

7/20/00

74-R-00

A RESOLUTION

**Authorizing the City Manager to Sign an
Agreement with NUERP, CHS 1033 University Place
Associates Limited Partnership, and CHS
Evanston One Associates Limited Partnership
For Release of a Mortgage on
1019-1035 University Place and
1000-1014 Emerson Street, Evanston, Illinois
in Exchange for \$900,000**

WHEREAS, the Shaw -owned buildings at 1019-1035 University Place and 1000-1014 Emerson Street will be sold through CHS 1033 University Associates Limited Partnership and CHS Evanston One Associates Limited Partnership to Bilger Corporation (Scribcor); and

WHEREAS, Northwestern University Evanston Research Park, Inc. (NUERP), owner of the land at the above addresses, will release title of the land to Bilger Corporation; and

WHEREAS, the City of Evanston, mortgagor of the land at the above addresses, will release its mortgage to NUERP and cancel and return the Purchase Money Notes in exchange for \$900,000 in cash; and

WHEREAS, the properties will retain covenants preventing munitions and removal from the tax rolls without City consent; and

WHEREAS, the City Council has determined it is in the best interest of the City to release said mortgage, cancel and return said Notes and receive \$900,000 in cash,

NOW, THEREFORE, 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, on behalf of the City an Agreement between the City of Evanston, NUERP, CHS 1033 University Place Associates Limited Partnership, CHS Evanston One Associates Limited Partnership whereby the City will release its mortgage on the properties known as 1019-1035 University Place and 1000-1014 Emerson Street and shall cancel and return to NUERP the purchase money notes in exchange for \$900,000 in cash. A copy of said Agreement is attached as Exhibit A.

SECTION 2: That the City Manager is hereby authorized and directed to negotiate any additional conditions or terms on the Agreement as may be determined in the best interest of the City.

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

Adopted: July 24 2000

Lorraine H. Norton
Mayor

ATTEST: Mary D. Morris
City Clerk

AGREEMENT

THIS AGREEMENT (this "Agreement") dated as of this ____ day of _____, 2000, by and between THE CITY OF EVANSTON (the "City"), NORTHWESTERN UNIVERSITY/EVANSTON RESEARCH PARK, INC., an Illinois corporation ("NUERP"), CHS 1033 UNIVERSITY ASSOCIATES LIMITED PARTNERSHIP, an Illinois limited partnership ("CHS 1033") and CHS EVANSTON ONE ASSOCIATES LIMITED PARTNERSHIP, an Illinois limited partnership ("CHS Evanston One", together with CHS 1033, "Sellers").

WITNESSETH

WHEREAS, NUERP is the owner in fee of certain real property commonly known as (i) 1033 University Place located in Evanston, Illinois as more particularly described in Exhibit A-1 attached hereto (the "1033 Property") and (ii) 1890 Maple Avenue located in Evanston, Illinois as more particularly described in Exhibit A-2 attached hereto (the "1890 Property", together with the 1033 Property, the "Property");

WHEREAS, pursuant to that certain ground lease, dated as of April 13, 1990, by and between Research Park, Inc. ("RPI"), predecessor in interest to NUERP, and CHS 1033, a memorandum of which was recorded April 17, 1990 as Document No. 90172331, CHS 1033 (i) ground leases the 1033 Property and (ii) is the fee owner of the improvements located thereon;

WHEREAS, pursuant to that certain ground lease, dated as of March 25, 1988, by and between RPI, predecessor in interest to NUERP, and CHS Evanston One, a memorandum of which was recorded March 25, 1988 as Document No. 88124170, CHS Evanston One (i) ground leases the 1890 Property and (ii) is the fee owner of the improvements located thereon;

WHEREAS, the City is the mortgagee under, and the Property is subject to, that certain Purchase Money Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement, dated as of March 25, 1988 and recorded March 25, 1988 as Document 88124137 in the land records of Cook County, Illinois ("Land Records"), as amended by First Amendment to Purchase Money Mortgage, Assignment of Leases and Rents, Security Agreement and

Financing Statement, dated as of December 7, 1989 and recorded December 8, 1989 as Document 89588165 in the Land Records and as further amended by Second Amendment to Purchase Money Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement, dated as of April 13, 1990 and recorded April 17, 1990 as Document 90172323 in the Land Records (collectively, the "Purchase Money Mortgage"), which Purchase Money Mortgage secures one or more purchase money notes (the "Notes");

WHEREAS, the Property is subject to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Northwestern University/Evanston Research Park, dated as of March 24, 1988, and recorded March 24, 1988, as Document Number 88122453 (the "Declaration");

WHEREAS, pursuant to that certain Purchase and Sale Agreement (the "Purchase Agreement") by and between Sellers, as seller, and Bilger Corp., as purchaser ("Bilger"), Sellers agreed to convey, or cause to be conveyed, to Bilger and Bilger agreed to purchase the fee interest in the Property and the improvements located thereon; and

WHEREAS, the parties hereto desire to enter into this agreement to set forth the agreements and obligations of the parties in connection with the Purchase Agreement.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Conveyance of Fee Interest of the Property. Simultaneously with and conditioned upon the release and termination of the Purchase Money Mortgage and the cancellation of the Notes (as set forth in paragraph 3 below), NUERP shall, and the City shall cause and/or direct NUERP, to the extent necessary, to convey to Bilger (or to such other entity as directed by Sellers) at Closing (as defined in the Purchase Agreement), by special warranty deed, the fee interest in the Property.
2. Termination of Declaration. NUERP shall, and the City shall cause and/or direct NUERP, to the extent necessary, to join Sellers in terminating the Declaration at Closing.

3. Release of Purchase Money Mortgage. At Closing, the City shall release and terminate the Purchase Money Mortgage of record and shall cancel and return to NUERP the Notes.

4. Purchase Price for Fee Interest in the Property. Sellers shall pay, or cause Bilger to pay, to the City the amount of Nine Hundred Thousand Dollars (\$900,000.00) at Closing as the purchase price for the Property.

5. Additional Documents. NUERP and the City shall execute and deliver such other documents that may be required by the title company or otherwise necessary to consummate the transactions contemplated by this Agreement.

6. Default. In the event of a default by any party hereunder, any other party or parties hereto shall be entitled to enforce specific performance of such defaulting party's obligations to consummate the transactions contemplated by this Agreement.

7. Modifications. This Agreement cannot be changed orally and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

8. Successors and Assigns. The terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto.

9. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

10. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of Illinois. Seller and Purchaser hereby irrevocably submit to the jurisdiction of the courts of the State of Illinois and/or federal courts sitting in the State of Illinois in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined by such courts.

11. No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of the parties hereto only and are not for the benefit of any third party and, accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

12. Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Declaration as of the date first above written.

NORTHWESTERN UNIVERSITY/ EVANSTON
RESEARCH PARK, INC., a _____
corporation

By: _____
Name:
Its:

THE CITY OF EVANSTON

By: _____
Name:
Its:

CHS 1033 UNIVERSITY ASSOCIATES
LIMITED PARTNERSHIP, an Illinois limited partner-
ship

By: CHS Evanston, Inc., a Delaware corporation

By: _____
Name:
Its:

CHS EVANSTON ONE ASSOCIATES LIMITED
PARTNERSHIP, an Illinois limited partnership

By: CHS Evanston, Inc., a Delaware corporation

By: _____
Name:
Its: