

ORDINANCE NO. F-0402

AN ORDINANCE AUTHORIZING THE EXECUTION OF A THIRD
AMENDMENT TO A CERTAIN ANNEXATION AGREEMENT DATED
SEPTEMBER 18, 1989, AMONG THE CITY OF WHEATON,
ILLINOIS ("CITY"), JOE KEIM LAND CORPORATION, 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, ("Annexation Agreement"); the subject matter of the Annexation Agreement is the property legally described on Exhibit "A" of the Annexation Agreement and commonly known as the Marywood subdivision ("Subject Realty"); and

WHEREAS, the City and Owner have previously entered into an Amendment to the Annexation Agreement ("First Amendment") 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, dated July 20, 1998 and recorded on October 5, 1998, as Document No. R98-205986 with the DuPage County Recorder of Deeds; and

WHEREAS, The City and Developer have previously entered into an amendment to the Annexation Agreement ("Second Amendment") to amend the grandfather provisions provided for in the Annexation Agreement dated June 7, 1999, and recorded on June 30, 1999 as Document No. R1999145945 with the DuPage County Recorder of Deeds; and

WHEREAS, the Owner has petitioned the City to further amend the Annexation Agreement to allow for the construction of a three-story, 10,755 square foot building addition to the Loretto Convent building on a portion of the Subject Realty known as the Loretto Parcel; and

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

Section 1: The Mayor is authorized and directed to execute a third amendment to the Annexation Agreement entitled, "Third Amendment to Annexation Agreement - Loretto Convent between the City of Wheaton, an Illinois Municipal Corporation, ("City") and the Institute of the Blessed Virgin Mary ("Loretto Sisters"), an Illinois Corporation, ("Owner") dated October 25, 1999; 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 third amendment to the Annexation Agreement entitled, "Third Amendment to the Annexation Agreement - Loretto Convent between the City of Wheaton, an Illinois Municipal Corporation, ("City") and the Institute of the Blessed Virgin Mary ("Loretto Sisters"), an Illinois Corporation, ("Owner") dated October 25, 1999, shall be recorded in the office of the Recorder of Deeds, DuPage 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

Roll Call Vote:

Ayes:

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

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: November 1, 1999
Published: November 2, 1999

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

THIS THIRD AMENDMENT TO THE ANNEXATION AGREEMENT ("Third Amendment") is made and entered into this 25th day of October, 1999, by and between the City of Wheaton, an Illinois Municipal Corporation, ("City") and the Institute of the Blessed Virgin Mary ("Loretto Sisters") an Illinois Corporation, ("Owner") dated October 25, 1999.

WHEREAS, the City and Owner have previously entered into an Annexation Agreement dated September 18, 1999, ("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 City and Owner have previously entered into an Amendment to the Annexation Agreement ("First Amendment") 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, dated July 20, 1998 and recorded on October 5, 1998, as Document No. R98-205986 with the DuPage County Recorder of Deeds; and

WHEREAS, The City and Developer have previously entered into an amendment to the Annexation Agreement ("Second Amendment") to amend the grandfather provisions provided for in the Annexation Agreement dated June 7, 1999, and recorded on June 30, 1999 as Document No. R1999145945 with the DuPage County Recorder of Deeds; and

WHEREAS, the Owner has petitioned the City to further amend the Annexation Agreement to allow for the construction of a three-story, 10,755 square foot building addition to the Loretto Convent building 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 herein after set forth in this Third Amendment to the Annexation Agreement; and

WHEREAS, pursuant to paragraph 35 E of the Annexation Agreement it is not necessary for the Developer to consent to this Third 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 October 25, 1999, 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 agrees as follows:

1. **AMENDMENT:** Paragraph 4A of the Annexation Agreement is amended by including a reference to the plans entitled "Site Plan, Ground Floor Plan, First and Second Floor Plans and Elevations, Sheet Nos. SHT1, SHT2, SHT3 and SHT4, dated September 9, 1999 and revised September 20, 1999, all prepared by Environ, 401 W. Superior, Chicago, IL 60610.
2. **CONTINUITY OF AGREEMENT:** Except as expressly amended by the terms of this Third Amendment, the Annexation Agreement, and all 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: [Signature]
Mayor

Attest: [Signature]
City Clerk

THE INSTITUTE OF THE BLESSED
VIRGIN MARY, ("LORETTO SISTERS").
an Illinois Corporation

By: [Signature]

Attest:

[Signature]
Secretary

State of Illinois, County of DuPage. I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Barbara Nelson personally known to me to be the President 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 President & Secretary, 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 1 day of November 1999.



[Signature]
Notary Public

State of Illinois, County of DuPage. 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 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 the 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 5th day of November, 1999.

Joanna Arrigo
Notary Public

