

ORDINANCE NO. 3005

STATE OF ILLINOIS
CITY OF COLUMBIA
FILED FOR RECORD

**AN ORDINANCE APPROVING LEASE FOR A PLAYGROUND
BY THE CITY OF COLUMBIA, ILLINOIS FROM AMERICAN
LEGION POST 581**

MAR 04 2013

J. Ronald Culy
City Clerk

WHEREAS, the City of Columbia, Illinois, (hereinafter, "the City"), is a municipal corporation and body both corporate and politic created and existing in and by virtue of the laws of the State of Illinois located in Monroe and St. Clair counties, Illinois;

WHEREAS, the City, pursuant to Section 11-76.1-1 of the Illinois Municipal Code (65 ILCS 5/11-76.1-1), has the power to lease real property for public purpose; and

WHEREAS, the City desires to lease from American Legion Post 581 ("the Legion") and the Legion desires to lease to the City the playground ("Property") located on Lot 3 of the American Legion Memorial Park, pursuant to a Lease of Playground ("Lease"), a copy of which is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the City Council has determined that the lease of the Property by the City and its ongoing recreational use will provide benefit to the public.

NOW THEREFORE BE IT ORDAINED, by the Mayor and City Council of the City of Columbia, 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 Contract for the lease of the Property is hereby adopted.

Section 3. The Mayor is hereby authorized and directed to sign the Contract on behalf of the City.

Section 4. The City Clerk is hereby directed to publish this Ordinance in The Republic Times for two (2) consecutive weeks, commencing on the next available publish date.

Section 5. This Ordinance shall take full force and effect thirty (30) days after the second publication described in paragraph 4, above; provided, however, that the commencement date of the Lease shall be the date that the City obtains

fee simple title to the property located at 375 East Locust St., Columbia, Illinois, pursuant to that certain Real Estate Installment Contract between the City and the Legion, dated March 4, 2013.

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

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

NAYS: None.

ABSENT: None.


ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 4th day of March, 2013.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

State of Illinois)
) ss
County of Monroe)

CERTIFICATION OF ORDINANCE

I, the undersigned, do hereby certify that I am the duly elected, qualified and acting City Clerk of the City of Columbia, Monroe County, Illinois (the "Municipality"), and as such official I am the keeper of the records and files of the Municipality and of its Mayor and City Council (the "Corporate Authorities").

I do further certify that the foregoing constitutes a full, true and complete excerpt from the proceedings of the regular meeting of the Corporate Authorities held on the 4th day of March, 2013, insofar as same relates to the adoption of Ordinance No. 3005, entitled:

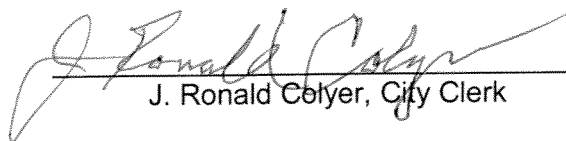
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a true, correct and complete copy of which Ordinance (the "Ordinance") as adopted at such meeting appears in the transcript of the minutes of such meeting and is hereto attached. The Ordinance was adopted and approved by the vote and on the date therein set forth.

I do further certify that the deliberations of the Corporate Authorities on the adoption of such Ordinance were taken openly, that the adoption of such Ordinance was duly moved and seconded, that the vote on the adoption of such Ordinance was taken openly and was preceded by a public recital of the nature of the matter being considered and such other information as would inform the public of the business being conducted, that such meeting was held at a specified time and place convenient to the public, that the agenda for such meeting was duly posted at the offices of the City Clerk at least 48 hours before the meeting, that notice of such meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and the Illinois Municipal Code, as amended, and that the Corporate Authorities have complied with all of the applicable provisions of such Open Meetings Act and such Code and their procedural rules in the adoption of such Ordinances. No petition(s) have been received in my office pursuant to 65 ILCS 5/11-76.1-4.

In witness whereof, I hereunto affix my official signature and the seal of the City of Columbia, Illinois, this 4th day of March, 2013.

(SEAL)



J. Ronald Colyer, City Clerk

EXHIBIT 'A'

LEASE OF PLAYGROUND

This Lease is made and entered into this ____ day of _____, 2013, by and between Columbia Post No. 581, American Legion Department of Illinois, of 375 Locust, P.O. Box 433, Columbia, Illinois 62236 (hereinafter collectively referred to as "Lessor") and the City of Columbia, Illinois, an Illinois municipal corporation, 208 S. Rapp, Columbia, Illinois, 62236, (hereinafter referred to as the "Lessee").

WHEREAS, the Lessee's purpose, in occupying and using the land described below, is to provide a playground for children in the community;

WHEREAS, the Lessee's occupying and using the land, to accomplish that goal, serves a public purpose;

WHEREAS, the Lessee's accomplishing that goal depends on the Lessee's being able to occupy the land and to make the land available for public use; and

WHEREAS, the Lessor agrees to provide the playground to the Lessee in exchange for the Lessee's obligation to maintain the playground on the land.

WITNESSETH:

1. Location. Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the playground ("Premises") on Lessor's property described as follows:

Lot 3 of "COLUMBIA AMERICAN LEGION MEMORIAL PARK, A FINAL SUBDIVISION PLAT, BEING A SUBDIVISION OF PART OF TAX LOT 5 OF U.S. SURVEY 417 AND PART OF TAX LOT 109-B OF THE WEST ½ OF FRACTIONAL SECTION 15 ALL IN TOWNSHIP 1 SOUTH RANGE 10 WEST OF THE 3RD PRINCIPAL MERIDIAN, CITY OF COLUMBIA, MONROE COUNTY, ILLINOIS"; reference being had to the plat thereof recorded November 26, 2002 in Plat Envelope 2-158B as Document #266777.

Situated in the County of Monroe and the State of Illinois.

The Premises shall only include the playground and the real property immediately under the playground, as well as reasonable access from the Lessee's adjoining property. The Premises do not include the entire Lot 3.

2. Term. The term of this Lease is for two (2) years, commencing on the date that the Lessee obtains fee simple title to the property located at 375 East Locust St., Columbia, Illinois, pursuant to that certain Real Estate Installment Contract between the Lessor and Lessee, dated March 4, 2013, and terminating on the second anniversary of that date.

3. Use of Premises. The Premises may be used and occupied exclusively by Lessee as a playground for the general public. The Lessee may establish and enforce reasonable rules for the proper and safe use of the Premises and may post such rules for notification to the general public.

4. Assignment and Subletting. This lease is non-assignable by Lessee without the written consent of Lessor. Lessee shall not sublet the demised premises, or any part thereof, without the written consent of the Lessor.
5. Maintenance and Repairs. Lessee shall, at its own cost and expense, keep and maintain the premises in good condition and repair during the term of this Lease and any renewal thereof.
6. Care of Premises. Lessee agrees to commit no act of waste, and further agrees to take good care of the Premises. Lessee shall, in the use of the Premises, conform to all laws, orders and regulations of the federal, state and municipal governments, or any of their departments.
7. Remedies on Default. If either party defaults in the performance of any covenant or condition hereof, the non-defaulting party may give notice of such default to the other party, and if the other party does not cure the default within thirty (30) days, after the giving of such notice, then the non-defaulting party may terminate this Lease.
8. Notices. Any notice by either party to the other shall be in writing and shall be deemed to have been duly given if delivered, if to the Lessee, personally or sent by certified mail, to the City Clerk at City Hall, 208 S. Rapp Ave., Columbia, Illinois, 62236, or, if to the Lessor, to the Lessor's address set forth in the first paragraph on the first page; or, to either at such other address as Lessee or Lessor respectively may designate in writing. Notice shall be deemed to have been given if delivered personally, on delivery thereof, and if by certified mail, on the day immediately following the mailing thereof (unless no mail delivery occurred on that following day, in which case the notice shall be deemed to have been given on the day that mail delivery next occurs).
9. Insurance of Property. Lessee shall maintain a policy of liability insurance on the Premises, issued by an established and reputable insurer, which names Lessor as an additional insured. The Lessee shall deliver to the Lessor the Lessee's insurer's certificate of such liability insurance, showing that the Lessor has been named as an additional insured on that policy of liability insurance. The limit of that policy of liability insurance shall be at least \$1,000,000.
10. No Other Representations. No representations or promises shall be binding upon the parties hereto except those representations and promises contained in this Agreement.
11. Applicability to Successors and Assigns. Provisions of this lease shall apply to, bind and inure to the benefit of Lessor and Lessee and their respective successors, legal representatives and assigns.
12. Time of Essence. Time is of the essence of this lease.
13. Governing Law. This Lease and terms hereof shall be governed according to the laws of the State of Illinois.
14. Approval by Lessee. This Lease is contingent upon the approval and publication by the Lessee pursuant to 65 ILCS 5/11-76.1-1, 11-76.1-3, and 11-76.1-4. If the requirements of said sections are not met, or if a referendum is conducted, and this Lease is defeated, this Lease shall be null and void.

IN WITNESS WHEREOF, the said parties have duly executed this Lease on _____, 2013.

City of Columbia

Columbia Post No. 581, American Legion
Department of Illinois

By: Kevin Hutchinson
Title: Mayor

By: E. James Vogt
Title: Commander

Attest:

Attest:

By: J. Ronald Colyer
Title: City Clerk

By: Jim Mueller
Title: Adjutant