

ORDINANCE NO. F-0265

**AN ORDINANCE AUTHORIZING EXECUTION OF THE FIRST AMENDMENT
TO A CERTAIN ANNEXATION AGREEMENT DATED SEPTEMBER 18, 1989,
AMONG THE CITY OF WHEATON, ILLINOIS ("CITY"),
JOE KEIM LAND CORP., AN ILLINOIS CORPORATION ("DEVELOPER")
AND THE INSTITUTE OF THE BLESSED VIRGIN MARY (LORETTO SISTERS),
AN ILLINOIS CORPORATION ("OWNER")**

WHEREAS, the City, Developer and Owner have previously entered into an annexation agreement dated September 18, 1989, ("original annexation agreement"); the subject matter of the original annexation agreement is the property legally described on Exhibit "A" of the original annexation agreement and commonly known as the Marywood Subdivision; and

WHEREAS, the Owner is now requesting an amendment to the original annexation agreement to allow the use and operation of a Four Winds School within the Loretto Convent on the subject property;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor is authorized and directed to execute a certain first amendment to annexation agreement entitled, "First Amendment to Annexation Agreement - Loretto Convent between City of Wheaton, an Illinois municipal corporation, ("City") and The Institute of the Blessed Virgin Mary (Loretto Sisters), an Illinois Corporation, ("Owner") dated July 20, 1998; and the City Clerk is authorized and directed to attest to the signature of the Mayor. This amendment is on file in the office of the City Clerk and is incorporated into this ordinance by this reference, as though fully set forth herein.

Section 2: A copy of the first amendment to the annexation agreement entitled, "First Amendment to Annexation Agreement - Loretto Convent between City of Wheaton, an Illinois municipal corporation, ("City") and The Institute of the Blessed Virgin Mary (Loretto Sisters), an Illinois Corporation, ("Owner") dated July 20, 1998, shall be recorded in the office of the Recorder of Deeds, Du Page County, Illinois, at the expense of the Owner.

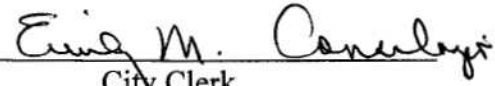
Section 3: The terms and conditions of the original annexation agreement are ratified and remain in full force and effect.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.


Mayor

ATTEST:


City Clerk

Ayes:

Roll Call Vote:

Councilman Mork
Councilwoman Davenport
Councilman Eckhoff
Councilman Gresk
Mayor Carr
Councilman Johnson
Councilwoman Johnson

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: July 20, 1998

Published: July 21, 1998

**FIRST AMENDMENT TO ANNEXATION AGREEMENT
AMONG THE CITY OF WHEATON, ILLINOIS ("CITY")
AND THE INSTITUTE OF THE BLESSED VIRGIN MARY (LORETTO SISTERS),
AN ILLINOIS CORPORATION ("OWNER")**

THIS FIRST AMENDMENT TO ANNEXATION AGREEMENT ("First Amendment") is made and entered into this 20th day of July, 1998, by and between City of Wheaton, an Illinois municipal corporation, ("City") and The Institute of the Blessed Virgin Mary (Loretto Sisters), an Illinois corporation, ("Owner") dated July 20, 1998.

WHEREAS, the City and Owner have previously entered into an Annexation Agreement dated September 18, 1989, ("Annexation Agreement") and recorded December 8, 1989, as Document No. R89-155086 with the DuPage County Recorder of Deeds pertaining to the real estate described in the Annexation Agreement ("Subject Realty"); and

WHEREAS, the Owner has petitioned the City to amend the Annexation Agreement to allow for the use and operation of a Four Winds School within the Loretto Convent facilities on a portion of the Subject Realty known as the Loretto Parcel; and

WHEREAS, the City is agreeable to amending the Annexation Agreement pursuant to the request of the Owner, in accordance with the terms and provisions hereinafter set forth in this First Amendment to Annexation Agreement; and

WHEREAS, pursuant to paragraph 35 E of the Annexation Agreement it is not necessary for the Developer to consent to this First Amendment because the provisions thereof exclusively apply to the Loretto Parcel; and

WHEREAS, pursuant to the provisions of the Wheaton City Code, a public hearing was conducted by the Wheaton City Council on June 22, 1998, to consider the amendment to the

Annexation Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises and agreements hereinafter contained, the sufficiency of which is hereby acknowledged by the affected parties hereto, the affected parties hereby agree as follows:

1. AMENDMENT: Paragraph 4A of the Annexation Agreement is amended by deleting paragraph 4A in its entirety and substituting the following provision in its place:

"4. REZONING. Immediately after the passage of the ordinance annexing the Subject Realty, the City shall, without further hearing, adopt an amendment to its Zoning Ordinance and Map, zoning and classifying the two portions of the Subject Realty as follows:

A. Loretto Parcel: The Loretto Parcel shall be rezoned and classified under the I-1 Institutional District as set forth in Article XIV of the Zoning Ordinance of the City, with a special use for (i) buildings devoted primarily to religious worship; (ii) a senior citizen home sharing facility; and (iii) a Four Winds School for purposes of educating pre-school, kindergarten and elementary students, consistent with the terms, provisions and representations recited in the July 14, 1998, letter from Larry Kerschner, President, Board of Trustees, Four Winds School, to the Honorable Mayor Carr and Members of the Wheaton City Council, a copy of which is attached to this First Amendment as Exhibit "A" and incorporated herein as though fully set forth. In the event of non-compliance with any of the provisions contained in the July 14, 1998 letter, the City shall advise Four Winds School and the Owner, in writing, of the item(s) of non-compliance. In the event Four Winds School and the Owner do not remedy/correct the item(s) of non-compliance within twenty-one (21)

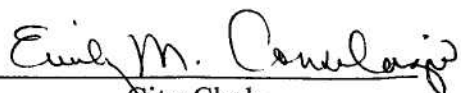
days, the Special Use Permit of Four Winds School and the Owner shall terminate immediately, and without public hearing, upon written notice of the termination by the City to Four Winds School and the Owner. Use of the Loretto Parcel for the operation of a Four Winds School shall be considered temporary. Operation of a Four Winds School shall no longer be a permitted use on the Loretto Parcel after June 15, 2002. All buildings, structures and uses currently located on or occurring at the Loretto Parcel shall be grand fathered pursuant to Section 4.5 and 4.7 of Article IV of the Zoning Ordinance of the City, all as set forth in Paragraph 23 of this Agreement. The special use granted in accordance with the terms hereof, except as it pertains to the Four Winds School, shall survive the expiration of the Annexation Agreement and shall remain in effect unless or until the zoning of the property has been altered in accordance with the law."

2. **CONTINUITY OF AGREEMENT:** Except as expressly amended by the terms of this First Amendment, the Annexation Agreement, and all of the terms and provisions contained therein, shall remain in full force and effect.

IN WITNESS WHEREOF, the affected parties have hereunto set their hands and seals the date first above written.

CITY OF WHEATON,
an Illinois municipal corporation

By 
Mayor

Attest: 
City Clerk

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THE INSTITUTE OF THE BLESSED
VIRGIN MARY, (LORETTO SISTERS),
an Illinois corporation

By _____

Attest:

Secretary

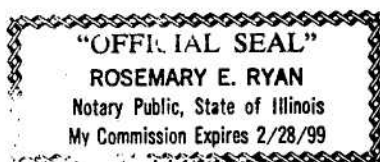
State of Illinois, County of Du Page. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that _____, personally known to me to be the _____ of THE INSTITUTE OF THE BLESSED VIRGIN MARY, (LORETTO SISTERS), an Illinois corporation, and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____, he/she signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to the authority given by the Board of Directors of said corporation, as their free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this ____ day of _____, 1998.

Notary Public

State of Illinois, County of Du Page. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that C. JAMES CARR, personally known to me to be the Mayor of the City of Wheaton, an Illinois municipal corporation, and EMILY CONSOLAZIO, personally known to me to be the City Clerk of said City of Wheaton, and personally known to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Mayor and City Clerk, they signed and delivered the said instrument and caused the seal of said City of Wheaton to be affixed thereto, pursuant to the authority given by the City Council of City of Wheaton, as their free and voluntary act and deed of said City of Wheaton, for the uses and purposes therein set forth.

Given under my hand and official seal, this 23rd day of JULY, 1998,
1998.



Rosemary E. Ryan
Notary Public

Prepared by:
Edward J. Walsh
WALSH, KNIPPEN, KNIGHT & DIAMOND, CHARTERED
601 West Liberty Drive
Wheaton, IL 60187
630/462-1980

Recorder: Mail to: City of Wheaton, Attn: City Clerk, 303 W. Wesley St., P.O. Box 727,
Wheaton, IL 60189-0727