

APR 07 2008


City Clerk

ORDINANCE NO. 2640

AN ORDINANCE TO APPROVE A MULTIPLE PURPOSE EASEMENT FROM THE IMMACULATE CONCEPTION ROMAN CATHOLIC CHURCH OF COLUMBIA, ILLINOIS AND THE ROMAN CATHOLIC CHURCH DIOCESE OF BELLEVILLE, ILLINOIS FOR RIGHT OF WAY AT THE IMMACULATE CONCEPTION CHURCH CEMETERY ON CHERRY STREET IN THE CITY OF COLUMBIA, ILLINOIS FOR THE CITY OF COLUMBIA, ILLINOIS OLD TOWN RENOVATION PROJECT AND TO AUTHORIZE THE MAYOR TO EXECUTE AND THE CITY ATTORNEY TO RECORD THE SAME FOR AND ON BEHALF OF THE CITY

WHEREAS, the City of Columbia, Illinois (the "City") has determined to construct and install a retaining wall for the stabilization of an earthen embankment, a fence and storm water management facility in connection with the renovation and improvement involved in the City's Old Town Renovation Project on Cherry Street at the Immaculate Conception Roman Catholic Church Cemetery in the City;

WHEREAS, it is necessary and appropriate that the City shall acquire a right-of-way easement for the same from owners of property in which the City is going to install the aforementioned improvements for its Old Town Renovation project;

WHEREAS, the Immaculate Conception Roman Catholic Church and the Roman Catholic Church Diocese of Belleville, Illinois as the owners of the Immaculate Conception Church Cemetery property to be encumbered with said easement have agreed to provide the required easement to the City in return for the City constructing, installing and maintaining a fence on top of the retaining wall to be located in said easement and the City installing a carrier pipe under Cherry Street at the subject location for future water service to the Cemetery property as is set forth in the Easement Agreement that is to be approved and authorized by this ordinance; and,

WHEREAS, it is necessary and appropriate that the City enact this ordinance to approve and authorize the City to acquire the easement on the terms set forth in the easement agreement and commit the City to do and perform its obligations undertaken in said easement agreement so that the City can acquire the subject easement required for the accomplishment of its Old Town Renovation Project and the construction and installation of the City retaining wall and other improvements involved therein.

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. Attached hereto is the form of the Multiple Purpose Easement to be acquired from the above-described property owners. The City hereby approves the form of the Multiple Purpose Easement, as signed by the property owners aforesaid, and does hereby authorize and direct the Mayor to sign the same (acknowledging the City's acceptance of the easement and the City's agreement to do and perform the City's obligations undertaken in the easement agreement), and does hereby authorize and direct the City Clerk to attest the same and affix thereto the corporate seal of the City.

Section 3. The City Council hereby authorizes and directs the City Attorney, Tom D. Adams, to record in the office of the Monroe County, Illinois Recorder the fully executed and attested Multiple Purpose Easement Agreement aforesaid and thereafter deliver the same to the City Clerk for the purpose of filing the same with the permanent real estate records of the City.

Section 4. This Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

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

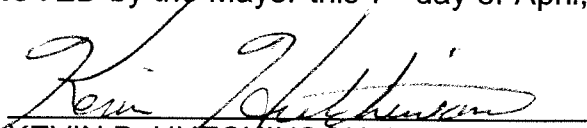
YEAS: Aldermen Ebersohl, Agne, Niemiets, Unnerstall, Row, Hejna, Oberkfell, Stumpf and Mayor Hutchinson.

NAYS: None.


ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 7th day of April, 2008.



KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEFFKEN, City Clerk

(SEAL)

RETURN TO:
Adams and Huetsch
P. O. Box 647
Columbia, Illinois 62236

MULTIPLE PURPOSE EASEMENT

The IMMACULATE CONCEPTION ROMAN CATHOLIC CHURCH, located in the City of Columbia, County of Monroe and State of Illinois (the "Church") and THE DIOCESE OF BELLEVILLE OF THE ROMAN CATHOLIC CHURCH, located in the City of Belleville, County of St. Clair and State of Illinois (the "Diocese"), said church and diocese being the GRANTORS in this easement, do by these presents, for and in consideration of the payment of the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged by the GRANTORS, GRANT and CONVEY, and by these presents has GRANTED and CONVEYED, to the CITY OF COLUMBIA, ILLINOIS, a Municipal Corporation and body both corporate and politic, located in the counties of Monroe and St. Clair, created and existing under and by virtue of the laws of the State of Illinois, the GRANTEE, its successors and assigns, a perpetual right-of-way and easement, in, under, over, along, through and across the following described tract of land for the uses and purposes hereinafter stated, subject to the terms and conditions hereinafter set forth, to wit:

A four (4) foot wide easement for the construction and maintenance of a retaining wall and fence and for storm water drainage uses and purposes adjacent to the Right-of-Way of Cherry Street, on, over, and across part of a tract of land, being part of the Southwest Quarter of Section 15, Township 1 South, Range 10 West of the Third Principal Meridian, City of Columbia, Monroe County, Illinois, said easement being more particularly described as follows:

Beginning at the Southeast corner of said cemetery tract; thence South 64°28'06" West, along the Southeasterly line of said cemetery tract, a distance of 234.86 feet to a point; thence North 25°31'54" West, a distance of 4.00 feet to a point which lies 4.00 feet, measured at right angles, Northwest of the Southeast line of said cemetery tract; thence North 64°28'06" East, parallel to the Southeast line of said cemetery tract, a distance of 237.20 feet to a point on the Easterly line of said cemetery tract; thence South 04°43'31" West, a distance of 4.63 feet to the Point of Beginning.

Containing 944 square feet or 0.02 acre, more or less.

(Attached hereto and by reference made part hereof is a Survey Plat prepared by Heneghan and Associates, P.C., Engineers – Surveyors, which depicts the subject easement tract lying and being along the frontage of the subject property on Cherry Street in the City of Columbia, Illinois.)

By this Easement, the GRANTORS grant to the GRANTEE, its successors and assigns, the permanent and perpetual right to locate, construct, install, operate, inspect, repair, re-construct, replace, relocate, maintain, and remove a retaining wall for the stabilization of an earthen embankment, a fence and for storm water drainage management, with necessary appurtenances, in, under, along, through and across the above-described tract or strip of property, together with the right of ingress and egress over, along, and across said tract or parcel of land for the purpose of gaining access to the City improvements to be constructed and maintained in, under, on and across said easement strip by the GRANTEE, its successors and assigns.

The actual consideration for the grant and conveyance of the multiple purpose easement by the GRANTORS to the GRANTEE is as follows:

(1) The City shall construct and install a fence on top of the retaining wall to be constructed and installed by the City on, over, along and across the multiple purpose easement tract, at the cost of the City and at no cost or expense to the GRANTORS, which fence shall be similar in construction, color, and appearance to the fence depicted on the flyer attached to this Easement document; and,

(2) The City shall pay for and install a sleeve pipe that can be used as a carrier pipe for a future City water line to provide water service to the GRANTORS' property at a mutually agreeable location at the time of the construction and installation of the municipal infrastructure improvements involved in the City's Old Town Capital Improvements Renovation Project on Cherry Street in the City.

The GRANTORS, their legal representatives, successors, and assigns, shall have the right to use and enjoy the above-described easement strip of property of varying width, subject to the rights herein granted and conveyed to the GRANTEE, but the GRANTORS, their legal representatives, successors, and assigns shall not make or suffer any damages or obstructions that interfere with the GRANTEE'S use of the easement premises for their intended easement uses and purposes; however, such use by the GRANTORS, its legal representatives, successors, and assigns shall not include the erection thereon of buildings or structures which are permanent in nature.

The GRANTEE shall back fill all excavations as promptly as circumstances will permit and restore the surface of the ground as nearly as practicable to the condition it was in before the GRANTEE disturbed the same, after each and every entry.

It is understood and agreed that the GRANTEE shall have the right to transfer, convey, and assign to any person, firm, or corporation, all rights herein acquired by it, and it is further agreed that all covenants, conditions, rights, and obligations of this agreement shall extend to and be binding and obligatory upon the legal representatives, successors, and assigns, of the parties hereto, and shall be covenants running with the land encumbered by the easement herein granted and conveyed.

The GRANTORS, without limiting the interest above granted and conveyed, do hereby acknowledge that upon payment of the agreed consideration described above, all claims arising out of the above acquisition have been fully settled, including any diminution in value to any remaining property of the GRANTORS caused by the opening, improving and using of the above described easement tract of property for the uses and purposes described above. This acknowledgement does not waive any claim for trespass, nuisance or negligence against the GRANTEE or GRANTEE'S contractors or agents which may cause damage to the remaining property of the GRANTORS located outside of the above-described

easement tract of property. Notwithstanding anything contained in this paragraph or elsewhere in this easement, however, GRANTORS Grants and Conveys to the GRANTEE the right of temporary use of adjacent ground belonging to the GRANTORS not occupied by improvements for the storage of excavated materials and equipment during installation, repair or replacement of the improvements allowed by this easement, and their appurtenances, with the GRANTEE having the obligation to restore the surface of said adjoining property of the GRANTORS as nearly as practicable to its original, pre-entry condition after completion of the use thereof for the uses and purposes authorized by this easement.

IN WITNESS WHEREOF, the parties hereto have made, executed and delivered the above and foregoing easement for the uses and purposes therein set forth to take effect this _____ day of _____, 2008.

IMMACULATE CONCEPTION ROMAN
CATHOLIC CHURCH, one of the GRANTORS:

BY: _____
Monsignor CARL E. SCHERRER, Pastor

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

The undersigned, a Notary Public in and for the County and the State aforesaid, hereby certifies that Monsignor CARL E. SCHERRER, personally known to me and known to me to be the Pastor of the Immaculate Conception Roman Catholic Church of Columbia Illinois, whose name is subscribed to the above and foregoing document for and on behalf of GRANTORS appeared before me in person this date and acknowledged that he signed and delivered said document as his free and voluntary act and deed and as the free and voluntary act and deed of the Immaculate Conception Roman Catholic Church, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, A.D. 2008.

Notary Public

My Commission Expires: _____

THE DIOCESE OF BELLEVILLE OF THE ROMAN CATHOLIC CHURCH, one of the GRANTORS:

BY: _____
Most Reverend EDWARD K. BRAXTON,
Bishop of the Belleville Diocese of the
Roman Catholic Church and
President of the Board of Trustees of
the Immaculate Conception Roman Catholic
Church

STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

The undersigned, a Notary Public in and for the County and the State aforesaid, hereby certifies that the Most Reverend EDWARD K. BRAXTON, personally known to me and known to me to be the Bishop of the Belleville Diocese of the Roman Catholic Church and the President of the Board of Trustees of the Immaculate Conception Roman Catholic Church of Columbia Illinois, whose name is subscribed to the above and foregoing document for and on behalf of GRANTORS appeared before me in person this date and acknowledged that he signed and delivered said document as his free and voluntary act and deed and as the free and voluntary act and deed of the Immaculate Conception Roman Catholic Church and The Diocese of Belleville of the Roman Catholic Church, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, A.D. 2008.

Notary Public

My Commission Expires: _____

ACCEPTANCE OF GRANTEE

The undersigned legal representatives of the GRANTEE, pursuant to an enabling ordinance of the GRANTEE duly enacted, have recorded this easement in acknowledgment of the acceptance of the terms and conditions thereof and by their signatures below, for and no behalf of the GRANTEE agree that the GRANTEE shall be bound by the covenants, conditions and terms of the easement and to do and perform the obligations incumbent upon the GRANTEE to be done and performed by the GRANTEE by, under and pursuant to this easement.

CITY OF COLUMBIA, ILLINOIS, a Municipal Corporation

BY: _____
KEVIN B. HUTCHINSON, Mayor

ATTEST:

WESLEY J. HOEFFKEN, City Clerk

(SEAL)

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 B. HUTCHINSON and WESLEY J. HOEFFKEN, personally known to me and known to me to be the Mayor and the City Clerk, respectively, of the City of Columbia, Monroe and St. Clair Counties, Illinois, and known to me and known to me to be the same persons whose names are subscribed to the above and foregoing document, as such Mayor and City Clerk, appeared before me in person this date and acknowledged that they signed and delivered said document as their free and voluntary act and deed, and as the free and voluntary act and deed of the City of Columbia, Monroe and St. Clair Counties, Illinois, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, A.D. 2008.

Notary Public

My commission expires: _____

THIS DOCUMENT PREPARED BY:

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