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ORDINANCE NO. F-0354

**AN ORDINANCE AUTHORIZING THE SIGNING OF A "FIRST AMENDMENT
TO ANNEXATION AGREEMENT/LORETTO CONVENT"**

WHEREAS, the City of Wheaton, Illinois ("City"), and certain owners of property commonly known as "Loretto Convent" have previously entered into an Annexation Agreement, dated September 18, 1989 ("Original Annexation Agreement"); and

WHEREAS, the beneficial owner of Lot #5 in the Marywood Subdivision, Joe Keim Land Corp. ("Owner"), being a part of the Loretto Convent property, has petitioned the City to amend the grandfather provisions provided for in the Original Annexation Agreement; and

WHEREAS, the Original Annexation Agreement may be amended by the City and any Owner of Record of the Loretto Convent property, without the consent of the owners of other portions of the Loretto Convent whom are not affected by such amendment; and

WHEREAS, the City has determined that the proposed "First Amendment to Annexation Agreement/Loretto Convent" is a minor amendment within the meaning of Paragraph 2, Section 18-8 of the Wheaton City Code and does not affect other owners of record of the Loretto Convent property.

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

Section 1: The Mayor is authorized and directed to sign, on behalf of the City, the "First Amendment to Annexation Agreement/Loretto Convent" between the City and Owner; and that the City Clerk is authorized and directed to attest to the signature of the Mayor.

Section 2: That the "First Amendment to Annexation Agreement/Loretto Convent" shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois.

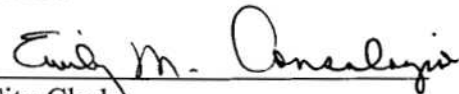
Section 3: That all ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

Section 4: That this ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in a manner prescribed by law.



Mayor

Attest:



City Clerk

Ayes:

Roll Call Vote:

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

Nays:

None

Absent:

Councilman Johnson

Motion Carried Unanimously

Passed: June 7, 1999

Published: June 8, 1999

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THIS INSTRUMENT PREPARED BY
AND MAIL TO:

Henry S. Stillwell III
Rathje, Woodward, Dyer & Burt
300 E. Roosevelt Road
P.O. Box 786
Wheaton, IL 60189

FIRST AMENDMENT TO ANNEXATION AGREEMENT

THIS FIRST AMENDMENT TO ANNEXATION AGREEMENT ("First Amendment"), is made and entered as of the 7th day of JUNE, 1999, by and between the CITY OF WHEATON, an Illinois municipal corporation ("City") and JOE KEIM LAND CORP., an Illinois corporation ("Keim"). The City and Keim are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties".

RECITALS:

A. The City and Keim have heretofore entered into that certain Annexation Agreement dated _____ and recorded in DuPage County, Illinois as Document No. _____ ("Annexation Agreement") pertaining to the annexation and development of that certain residential subdivision commonly known as Marywood Subdivision ("Subdivision").

B. The Subdivision is located within the corporate boundaries of the City and the Annexation Agreement is currently in force and effect.

C. Keim is the legal owner of lot 5 in the Subdivision, as legally described in Exhibit "A" attached hereto ("Lot 5").

D. Keim is desirous of amending the Annexation Agreement, as the same applies to Lot 5 only, to extend the applicability of the "grandfather" provisions of Paragraph 10 of the Annexation Agreement as applied to Lot 5 for an additional six (6) years to and including September 17, 2000.

E. The City is agreeable to amending the Annexation Agreement as requested by Keim to extend the "grandfather" provisions of said Paragraph 10 as the same applies to Lot 5 and only to Lot 5.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. **INCORPORATION OF RECITALS, DEFINED TERMS.** The recitals set forth above are hereby incorporated into and made a part of the substance of this First Amendment as though fully set forth herein. All terms defined in the Annexation Agreement shall have the same meaning when utilized in this First Amendment, unless otherwise expressly provided herein.

2. **LOT 5 "GRANDFATHER" EXTENSION.** The Annexation Agreement is hereby amended to extend the effective period of the provisions of Paragraph 10 thereof, as the same applies to Lot 5 and Lot 5 only, for an additional six (6) years, being a total of eleven (11) years from the date of the Annexation Agreement. In accordance therewith, the provisions of said Paragraph 10 shall remain in force and effect with respect to Lot 5 only through September 17, 2000 and shall expire and be of no further force or effect on September 18, 2000. The aforesaid extension of Paragraph 10 shall apply only to Lot 5 and shall not be applicable to any other lot in the Subdivision.

3. **CONTINUITY OF AGREEMENTS.** The Annexation Agreement shall continue in full force and effect in accordance with its terms and provisions, as amended by this First Amendment. This First Amendment is hereby incorporated into and made a part of the Annexation Agreement.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the date first above written.

KEIM:

JOE KEIM LAND CORP., an Illinois corporation

By: _____
Joseph A. Keim, President

Attest: _____
Donna M. Manley, Ass't Secretary

CITY:

CITY OF WHEATON, an Illinois municipal corporation

By: _____
Mayor

Attest: _____
City Clerk

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STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joseph A. Keim, President, and Donna M. Manley, Ass't Secretary, of Joe Keim Land Corp., an Illinois corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instruments as such President and Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Secretary then and there acknowledged that she, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, 1999.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, _____, a Notary Public, in and for the County and State aforesaid, do hereby certify, that _____, personally known to me to be the Mayor of the City of Wheaton, DuPage County, Illinois, a municipal corporation, and _____, personally known to me to be the City Clerk of said corporation, and personally known to me 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 corporate seal of said corporation to be affixed thereto, pursuant to authority given by the City Council of said corporation, as the free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under by hand and official seal this _____ day of _____, 1999.

Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF LOT 5

LOT 5 IN MARYWOOD SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF THE NORTH HALF OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1992 AS DOCUMENT NO. R92-63725, AND CERTIFICATE OF CORRECTION RECORDED MAY 1, 1992 AS DOCUMENT NO. R92-081626, IN DUPAGE COUNTY, ILLINOIS.

PIN #: 05-29-201-017