

3/3/2005  
1/18/2005  
12/28/2004

**7-O-05**

**AN ORDINANCE**

**Authorizing the City Manager to Execute an  
Easement Agreement with Sherman Plaza Partners, LLC,  
For Caisson Bells and Above-Ground Encroachment  
in the Right-of-Way adjacent to Sherman Plaza**

**WHEREAS**, Sherman Plaza Partners, LLC, ("Sherman Plaza") owns the property legally described in Exhibit A, attached hereto; and

**WHEREAS**, Sherman Plaza intends to build a mixed-use residential/commercial building with parking located in an adjacent parking structure; and

**WHEREAS**, the weight of the proposed building and parking structure is such that foundation caissons and caisson bells are necessary to support the buildings; and

**WHEREAS**, the foundation caissons and caisson bells for the Building will be located so as to encroach on Grantor's public right-of-way one and one-half feet (1-1/2') along the north property line along Church Street; four feet (4') along the south property line along Davis Street; three feet (3') in certain locations; and one and one-half feet (1-1/2') in certain locations along the east property line along Sherman Avenue, all as shown on Exhibit B attached hereto (the "Caisson Bell Easement Area"); and

**WHEREAS**, the above-grade improvements of the proposed buildings extend over the public right-of-way to a maximum of six feet (6') along the north, south, east and west property lines as shown on Exhibit C attached hereto; and

**WHEREAS**, the City and Sherman Plaza are desirous of entering into an Easement Agreement providing for the afore-described encroachment of the caisson bells and above-grade encroachments on and over the public right-of-way; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to enter into said Agreement,

**NOW, THEREFORE, BE IT ORDAINED 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 is hereby authorized and directed to attest on behalf of the City of Evanston, an Easement Agreement, for the term of ninety-nine (99) years and the sum of fourteen thousand four hundred eighty-five and no/100 dollars (\$14,485.00) attached hereto as Exhibit A and made a part hereof, between the City of Evanston and Sherman Plaza providing for the encroachment of footings and above-grade improvements (canopy) on the public right-of-way adjacent to Sherman Plaza.

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

**SECTION 4:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: March 14, 2005

Adopted: March 14, 2005

Approved:

March 15, 2005

Lorraine H. Morton  
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris  
Mary P. Morris, City Clerk

Approved as to form:

[Signature]  
Corporation Counsel

THIS DOCUMENT WAS  
PREPARED BY AND UPON  
RECORDING TO BE  
RETURNED TO:

SCHIFF HARDIN LLP  
6600 Sears Tower  
233 S. Wacker Drive  
Chicago, Illinois 60606  
Attn: Steven D. Friedland, Esq.

This space is for **RECORDER'S USE ONLY**

**Caisson Bell and Above-Grade Encroachment Easement**

This Easement Agreement (this "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the City of Evanston, Cook County, Illinois an Illinois municipal corporation (hereinafter, "Grantor") and Sherman Plaza Partners, LLC, a Delaware limited liability company (hereinafter "Grantee"):

WHEREAS, Grantee owns the property legally described on Exhibit A, attached hereto; and

WHEREAS, Grantee intends to build a mixed-use residential/commercial building (the "Building") with parking located in an adjacent parking structure (the "Parking Structure"); and

WHEREAS, Grantee is the development manager of Grantor with respect to the construction of the Parking Structure in accordance with that certain Public Improvements Construction Agreement dated as of October 22, 2001, as amended from time to time (the "PICA");

WHEREAS, the weight of the proposed Building and Parking Structure is such that underground vertical load supports, "Foundation caissons and caisson bell", are necessary to support the buildings; and

WHEREAS, caisson bells distribute the weight of the buildings to a depth at which the density of the soil provides the needed bearing capacity; and

WHEREAS, the foundation caissons and caisson bells for the Building will be located so as to encroach on Grantor's public right-of-way one and one-half feet along the north property line along Church Street; four feet along the south property line along Davis Street; and three feet in certain locations and one and one-half feet in certain locations along the east property line along Sherman Avenue, all as shown on Exhibit B attached hereto (the "Caisson Bell Easement Area"); and

WHEREAS, the above-grade improvements of the proposed Building extend over the public right-of-way to a maximum of six feet along the north, south and east property lines as shown on Exhibit C attached hereto (the "Above Grade Improvement Easement Area"); and

WHEREAS, Grantor and Grantee are desirous of entering into an easement agreement providing for the afore-described encroachment of the caisson bells and above-grade encroachments in, on and over the public right-of-way.

NOW, THEREFORE, in consideration of the foregoing recitals, the various covenants herein, and the sum of fourteen thousand four hundred eighty five (\$14,485) and other good and valuable consideration, receipt of which are hereby acknowledged, it is agreed by and between the parties as follows:

1. Grantor hereby grants and conveys to Grantee, its successors, grantees, agents, and assigns, a permanent easement in, to, over, under, upon and through the Caisson Bell Easement Area and the Above-Grade Easement Area to install, maintain, operate, replace and remove the aforescribed caisson bells and above-grade improvements.
2. The Grantor expressly retains its interest in and rights to the use and occupation of the easement premises subject to the easement rights herein granted.
3. The grant of easement gives Grantee no surface or above-surface rights (except for the above-grade improvements). Grantee may carry out such surface, above-surface, and subsurface work as may be necessary to effectuate the purpose of this easement.
4. Grantee will obtain all required permits with respect to the Building at its own expense.
5. Grantee may occupy the public right-of-way to effectuate the purpose of this easement, provided that Grantee will schedule all work related to the construction within the right-of-way in such a manner at such times as to cause minimum disruption to the flow of traffic. Grantee shall not obstruct the public right-of-way without first having notified the City's Engineering Division as to the date and time during which said obstruction will exist and without first having obtained the City Engineer's consent to said closing, which consent shall not be unreasonably withheld.



with a copy to: Schiff Hardin LLP  
c/o David A. Grossberg  
6600 Sears Tower  
Chicago, IL 60606

Notice shall be deemed effective upon receipt.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement at Evanston, Illinois, on the date first above written.

**[SIGNATURE PAGE ON FOLLOWING PAGE]**

Accepted by:

SHERMAN PLAZA PARTNERS, LLC

CITY OF EVANSTON, COOK  
COUNTY, ILLINOIS

By: \_\_\_\_\_  
Timothy Anderson

Title: Authorized Representative

By: \_\_\_\_\_

Title: City Manager



**EXHIBIT A**

**PARCEL 1:**

LOTS 2, 3 AND 4 IN SHERMAN PLAZA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH PLAT WAS RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404084.

**PARCEL 2:**

PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 1 FOR SUPPORT, INGRESS AND EGRESS, AND OTHER PURPOSES AS DESCRIBED AND DEFINED IN SECTION 4 AND, FOR THE BENEFIT OF LOT 3, AS DESCRIBED AND DEFINED IN SECTION 9, OF THE RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404085.

**PARCEL 3:**

LEASEHOLD ESTATE AS CREATED BY THE LEASE BETWEEN CITY OF EVANSTON AND SHERMAN PLAZA VENTURE, L.L.C. RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404088, AS ASSIGNED TO SHERMAN PLAZA PARTNERS, LLC BY ASSIGNMENT AND ASSUMPTION OF AGREEMENTS RECORDED \_\_\_\_\_ DECEMBER 9, 2004 AS DOCUMENT NO. 0434304089, WHICH DEMISES AND LEASES THE FOLLOWING DESCRIBED PORTION OF LOT 1 IN SHERMAN PLAZA SUBDIVISION, AFORESAID, FOR A TERM COMMENCING AND EXPIRING AS THEREIN DEFINED:

THAT PART OF LOT 1, AFORESAID, LYING ABOVE GROUND TIER FINISHED FLOOR ELEVATION OF 600.8, MORE OR LESS, AND BELOW SECOND TIER RAMP AND PARKING AREA FINISHED FLOOR ELEVATIONS RANGING FROM 609.83 THROUGH 623.58, MORE OR LESS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 21 MINUTES 30 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 44.55 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST 2.69 FEET FOR THE PLACE OF BEGINNING; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 14.45 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 3.17 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.67 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 44 SECONDS WEST, 0.31 FEET;



THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.08 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 37.70 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 23 SECONDS EAST, 26.40 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.33 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 0.60 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 6.47 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 19.36 FEET;  
THENCE SOUTH 89 DEGREES 36 MINUTES 33 SECONDS WEST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 1.50 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 18.92 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 1.50 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 18.92 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 1.50 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.25 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 19.58 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 0.04 FEET;  
THENCE SOUTH 27 DEGREES 41 MINUTES 23 SECONDS WEST, 19.40 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 10.43 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.29 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 4.00 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 0.67 FEET;  
THENCE SOUTH 89 DEGREES 20 MINUTES 58 SECONDS WEST, 0.29 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 14.58 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.29 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 3.17 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 1.04 FEET;  
THENCE SOUTH 89 DEGREES 33 MINUTES 59 SECONDS WEST, 0.04 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.21 FEET;  
THENCE NORTH 06 DEGREES 39 MINUTES 58 SECONDS WEST, 0.38 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 12.62 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 1.67 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 36.50 FEET;  
THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 1.67 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 2.67 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 1.67 FEET;  
THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 2.04 FEET;  
THENCE NORTH 86 DEGREES 50 MINUTES 50 SECONDS WEST, 0.17 FEET;  
THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 20.75 FEET TO  
THE PLACE OF BEGINNING.

**PARCEL 4:**

PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 3 FOR SUPPORT, INGRESS AND EGRESS, AND OTHER PURPOSES AS DESCRIBED AND DEFINED IN SECTION 3 OF THE RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434303085.

**PARCEL 5:**

LEASEHOLD ESTATE AS CREATED BY THE RETAIL PARKING LEASE BETWEEN CITY OF EVANSTON AND SHERMAN PLAZA PARTNERS, LLC, RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404092 WHICH DEMISES AND LEASES THE FOLLOWING FOR A TERM COMMENCING ON THE COMMENCEMENT DATE AS DEFINED THEREIN AND TERMINATING UPON THE 40TH ANNIVERSARY THEREOF:

"...SUFFICIENT UNASSIGNED AND UNRESERVED AUTOMOBILE PARKING SPACES TO COMPLY WITH THE CITY OF EVANSTON'S ZONING ORDINANCE, AS THAT ORDINANCE MAY BE MODIFIED FROM TIME TO TIME, LOCATED AT THE PLANNED NEW PUBLIC PARKING GARAGE LOCATED..." ON LOT 1 IN SHERMAN PLAZA SUBDIVISION, AFORESAID.