


SEP 08 2009

ORDINANCE NO. 2740


City Clerk

AN ORDINANCE TO AUTHORIZE A RIGHT-OF-ENTRY PERMIT ON, OVER, ALONG AND ACROSS THE CITY OF COLUMBIA, ILLINOIS LAGOON PROPERTY IN MONROE COUNTY, ILLINOIS FOR THE ARMY CORPS OF ENGINEERS USE FOR PILOT HOLE TESTING FOR THE FISH LAKE LEVEE SYSTEM

WHEREAS, the Department of the Army St. Louis District Corps of Engineers (the "Corps" or the "Corps of Engineers") has requested the City of Columbia, Illinois (the "City") to use property belonging to the City which is located in Monroe County, Illinois and on which the City's Sewage Treatment Lagoon is located, for access to the Fish Lake Levee so that the Corps can perform pilot hole testing on said levee between September 1, 2009 and February 28, 2010;

WHEREAS, the Corps has tendered to the City a "Department of the Army Right-of-Entry for Survey and Exploration Prairie Du Pont and Fish Lake Flood Protection Project" permit form for the City to make and enter into with the Corps of Engineers to authorize said right-of-entry to the City's Sewage Treatment Lagoon property for the use and purpose aforesaid; and,

WHEREAS, the City Council of the City has found and determined that it is necessary and appropriate that the City grant to the Corps of Engineers the right-of-entry on, over, along and across the City Lagoon property they have requested, for the use and purpose and for the period of time requested, and, that the City should authorize said "Department of the Army Right-of-Entry for Survey and Exploration Prairie Du Pont and Fish Lake Protection Project" tendered by the Corps and approve of the form thereof.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City Council of the City of Columbia, Illinois hereby authorizes the "Department of the Army Right-of-Entry for Survey and Exploration Prairie Du Pont and Fish Lake Flood Protection Project" in the form attached hereto, which is hereby approved as to form, and does hereby direct the Mayor to sign the same, for and on behalf of the City, in as many counterparts as the Mayor shall determine; and does hereby direct the City Clerk to attest the same and affix thereto the corporate seal of the City.

Section 3. This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Row moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Roessler, and the roll call vote was as follows:

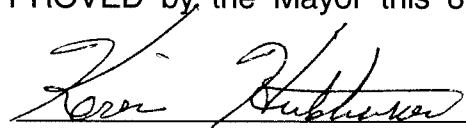
YEAS: Aldermen Ebersohl, Agne, Niemietz, Row, Hejna, Oberkfell, Stumpf and Roessler.

NAYS: None.

ABSENT: None.

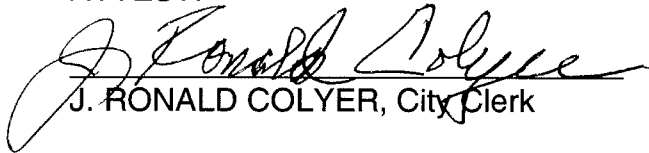
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 8th day of September, 2009.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

**DEPARTMENT OF THE ARMY
RIGHT-OF-ENTRY FOR SURVEY AND EXPLORATION
PRAIRIE DU PONT AND FISH LAKE FLOOD PROTECTION PROJECT**

The undersigned, hereinafter called the "Owner," hereby grants to the, UNITED STATES OF AMERICA, hereinafter called the "Government" and its representatives, agents, contractors, and assigns, a permit or right-of-entry upon the following terms and conditions:

1. The Owner hereby grants to the Government a right-of-entry upon lands hereinafter described. The Government or its Contractor shall have the authority to enter upon said lands at reasonable times from **01 Sep 2009 through 28 February 2010**, in order to conduct investigations for the Fish Lake Flood Protection Project.

2. This permit includes the right of ingress and egress on the lands of the Owner that are necessary for the performance of this project.

3. Any and all tools, equipment, and other property taken upon or placed upon the land by the Government or its Contractor shall remain the property of the Government and will be removed by the Government after completion of the project.

4. If any action of the Government's employees or agents in the exercise of this right-of-entry results in damage to the real property or crops in the field, the Government will, at its sole discretion, either repair such damage or make an appropriate settlement with the Owner. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. The Government's liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet any deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any damages other than those provided for herein.

5. The land affected by this permit or right-of-entry is located in Monroe County, Illinois and generally identified on the attached maps.

WITNESS MY HAND this _____ day of _____, 2009.

Real Estate Division
U.S. Army Corps of Engineers

Signature

Printed Name

Address

City State Zip

Phone #