

6/2/99

36-R-99

A RESOLUTION

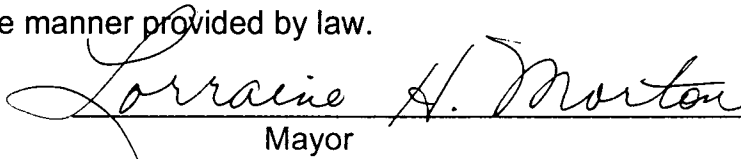
**Authorizing the City Manager to Enter Into
a Retail Parking Lease Agreement (Main Pavilion)**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON,
COOK COUNTY, ILLINOIS:

SECTION 1: That the City Manager is hereby authorized and directed to sign, and the City Clerk hereby authorized and directed to attest on behalf of the City of Evanston, a Retail Parking Lease Agreement (Main Pavilion) by and between the City of Evanston and AHC Evanston LLC. Such Agreement shall be in substantial conformity with the Agreement marked as Exhibit A attached hereto and incorporated herein by reference.

SECTION 2: That the City Manager is hereby authorized and directed to negotiate any additional conditions of the lease as may be determined to be in the best interests of the City.

SECTION 3 That this Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.


Mayor

ATTEST:


City Clerk

Adopted: June 7, 1999

**MAIN PAVILION
RETAIL PARKING LEASE**

THIS PARKING LEASE (hereinafter referred to as the "Lease") is made this 8th day of June, 1999, by and between the CITY OF EVANSTON, a municipal corporation (hereinafter referred to as "Landlord") and Church Street Plaza LLC, a limited liability company (hereinafter referred to as "Tenant").

W I T N E S S E T H

1. **Demise.** Landlord, for and in consideration of Ten Dollars (\$10.00) and the covenants and agreements set forth herein, does hereby lease to Tenant and Tenant hereby takes from Landlord sufficient parking spaces ("Spaces") to comply with the City of Evanston's Zoning Ordinance, as that ordinance may be modified from time to time for the benefit of the Tenant's real estate, as improved and as legally described on Exhibit A and by this reference incorporated herein (the "Main Pavilion Parcel"), however, said spaces when combined with the spaces leased for the Mini-Anchor Parcel under Evanston Resolution 38-R-99 shall not exceed 341. The Spaces shall be unassigned and unreserved automobile parking spaces and shall be located at the planned new Public Parking Garage (hereinafter referred to as "Garage") located on the real estate legally described on Exhibit B hereto and by this reference incorporated herein. The Spaces shall be used by the Tenant to provide parking for the Retail space (excluding the cinema) located upon the Main Pavilion Parcel (the "Retail Space") and to maintain compliance with the City of Evanston Zoning Ordinance for the Retail Space. Tenant shall have, as appurtenant to the Spaces, rights to use in common: (a) the common lobbies, corridors, stairways, stairwells, escalators, elevators, of the Garage in common with others, and (b) common walkways, parking areas and driveways necessary for common ingress and egress to the Garage. The availability of Spaces in the Garage is based upon the Planned Development Ordinance (41-O-99) and the shared parking calculations used therein.

2. **Term.** The term of the Lease (hereinafter referred to as "Term") shall commence on the date the Main Pavilion Parcel is transferred by the City pursuant to paragraph 7 of the Redevelopment Agreement (hereinafter referred to as the "Commencement Date") and shall expire on the fortieth anniversary of the opening of the Retail Space for business.

3. **Rent.** All users of the Retail Space who park in the Garage shall be charged the parking rate that the City charges the general public.

4. **Use.** Tenant agrees to limit its use of the Garage to the parking of motorized vehicles for nine (9) passengers or less.

5. **Changes in Zoning Requirements.** In the event the zoning requirements for the Retail Space are changed by the action of the Evanston City Council so that the Retail Space is not required to provide the number of Spaces leased hereunder, the City may, upon thirty (30) days' written notice decrease the number of Spaces leased hereunder to the number then required. In the event the zoning requirements for the Project are changed by the action of the Evanston City Council so that the Retail Space is required to provide additional parking spaces in excess of the number of Spaces leased hereunder, the Spaces shall be so increased.

6. **Rules and Regulations.** Tenant agrees to abide by the requirements and regulations relating to the use of the Garage promulgated by Landlord upon not less than thirty (30) days' prior written notice thereof, providing said requirements apply to all users.

7. **Mortgages.** If Tenant mortgages its leasehold estate created hereby and the mortgagee or holder of the indebtedness secured by the leasehold mortgage or trust deed shall notify Landlord, in the manner provided for the giving of the notice, of the execution of such mortgage or trust deed and name the place for service of notice upon such mortgagee or holder of such indebtedness, then, in such event, Landlord agrees for the benefit of such mortgagee or holder of such indebtedness from time to time, as follows:

(i) Landlord agrees to give any such mortgagee or holder of such indebtedness simultaneously with service on the Tenant, a duplicate of any and all notices of default given by Landlord to Tenant. Such notices shall be given in the manner and shall be subject to the terms of the notice provisions of this Lease.

(ii) Such mortgagee or the holder of such indebtedness shall have the right to perform any of Tenant's covenants under this Lease and to cure any default of Tenant pursuant to terms of this Lease.

(iii) No liability for any payment or the performance of any Tenant's covenants and agreements shall attach to or be imposed upon any mortgagee or the holder of such indebtedness unless such mortgagee or holder of such indebtedness forecloses its interest and becomes the successor Tenant under this Lease.

(iv) Tenant agrees that any mortgage or security interests it may grant in this leasehold will provide that it is subject to and subordinate to Landlord's estate.

8. **Remedies.** Landlord shall not have the remedy of terminating this Lease.

9. **Notices.** All notices herein required shall be in writing and shall be served on the parties, either personally or mailed by certified or registered mail, return receipt requested or by expedited messenger, and all such notices shall be deemed received on receipt or if delivery is refused upon the date of attempted delivery addressed as follows:

If to the Landlord: City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
Attention: City Manager
Facsimile: (847) 448-8083

With a copy to: Burke and Ryan
33 North Dearborn Street, Suite 402
Chicago, IL 60602
Fax: (312) 236-2556

If to the Tenant: Arthur Hill
Arthur Hill & Co. LLC
5 Revere Drive, Suite 300
Northbrook, Illinois 60062
Facsimile: (847) 498-4947

With a copy to: Mark Yates
Sonnenschein, Nath & Rosenthal
8000 Sears Tower
Chicago, Illinois 60606-6404
Facsimile: (312) 876-7934

Either party may, by notice, change the addresses set forth above. Facsimile transmission is not authorized as a means of notice under this Lease.

10. **Miscellaneous.**

A. Captions and Attachments. The headings of sections and paragraphs hereof are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any paragraph of this lease. Exhibits and addenda attached or affixed hereto are deemed a part of this lease and are incorporated herein by reference.

B. Estoppel Certificates. The City and the Tenant agree that at any time and from time to time, upon not less than ten (10) days' prior notice by the other party, such party will execute, acknowledge and deliver to the other a statement in

recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications that the same as so modified are in full force and effect and setting forth such modifications) and the date to which the Rent and other charges and obligations hereunder have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser, Mortgagee, assignee of any mortgage or assignee of the respective interests under this Lease, made in accordance with the provisions of this Lease.

C. Governing Law. The laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease.

D. Severability. If any provision of this Lease shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

E. Condition of the Premises. Tenant's occupancy of the Garage after the Commencement Date shall constitute an acknowledgment by Tenant that, the Garage was, on the date possession was taken, in good order and satisfactory condition.

IN WITNESS WHEREOF, the parties hereto have executed this lease this day and year first above written.

TENANT:

CHURCH STREET PLAZA LLC

By: AHC Management, Inc., Manager

By: _____

Its: _____

LANDLORD:

CITY OF EVANSTON

By: _____

EXHIBIT A

LOT 1 OF THE CHURCH MAPLE RESUBDIVISION BEING A RESUBDIVISION OF PART OF DEMPSTER'S SUBDIVISION OF BLOCK 66 OF THE VILLAGE OF EVANSTON, COOK COUNTY, ILLINOIS; PART OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY (FORMERLY CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD RIGHT OF WAY); PART OF BLOCK 18 IN THE VILLAGE OF EVANSTON; ALL OF BLOCKS 2 AND 3 IN CIRCUIT COURT SUBDIVISION IN PARTITION OF LOT 22 IN THE COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS; AND PART OF VACATED CLARK STREET AND EAST RAILROAD AVENUE; BEING IN THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS.

EXHIBIT B

LOT 4 OF THE CHURCH MAPLE RESUBDIVISION BEING A RESUBDIVISION OF PART OF DEMPSTER'S SUBDIVISION OF BLOCK 66 OF THE VILLAGE OF EVANSTON, COOK COUNTY, ILLINOIS; PART OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY (FORMERLY CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD RIGHT OF WAY); PART OF BLOCK 18 IN THE VILLAGE OF EVANSTON; ALL OF BLOCKS 2 AND 3 IN CIRCUIT COURT SUBDIVISION IN PARTITION OF LOT 22 IN THE COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS; AND PART OF VACATED CLARK STREET AND EAST RAILROAD AVENUE; BEING IN THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS.

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