

RESOLUTION R-2018-106

**A RESOLUTION APPROVING THE ACKNOWLEDGEMENT AND CONFIRMATION OF THE
TERMINATION OF A DEVELOPMENT AGREEMENT DATED FEBRUARY 5, 2001 BETWEEN THE
CITY OF WHEATON AND THE TOMS-PRICE COMPANY, A DELAWARE CORPORATION
("TERMINATION AND RELEASE AGREEMENT")**

WHEREAS, the City of Wheaton ("City") and Toms-Price Company ("Developer") entered into a Development Agreement dated February 5, 2001 ("Agreement") pertaining to a redevelopment plan entitled "Wheaton Main Street Redevelopment Area Project and Plan" dated November 1999; and

WHEREAS, the Developer has notified the City of its intent to terminate the Agreement upon the conveyance of the property described in the Agreement to College Church in Wheaton; and

WHEREAS, City and Developer are released from any and all covenants, contract terms, duties, conditions, due and owing from each other under the terms of the Agreement as of the date of termination.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Wheaton, that the Mayor is hereby authorized to sign and the City Clerk is hereby directed to attest, to the Termination and Release Agreement attached hereto and incorporated herein as fully set forth as Exhibit 1.

ADOPTED this 19th day of November 2018.



Mayor

ATTEST:



Alan Bennett Hagan
City Clerk

Roll Call Vote:

Ayes: Councilman Barbier
Councilman Prendiville
Mayor Gresk
Councilman Rutledge
Councilman Scalzo
Councilman Suess

Nays: None

Absent: Councilwoman Fitch
Motion Carried Unanimously



FRED BUCHOLZ, RECORDER
DUPAGE COUNTY ILLINOIS
01/11/2019 04:08 PM
RHSP

DOCUMENT # R2019-002546

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RECORDING COVER PAGE

TERMINATION OF DEVELOPMENT AGREEMENT

P.I.N. 05-16-305-014

ADDRESS: 303 E FRONT ST, WHEATON, ILLINOIS 60187

PREPARED BY AND MAIL TO:
JAMES H. KNIPPEN, ESQ
WALSH, KNIPPEN & CETINA
2150 MANCHESTER ROAD, SUITE 200
WHEATON, IL 60187

LEGAL DESCRIPTION OF PROPERTY

LOT 1 IN TOMS PRICE PLAT OF CONSOLIDATION OF LOTS 1, 2, 3, 4, 5 AND 6 IN THE TOWN OF WHEATON, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 28, 2001 AS DOCUMENT R2001-182235 IN THE RECORDER'S OFFICE OF DUPAGE COUNTY ILLINOIS.

P.I.N. 05-16-305-014

ADDRESS: 303 E FRONT ST, WHEATON, ILLINOIS 60187

**ACKNOWLEDGEMENT AND CONFIRMATION OF THE
TERMINATION OF A DEVELOPMENT AGREEMENT DATED FEBRUARY 5, 2001,
BETWEEN THE CITY OF WHEATON AND THE TOMS-PRICE COMPANY,
A DELAWARE CORPORATION
("Termination and Release Agreement")**

RECITALS

WHEREAS, the City of Wheaton (hereinafter "City") and Toms-Price Company, a Delaware Corporation (hereinafter "Developer") entered into a Development Agreement dated February 5, 2001 and recorded March 8, 2001 as Document Number R2001-039004, (hereinafter "Agreement") pertaining to a redevelopment plan entitled "Wheaton Main Street Redevelopment Area Project and Plan dated November, 1999; and

WHEREAS, the Developer has notified the City of its intent to terminate the Agreement upon the conveyance of the property described in the Agreement ("Toms-Price Property") to College Church in Wheaton, an Illinois not-for-profit corporation (hereinafter "College Church"); and

WHEREAS, that the Developer has elected to terminate the Agreement upon the date of the conveyance of the property described in the Agreement to College Church based upon a contract it has with the purchaser College Church (hereinafter "Buyer"); and

WHEREAS, Section 16.16 TERM of the Agreement provides in pertinent part:

"At any time after the tenth (10th) year following the execution of this Agreement, the Developer shall have the option to terminate this Agreement by payment to the City of a sum equal to the amount by which the sales tax is paid to the Developer pursuant to Section 9.04 exceeds the amount of sales taxes received by the City during the term hereof for its own uses."

WHEREAS, that the City and Developer agree that the City has been paid all sales taxes by the Developer in accordance with the Agreement and that no sums remain due and owing to the City from the Developer under Section 16.16 "Term" for sales tax reimbursement; and

WHEREAS, more than ten (10) years have elapsed following the execution of the Agreement and the Developer is now entitled to terminate the Agreement.

WHEREAS, the Developer further confirms and acknowledges that upon the Termination of the Agreement (as defined herein), the City shall have no further duties or obligations, monetary or otherwise, to the Developer or any successor, purchaser or assign; and

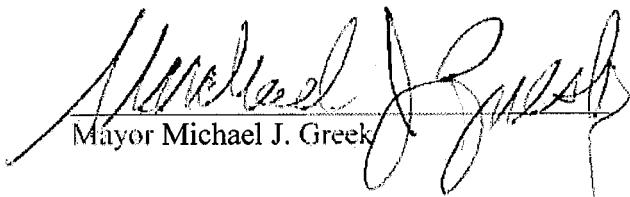
WHEREAS, the "Termination" of the Agreement shall be effective on the date of closing between the Developer and the Buyer and conveyance of the Toms-Price Property to College Church.

NOW, THEREFORE, based upon the foregoing recitals, and other good valuable considerations as recited herein, which both parties agree are adequate, the City and the Developer agree as follows:

1. The foregoing recitals are incorporated herein as representing the intent of the parties and as substantive conditions and covenants.
2. The City hereby accepts notice of termination of the Agreement from the Developer attached hereto and incorporated herein as if fully set forth as Exhibit 1 subject to all of the terms and conditions of this document and the Agreement.
3. The City releases the Developer from any and all covenants, contract terms, duties, conditions, due and owing from the Developer to the City under the Agreement as of the date of Termination.

4. The Developer releases the City from any and all covenants, contract terms, duties, conditions, due and owing from the City to the Developer under the Agreement as of the date of Termination.
5. The Developer on its behalf, as well as any successors, heirs and assigns does hereby waive and release any claims, demands, actions, causes of action, monetary obligations, damages, or anything of value claimed to be due it, or due it, from the City without limitation under the Agreement.
6. The City on its behalf, as well as any successors, heirs and assigns does hereby waive and release any claims, demands, actions, causes of action, monetary obligations, damages, or anything of value claimed to be due it, or due it, from the Developer without limitation under the Agreement.
7. The Developer hereby agrees to defend and hold harmless the City of Wheaton, its agents, elected officials and successors from any and all claims of the Developer's purchasers against the City of Wheaton asserted in consequence of the Agreement or this Termination.
8. This acknowledgement and release constitute the full and final Agreement between the City and Developer as it relates to any and all matters associated with the Agreement and Termination without limitation.
9. The parties have been represented by attorneys in the negotiation of this Agreement and nothing contained herein shall be interpreted against the drafter.
10. Exclusive jurisdiction and venue for any disputes associated with this Agreement shall be in the Eighteenth Judicial Circuit Court, DuPage County, Illinois.

11. This Termination and Release Agreement shall become effective on the date of closing between the Developer and the Buyer and conveyance of the Toms-Price Property to College Church.



Michael J. Greek

Mayor Michael J. Greek



Daniel Price

Toms-Price Company, By its Designated and Authorized Representative

Date: November 20, 2018

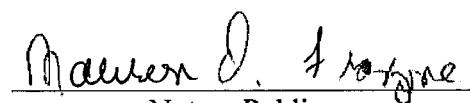
ATTEST:



Maureen O'Franzone

City Clerk, City of Wheaton

Subscribed and Sworn to before me
this 26th of November, 2018



Maureen O'Franzone

Notary Public

