

MAR 19 2012


City Clerk

ORDINANCE NO. 2942

AN ORDINANCE ENTERING INTO AN AGREEMENT BETWEEN BRAUN COLONIAL FAMILY FUNERAL HOME AND THE CITY OF COLUMBIA, ILLINOIS FOR THE INSTALLATION AND MAINTENANCE OF LIGHTS WITHIN THE PUBLIC RIGHT-OF-WAY OF QUARRY ROAD.

WHEREAS, the Braun Colonial Family Funeral Home (“Braun”) desires to install and maintain lights within the right-of-way of Quarry Road at the entrance for 265 Quarry Road and it is necessary and appropriate and now time for the City of Columbia, Illinois (“City”) to enter into said agreement with Braun.

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 agreement between the City and Braun for the installation and maintenance of lights within the public right-of-way of Quarry Road, a copy of which is attached hereto, is hereby approved as to form and the Mayor is hereby authorized and directed to make and enter into the agreement for and on behalf of the City, in as many counterparts as the Mayor shall determine, and the City Clerk is hereby authorized and directed 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 Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Mathews, Piazza and Reis.

NAYS: None.

ABSENT: None.


ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 19th day of March, 2012.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

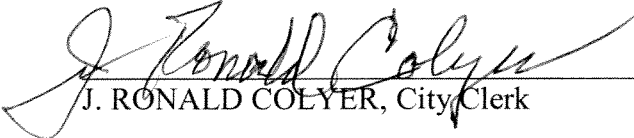
I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2942, entitled:

**“AN ORDINANCE ENTERING INTO AN AGREEMENT
BETWEEN BRAUN COLONIAL FAMILY FUNERAL
HOME AND THE CITY OF COLUMBIA, ILLINOIS FOR
THE INSTALLATION AND MAINTENANCE OF LIGHTS
WITHIN THE PUBLIC RIGHT-OF-WAY OF QUARRY
ROAD.”**

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois City Council held on the 19th day of March, 2012.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 19th day of March, 2012.



J. RONALD COLYER, City Clerk

(SEAL)

AGREEMENT BETWEEN BRAUN COLONIAL FAMILY FUNERAL HOME AND THE CITY OF COLUMBIA, ILLINOIS FOR THE INSTALLATION AND MAINTENANCE OF LIGHTS WITHIN THE PUBLIC RIGHT-OF-WAY OF QUARRY ROAD.

THIS AGREEMENT is made and entered into this ____ day of _____, 2012, by and between the CITY OF COLUMBIA, a municipal corporation located in the Counties of Monroe and St. Clair in the State of Illinois, organized and existing under and by virtue of the laws of the State of Illinois, (hereinafter referred to as the “CITY”) by and through its Mayor and Board of Alderman (hereinafter referred to as the “Corporate Authorities”), as the Party of the First Part, and the Braun Colonial Family Funeral Home, 265 Quarry Road, Columbia, Illinois, (hereinafter referred to as “Braun”), as Party of the Second Part, WITNESSETH:

WHEREAS, BRAUN is the owner of property having a legal address of 265 Quarry Road, Columbia, Illinois; and

WHEREAS, the CITY does not have street lights installed along Quarry Road from approximately Ghent Road to Rueck Road; and

WHEREAS, the cost to the CITY will be approximately \$80,000 for Ameren Illinois to install street lights along Quarry Road from approximately Ghent Road to Rueck Road; and

WHEREAS, the CITY has determined such cost is excessive at the current time to have said street lights installed; and

WHEREAS, BRAUN has indicated BRAUN would be willing to install and maintain lights within the right-of-way of Quarry Road with agreed upon stipulations as to location, size and intensity, and;

WHEREAS, the CITY has indicated it is receptive to BRAUN installing and maintaining lights within the right-of-way of Quarry Road with agreed upon stipulations as to location, size and intensity,

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

(1) BRAUN will be allowed to install lights within the right-of-way of Quarry Road which BRAUN will install and maintain.

(2) The CITY will allow BRAUN to install lights within the right-of-way of Quarry Road with the following stipulations:

- a) Lights will be of the same height, type and intensity as are currently installed on the BRAUN property illuminating the parking lot.
- b) Lights will be installed within five (5) feet of the back of curb of the drive and will be located no closer than twenty five (25) feet off the edge of pavement of Quarry Road. The lights shall not obstruct any ditches or the flow of storm water.
- c) The concrete bases of the lights shall protrude no greater than one (1) inch above the level of the ground and the lights shall have breakaway posts.
- d) BRAUN will be responsible for all costs of installation, maintenance and operation of the lights.
- e) The lights will be limited to two, one on each side of the access drive.
- f) BRAUN will indemnify and hold harmless the CITY of any liability associated with installing and maintaining the lights within the right-of-way of Quarry Road.
- g) Lights shall not be relocated, changed or altered without the written consent of the CITY.

(3) Effective Term. This Agreement shall be effective for as long as Braun or its approved successor owns the property at 265 Quarry Road. Such approved successor shall come from the City and such approval shall not be reasonably withheld.

(4) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, successor owners of record of the subject property and all parts thereof, their legal representatives, successors, lessees and assigns, and upon any successor municipalities.

(5) Enforcement. This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties hereto by an appropriate action at law or in equity to secure performance of the covenants hereof in accordance with the provisions of Section 11-15.1-4 of the Illinois Municipal Code (65 ILCS 5/11-15.1-4). In the event there is a breach of or a default under this Agreement by one of the parties hereto and it thereby becomes necessary for another party hereto adversely affected thereby to retain the services of an attorney to enforce the Agreement, then and in that event the losing party to such controversy or litigation shall be required to pay the other party's reasonable attorneys' fees, court costs and other expenses incurred in enforcing this Agreement.

(6) Severability. In the event any provision of this Agreement shall be declared invalid by a court of competent jurisdiction, the invalidity of said provision will not effect the validity of the other provisions of this Agreement.

(7) Amendments. This Agreement may be amended by written mutual agreement of the parties hereto and pursuant to a CITY ordinance duly enacted.

IN WITNESS WHEREOF, the parties hereto have made and entered into this Agreement on the date first above written.

CITY OF COLUMBIA, ILLINOIS,
the Party of the First Part

by: _____
KEVIN HUTCHINSON, Mayor

ATTEST:

J. Ronald Colyer, City Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

The undersigned, a Notary Public, in and for the County, in the State aforesaid, hereby certifies that KEVIN HUTCHINSON and J. Ronald Colyer, personally known to me and known to me to be the Mayor and the City Clerk, respectively, of the City of Columbia, Monroe County, Illinois, in the above Agreement referred to as Party of the First Part, appeared before me, in person, this date, and acknowledged that they signed and delivered the above and foregoing document pursuant to an ordinance of the City of Columbia, Illinois, duly enacted, as their free and voluntary act and deed as the free and voluntary act and deed of the City of Columbia, Illinois, a Municipal Corporation, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, 2012.

NOTARY PUBLIC

BRAUN COLONIAL FAMILY FUNERAL
HOME OF COLUMBIA, ILLINOIS,
the Party of the Second Part

By: _____

ATTEST:

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

The undersigned, a Notary Public, in and for the County, in the State aforesaid, hereby certifies that _____, personally known to me to be the owner of the BRAUN COLONIAL FAMILY FUNERAL HOME OF COLUMBIA, ILLINOIS, and known to me to be the same person whose name is subscribed to the above and foregoing document, appeared before me, in person, this date, and acknowledged that he signed and delivered the above and foregoing document as his free and voluntary act and deed and as the free and voluntary act and deed, pursuant to enabling resolution of said entity duly enacted, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, 2012.

NOTARY PUBLIC