

JAN 22 2013

**ORDINANCE NO. 2995**

*J. Ronald Colyer*  
City Clerk

**AN ORDINANCE TO GRANT A PERMANENT EASEMENT TO UPCHURCH OIL AND READY-MIX CONCRETE CO., INC. ASSOCIATED WITH THE CITY OF COLUMBIA'S CHERRY STREET RECONSTRUCTION PROJECT, PHASE 2 AND TO AUTHORIZE THE APPROVAL, THE MAYOR TO EXECUTE AND THE CITY TO RECORD THE PERMANENT EASEMENT DEED**

WHEREAS, the City of Columbia, Illinois (the "City") has determined that Upchurch Oil and Ready-Mix Concrete Co., Inc. will require a permanent easement for private access purposes over property owned by the City in order to construct a commercial entrance for Upchurch Oil and Ready-Mix Concrete Co., Inc.'s property associated with the renovation and improvement involved in the City's Cherry Street Reconstruction Project, Phase 2 in the City;

WHEREAS, it is necessary and appropriate that the City grant the permanent easement in association with its subject Cherry Street Reconstruction Project, Phase 2;

WHEREAS, City of Columbia, Illinois, 208 South Rapp Avenue, Columbia, Illinois has agreed to provide the permanent easement as Upchurch Oil and Ready-Mix Concrete Co., Inc. has granted a temporary easement associated with its subject Cherry Street Reconstruction Project, Phase 2;

WHEREAS, it is necessary and appropriate that the City enact this ordinance to grant and approve the permanent easement to Upchurch Oil and Ready-Mix Concrete Co., Inc. with the terms set forth in the easement and commit to do and perform its obligations under said easement.

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 one (1) Permanent Easement for private access purposes to Upchurch Oil and Ready-Mix Concrete Co., Inc. from the City of Columbia, Illinois, which is granted and approved by this ordinance. The City hereby approves the form of the attached Easement and does hereby authorize and direct the Mayor to sign the same 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 to record in the office of the Monroe County, Illinois Recorder the fully executed and attested Easement aforesaid and thereafter to file it 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 Ebersohl 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, Roessler, Huch and Reis.

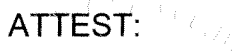
NAYS: None.

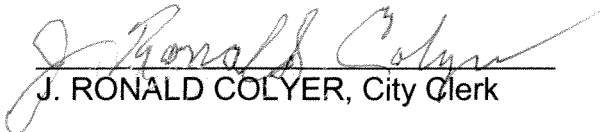
ABSENT: Alderman Mathews.

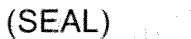
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 22<sup>nd</sup> day of January, 2013.

  
\_\_\_\_\_  
KEVIN B. HUTCHINSON, Mayor

ATTEST: 

  
\_\_\_\_\_  
J. RONALD COLYER, City Clerk

(SEAL) 

Owner City of Columbia  
Route FAU 9308  
County Monroe  
Job No. 28012  
Parcel No. 365-010PE-Access  
P.I.N. No. 04-15-365-010  
Section 08-00046-00-PV  
Project No. M-5011(336)  
Station 19+74.96 Left  
Station 19+84.96 Left

**PERMANENT EASEMENT**  
**(Corporation)**

The City of Columbia, Illinois, a municipal corporation organized and existing under and by virtue of the laws of the State of Illinois and duly authorized to do business under the Statutes of the State of Illinois, (Grantor), for and in consideration of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, and pursuant to the authority given by the Board of Directors of said corporation, represents that Grantor owns the fee simple title to and grants and conveys to Upchurch Oil and Ready-Mix Concrete Co., Inc., (Grantee), a permanent easement for the purpose of constructing, installing, operating, maintaining, repairing, removing and replacing pavement, curb and sidewalk and for other private access purposes, on, over and through the following described real estate:

Part of the abandoned right of way of the Illinois Central Gulf Railroad, formerly the Gulf, Mobile and Ohio Railroad, in Columbia, Monroe County, Illinois described as follows:

Beginning at the intersection of the northeasterly right of way line of said Illinois Central Gulf Railroad and the northwesterly right of way line of East Cherry Street; thence southwesterly along said right of way line of East Cherry Street 10.00 feet; thence northwesterly 25.12 feet to said northeasterly right of way line of the Illinois Central Gulf Railroad; thence southeasterly along said northeasterly right of way line of the Illinois Central Gulf Railroad, said line also being the southwesterly line of a tract of land conveyed to Upchurch Oil and Ready-Mix Co., Inc., reference being had to the Warranty Deed recorded in the Recorder's Office of Monroe County, Illinois, in Document No. 245922; a distance of 27.03 feet to the Point of Beginning.

Said parcel contains 126 square feet, or 0.0029 acres, more or less.

situated in the County of Monroe, State of Illinois. The above-described real estate and improvements located thereon are herein referred to as the "premises."

Grantor shall have and retains all rights to use and occupy the premises and access to Grantor's remaining property, except as herein expressly granted; provided, however, Grantor's use and occupation of the premises may not interfere with Grantee's use of the premises for the purposes herein described.

Grantor, without limiting the interest above granted and conveyed, acknowledges that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including without limitation, any diminution in value to any remaining property of the Grantor caused by opening, improving, and using the premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or Grantee's agents which may cause damage to Grantor's remaining property.

This grant shall constitute a covenant, which runs with the land, and shall be binding upon the legal representatives, successors and assigns of Grantor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
City of Columbia, Illinois  
Corporation Name

By: \_\_\_\_\_  
Signature

ATTEST:

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

This instrument was acknowledged before me on \_\_\_\_\_, 2013, by

\_\_\_\_\_, as \_\_\_\_\_

and \_\_\_\_\_, as \_\_\_\_\_

of City of Columbia, Illinois

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT REVIEWED AND APPROVED AS TO FORM BY:

Terry I. Bruckert # 6215815  
Attorney-at-Law  
Belsheim & Bruckert, LLC  
1002 East Wesley Drive, Suite 100  
O'Fallon, IL 62269  
Telephone (618) 624-4221

RETURN INSTRUMENT TO:

Ronald J. Williams, P.E.  
City Engineer/Public Works Director  
City of Columbia, Illinois  
208 S. Rapp Avenue  
Columbia, IL 62236  
Telephone (618) 281-7144