serving as OWNER'S liaison with CONTRACTOR when CONTRACTOR'S operations affect OWNER'S on-site operations.
 - (2) As requested by ENGINEER, assist in obtaining from OWNER additional details or information, when required at the job site for proper execution of Work.
 - (3) Alert CONTRACTOR directly and through his superintendent to the hazards involved in accepting or acting upon instructions from OWNER or others, except instructions transmitted through ENGINEER or himself.
 - d. Shop Drawings and Samples:
 - (1) Receive and record date of receipt of Shop Drawings and samples which have been approved by ENGINEER.

- (2) Receive samples which are furnished at the site by CONTRACTOR for ENGINEER's approval, and notify ENGINEER of their availability for examination.
- (3) Advise ENGINEER and CONTRACTOR or his superintendent immediately of the commencement of any Work requiring a Shop Drawing or sample submission if the submission has not been approved by ENGINEER.

e. Review of Work, Rejection of Defective Work, Inspections and Tests

- (1) Conduct on-site observations of the Work in progress to assist ENGINEER in determining that the Project is proceeding in accordance with the Contract Documents and that completed Work will conform to the requirements of the Contract Documents.
- (2) Report to ENGINEER whenever he believes that any Work is unsatisfactory, faulty or defective or does not conform to the requirements of the Contract Documents, or does not meet the requirements of any inspections, tests or approval required to be made; and advise ENGINEER when he believes Work should be corrected or rejected or should be uncovered for observations, or requires special testing or inspection.
- (3) Verify that tests, equipment and systems startups and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that CONTRACTOR maintains adequate records thereof; observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
- (4) Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections and report to ENGINEER.

f. Interpretation of Contract Documents: Transmit to CONTRACTOR ENGINEER's clarifications and interpretations of the Contract Documents.

g. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.

h. Records:

- (1) Maintain at the job site orderly files for correspondence, records, of job conferences, shop drawings and samples submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.

- (2) Keep a diary or log book, recording hours on the job site, weather conditions, data relative to questions of extras or deductions, list of visiting officials, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures. Send copies to ENGINEER.
- (3) Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of equipment and materials.

i. Reports:

- (1) Furnish ENGINEER periodic reports as required of progress of the Work and CONTRACTOR's compliance with the approved progress schedule and schedule of Shop Drawing submissions.
- (2) Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the work.

j. Payment Requisitions: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward them with recommendations to ENGINEER, noting particularly their relation to the schedule of values, Work completed and materials and equipment delivered at the site.

k. Guarantees, Certificates, Maintenance and Operation Manual: During the course of the Work, verify that guarantees, certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed; and deliver this material to ENGINEER for his review and forwarding to OWNER prior to final acceptance of the Project.

l. Completion:

- (1) Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring correction.
- (2) Conduct final inspection in the company of ENGINEER, OWNER and CONTRACTOR and prepare a final list of items to be corrected.
- (3) Verify that all items on final list have been corrected and make recommendations to ENGINEER concerning acceptance.

m. Except upon written instructions of ENGINEER, Resident Project Representative:

- (1) Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
- (2) Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.

- (3) Shall not expedite Work for the CONTRACTOR.
- (4) Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
- (5) Shall not advise on or issue directions as to safety precautions and programs in connection with the Work.
- (6) Shall not authorize OWNER to occupy the Project in whole or in part.
- (7) Shall not participate in specialized field or laboratory tests.