

ORDINANCE NO. 2000-08-102

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
AN AGREEMENT FOR USE OF RIGHT-OF-WAY
(1309 West Hill Street)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA,
ILLINOIS, as follows:

Section 1. That the Agreement for Use of Right-of-Way (1309 West Hill Street) between the City of Urbana and Crisis Nursery, in the form of a copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

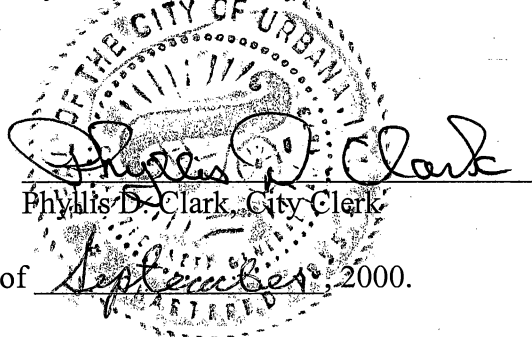
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the Urbana City Council this 5th day of September, 2000.

AYES: Hayes, Huth, Kearns, Patt, Taylor, Whelan, Wyman

NAYS:

ABSTAINS:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 11th day of September, 2000.

Tod Satterthwaite
Tod Satterthwaite, Mayor

AGREEMENT FOR USE OF RIGHT-OF-WAY

[1309 West Hill Street]

THIS AGREEMENT, made and entered into this _____ day of _____, 2000, by and between the CITY OF URBANA, a municipal corporation of the State of Illinois (hereinafter "City"), and CRISIS NURSERY, a **not-for-profit corporation duly created and established** pursuant to the State of Illinois (hereinafter "Nursery"),

WITNESSETH:

FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, the City and the Nursery do mutually covenant and agree as follows:

A. Hill Street is a 60-foot dedicated right-of-way between the east right-of-way of Romine Street and the west right-of-way of Matthews Avenue.

B. The Nursery is herein granted by the City a limited right to construct a drop-off to be built in part upon such right-of-way. This limited right is wholly dependent upon the Nursery, its successors and assigns, fully and faithfully performing and complying with all the terms, conditions, and covenants contained within this Agreement. The Nursery expressly acknowledges and agrees that such limited right is immediately revocable at the option of the City in the event that the Nursery, its successor or assign, fails to perform or comply with any term, condition or covenant set forth within this Agreement. Further, it is expressly understood that regardless of the existence or not of any breach, that the use by the Nursery of the hereinabove described right-of-way shall at all times be subordinate to the City's use of said right-of-way.

C. The purpose of the herein permitted right to construct upon such right-of-way shall be limited solely to the construction and maintenance of a drop-off the location of which is shown on Exhibit A, and use thereof, and for incidental uses directly related thereto. Upon cessation of such use as determined by the Director of Public Works of the City of Urbana (hereinafter "Director"), this Agreement shall immediately lapse and terminate. Any additional use other than that specifically named, without the further express written consent of the City, shall be construed as a violation of this Agreement.

D. When so instructed by the Director, the Nursery will cause the drop-off or any portion thereof to be removed, as nearly as possible in conformance with the Director's request, within ten (10) days after receipt of written notice from the Director. The Nursery is solely and entirely responsible for any and all costs directly or indirectly related to such removal, including but not limited to removal of the curb and gutter and pavement, and replace the curb and gutter and pavement on Hill Street along the same alignment and to the proper elevation east and west of the drop-off.

E. In the event of an emergency, defined as imminent peril to person or property, or when the Nursery has inadequately complied with an order of the Director pursuant to

AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
[Between the City of Urbana and Crisis Nursery]

Paragraph (D) above, or at any other time the Director or other responsible City official in good faith deems the procedures of Paragraph (D) impracticable under the circumstances present, the Nursery consents and agrees that the City or its duly authorized agent may remove the drop-off, or any portion thereof, and charge all costs and expenses incurred in such removal and disposal to the Nursery. Should the Nursery fail in any way to make timely payment to the City for such costs and expenses, the Nursery agrees to pay, in addition to any amount so owed, reasonable attorneys' fees and court costs incurred in the collection of such amount.

F. The Nursery agrees to defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of the contract brought against the City arising from any alleged claims, acts or omissions in connection with this Agreement, including the construction of the drop-off, whether or not suit is filed unless such claim, suit, or cause of action was based solely upon the negligence of the City, its employees, agents or contractors. Additionally, the Nursery shall indemnify the City for any sums the City becomes obligated to pay as damages arising out of such circumstances except to the extent such damages are due to the negligence of the City, its employees, agents or contractors.

G. This Agreement shall be expressly binding upon both parties, their successors and assigns. This Agreement shall be valid only upon being duly recorded by the Recorder of Deeds for Champaign County, Illinois, and the fee for such recording to be at the sole expense of the Nursery.

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AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
[Between the City of Urbana and Crisis Nursery]

CITY OF URBANA, ILLINOIS

By: Tod Satterthwaite
Tod Satterthwaite, Mayor

ATTEST:



Phyllis Clark
Phyllis Clark, City Clerk

CRISIS NURSERY

By: Ginny Suwar
Executive Director

ATTEST:

Secretary

Prepared by and please return recorded copy to:

*Jack Waaler, City Attorney
City of Urbana, Illinois
400 South Vine Street
Urbana, Illinois 61801*