

47-R-05

A RESOLUTION

**Authorizing the City Manager to Execute
A Consent to Assignment of Interest of
Church Street Plaza LLC to Church
Street Plaza SPE LLC
(Church Street Plaza)**

WHEREAS, on October 23, 1998 the City of Evanston entered into a Redevelopment Agreement with AHC Evanston LLC for the project eventually known as "Church Street Plaza"; and

WHEREAS, that certain Redevelopment Agreement dated October 23, 1998 was amended by that certain First Amendment to the Redevelopment Agreement dated November 23, 1998 and was amended by that certain Second Amendment to the Redevelopment Agreement dated June 7, 1999 and was amended by the certain Third Amendment to the Redevelopment Development dated January 26, 2000 and then was amended by that certain Fourth Amendment to the Redevelopment Agreement dated October 12, 2000 and was amended by that certain Fifth Amendment to the Redevelopment Agreement dated August 20, 2001; and

WHEREAS, paragraph 18 of the Second Amendment to the Redevelopment Agreement dated June 7, 1999 amended in its entirety paragraph 31 of the Redevelopment Agreement and states as follows with respect to Assignment;

"Starting on the date of the Completion of Construction upon a parcel of the Developer Property until December 31, 2008 (the "Restriction Period"), any transfer of all or any interest in such respective parcel, the Private Development thereon and this Agreement as it pertains thereto (including the beneficial interest under a land trust that takes title to the Developer Property or a stock transfer in the Developer) is only permitted upon the prior written approval of the City which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that nothing herein shall preclude sales of condominiums in

the residential component of the Private Development, execution of easements, licenses, rights of way, or leases for occupancy by lessees of any part of the Developer Property or collateral assignments and/or mortgages, deeds of trust or other security interests of the Developer's rights respecting the Development and/or the Developer Property to lenders financing the Private Development or their respective portions thereof, conveyances permitted by paragraph 24 of this Agreement, conveyance of the Hotel Parcel pursuant to paragraph 7 hereof, conveyance of the Residential Parcel pursuant to paragraph 7 or conveyance permitted pursuant to paragraph 44 hereof.

The City shall approve any transfer that meets the following conditions:

- a. The proposed transferee of Developer shall have the experience and financial responsibility necessary to fulfill the obligations undertaken by Developer in this Agreement attributable to the parcel being conveyed and,
- b. The proposed transferee shall have expressly assumed the future obligations of Developer attributable to the parcel being conveyed to the proposed transferee hereunder in writing (It being specifically agreed that the obligations contained in this Agreement are severable on a parcel basis) and,
- c. The proposed transferee shall not be in default on any obligation to the City.
- d. A copy of the proposed deed and transfer declaration involved and affecting any such transfer from Developer to any transferee shall be submitted to the City for review.

Upon compliance with the requirements contained in this paragraph 31, Developer shall be relieved from all further liability under this Agreement with respect to the portion of the Developer Property being transferred and the City shall confirm such release in writing upon request. Notwithstanding any other provision in this paragraph, Developer may, without the consent required in this paragraph, transfer all or any portion of Developer Property or this Agreement to a limited partnership or any other entity in which Developer maintains control and the same proportional ownership interest the Developer had prior to the conveyance.

During the Restriction Period, Developer shall in any event notify the City of any transfer of any interest in its portion of the Developer Property (including the beneficial interest under any land trust)."

WHEREAS, pursuant to the aforesaid paragraph 18, AHC Evanston LLC, may, without the consent of the City, transfer all or any portion of the property or the

Agreement to a Limited Partnership or any other entity in which AHC Evanston LLC maintains control and the same proportional ownership interest that AHC Evanston LLC had prior to the conveyance; and

WHEREAS, on August 30, 1999 AHC Evanston LLC, as part of its construction loan financing and in accordance with the Redevelopment Agreement, assigned its rights, title and interest in the Redevelopment Agreement to Church Street Plaza LLC,

WHEREAS, the Church Street Plaza LLC, the owner of Church Street Plaza by letter dated July 22, 2005, attached hereto and incorporated herein as Exhibit A, has requested, that the City consent to the transfer of its interest to Church Street Plaza SPE LLC in order to obtain refinancing; and

WHEREAS, Church Street Plaza LLC has represented to the City and provided information to the satisfaction of the City that Church Street Plaza SPE LLC is a one hundred percent wholly owned subsidiary of the current owner of Church Street Plaza, Church Street Plaza LLC, and that the proportional interest of the owners of Church Street Plaza LLC as represented in Church Street Plaza SPE LLC has not changed; and

WHEREAS, based upon the aforesaid Redevelopment Agreement as amended the consent of the City is not required for such an assignment or transfer of interest; and

WHEREAS, upon representation of Church Street Plaza LLC the formal consent of the City is required as a condition of a new refinancing and not as a condition of the Redevelopment Agreement as amended; and

WHEREAS, such assignment does not in any manner alter or mitigate the

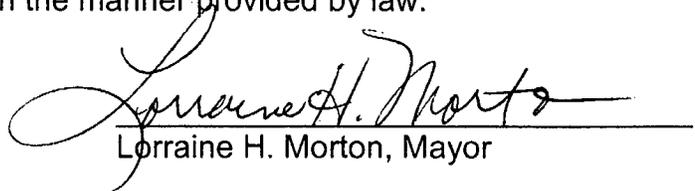
representations or warranties of the Redevelopment Agreement as Church Street Plaza LLC SPE is a wholly owned subsidiary of Church Street Plaza LLC,

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

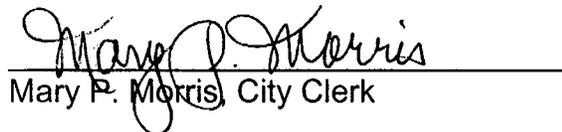
SECTION 1: That the City Manager is authorized to execute a Consent to assignment of all right, title and interest of Church Street Plaza LLC to Church Street Plaza SPE LLC in the Developer Property, including, without limitations, any appurtenant, parking leases, and that the City Clerk is authorized to attest to any appropriate documents of such transfer.

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

SECTION 3: This Resolution shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.


Lorraine H. Morton, Mayor

Attest:


Mary P. Morris, City Clerk

Adopted: August 15, 2005