

ORDINANCE NO. 3004

MAR 04 2013

**AN ORDINANCE APPROVING LEASE OF A PAVILION AT
AMERICAN LEGION FIELDS BY THE CITY OF COLUMBIA,
ILLINOIS TO AMERICAN LEGION POST 581**
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 Sections 11-76-1 of the Illinois Municipal Code (65 ILCS 5/11-76-1), has the power to authorize any municipal officer to make leases for terms not exceeding 2 years in any manner as they may determine; and

WHEREAS, the City has agreed to purchase and the Columbia Post No. 581, American Legion Department of Illinois ("the Legion") has agreed to sell Lot 2 of the property located at 375 East Locust Street, Columbia, Monroe County, Illinois, commonly known as "American Legion Fields"; and

WHEREAS, the City desires to lease to and the Legion desires to lease from the City the pavilion on what will subsequently become the City's property located at 375 Locust Street, Columbia, Monroe County, Illinois ("Property"), pursuant to that certain lease ("Lease") between the City and the Legion (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 Legion and the ongoing recreational use thus provided will benefit 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. This Ordinance shall take full force and effect at such time that the City obtains fee simple title to the Property pursuant to that certain Real Estate Installment Contract between the Lessor and Lessee, dated March 4, 2013.

Alderman Niemietz 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 and Reis.

NAYS: None.

ABSENT: None.

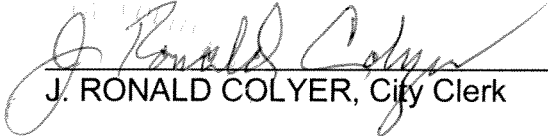
ABSTENTIONS: None.

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)

EXHIBIT 'A'

LEASE OF PAVILION

This Lease is made and entered into this ____ day of _____, 2013, by and between the City of Columbia, Illinois, an Illinois municipal corporation, 208 S. Rapp Ave., Columbia, Illinois, 62236, (hereinafter referred to as the "Lessor") and Columbia Post No. 581, American Legion Department of Illinois, an Illinois Not-for-Profit Corporation, 375 Locust, P.O. Box 433, Columbia, Illinois 62236 (hereinafter referred to as the "Lessee").

WHEREAS, the Lessor owns a public park, which is used for public purposes; and

WHEREAS, a pavilion is located in the public park; and

WHEREAS, Lessee desires to lease the pavilion from the Lessor and manage the pavilion; and

WHEREAS, Lessee, in exchange for the right to manage the pavilion, has agreed to perform and maintenance and repairs to the pavilion.

WITNESSETH:

1. Location. Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the Pavilion ("Premises") on Lessor's property located at 375 Locust Street, Columbia, Illinois, said property more particularly described as follows:

Lot 2 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 pavilion and the real property immediately under the pavilion. The Premises do not include the entire Lot 2.

2. Term. The term of this Lease is for two (2) years, commencing on the date that the Lessor 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 use of the Premises shall be as a pavilion that is open to the general public. The Lessee shall have the authority to manage the pavilion, which may include, but not be limited to, managing reservations for the pavilion and establishing reasonable rules, regulations and fees, for the use of the pavilion. Any rule, regulation or fee that the Lessor deems unreasonable may be stricken by a vote of not less than ¾ of the City Council of the City of Columbia.

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; provided, however, that this provision shall not prohibit Lessee from renting the pavilion to users in compliance with this Lease and any rules and regulations established by Lessee.

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 Lessor, personally or sent by certified mail, to the City Clerk at City Hall, 208 S. Rapp Ave., Columbia, Illinois, 62236, or, if to the Lessee, to the Lessee'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. Contingency. This Lease is conditioned on the Lessor obtaining fee simple title to the Premises pursuant to that certain Real Estate Installment Contract between the Lessor and Lessee,

dated March 4, 2013 ("Contract"). If the Lessor does not obtain fee simple title to the Premises within the time period stated in the Contract, this Lease shall become null and void.

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

Columbia Post No. 581, American Legion
Department of Illinois

City of Columbia

By: E. James Vogt
Title: Commander

By: Kevin Hutchinson
Title: Mayor

Attest:

Attest:

By: Jim Mueller
Title: Adjutant

By: J. Ronald Colyer
Title: City Clerk