

RESOLUTION NO. 27
SERIES OF 2015

INTRODUCED BY: ALEX BROWN
SECONDED BY: KLASINA VANDERWERF

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING AN AMENDMENT TO THAT CERTAIN TOLLING AGREEMENT
BY AND BETWEEN THE DENVER FIRST CHURCH OF THE NAZARENE AND
THE CITY OF CHERRY HILLS VILLAGE**

WHEREAS, on April 30, 2007, the Denver First Church of the Nazarene ("Church") and the City of Cherry Hills Village ("City") entered into a Tolling Agreement ("2007 Agreement") regarding a lawsuit filed by the Church in the United States District Court for the District of Colorado, captioned *Denver First Church of the Nazarene v. Cherry Hills Village, a Colorado home rule town, et al.*, Civil Action No. 05-CV-02463-WDM-MEH (hereinafter "2005 Civil Action"); and

WHEREAS, in accordance with the terms of the 2007 Agreement, the 2005 Civil Action has been administratively closed and the City's self-insurance pool deposited \$75,000 into an interest bearing account (hereinafter "Escrow Funds"); and

WHEREAS, the 2007 Agreement provided that the Escrow Funds would be paid to the Church at such time as the 2005 Civil Action is dismissed with prejudice; and

WHEREAS, the 2007 Agreement required that the Church dismiss the 2005 Civil Action with prejudice upon the later of (a) 25 months following any City approval of a redevelopment plan or (b) 90 days following the conclusion of all possible third party litigation challenging the City's approval of the church's applications. Both of those deadlines have expired; and

WHEREAS, the Church and City acknowledge and agree that both deadlines set forth in the 2007 Agreement have expired and that the administrative closure of the 2005 Civil Action shall constitute dismissal with prejudice; and

WHEREAS, the Church and City desire to memorialize the dismissal of the 2005 Civil Action and release of the Escrow Funds through execution of an amendment to the 2007 Agreement, as set forth in the attached Amendment to Tolling Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO THAT:

Section 1. The City Council approves the Amendment to Tolling Agreement as set forth in **Exhibit A**, attached hereto and incorporated herein, and authorizes the Mayor to execute the same.

Section 2. Effective Date. This Resolution shall be effective immediately.

Introduced, passed and adopted at the regular meeting of the City Council this 21st day of July, 2015, by a vote of 5 yes and 0 no.



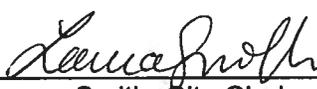
(SEAL)



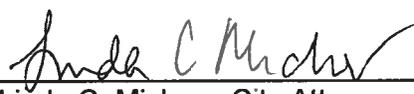
Laura Christman, Mayor

Approved as to form:

ATTEST:



Laura Smith, City Clerk



Linda C. Michow, City Attorney

MINDSOZ

