

ORDINANCE NO. O-2018-21

**AN ORDINANCE OF THE CITY OF WHEATON, DU PAGE COUNTY, ILLINOIS
APPROVING A FOURTH AMENDMENT TO THE WHEATON MAIN STREET
REDEVELOPMENT AREA PROJECT AND PLAN**

WHEREAS, the Mayor and City Council (the “Corporate Authorities”) of the City of Wheaton, DuPage County, Illinois, (the “City”), have the authority to promote the health, safety and welfare of the City and its inhabitants, to encourage private development in order to enhance the local tax base, create employment and ameliorate blight, and to enter into contractual agreements with third persons to achieve these purposes. Pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1, *et seq.*, as from time to time amended (the “TIF Act”), the Corporate Authorities are authorized to undertake the redevelopment of designated areas within its municipal limits in accordance with the provisions of the TIF Act; and

WHEREAS, on December 6, 1999, the City, pursuant to and in accordance with the TIF Act, adopted (i) Ordinance No. F-0418 approving the Wheaton Main Street Redevelopment Area Project and Plan (the “Plan and Project”), (ii) Ordinance No. F-0419 establishing the Wheaton Main Street Redevelopment Project Area (the “Area”), and (iii) Ordinance No. F-0420 adopting Tax Increment Allocation Financing (collectively, the “TIF Ordinances”), which established what is commonly referred to as Tax Increment Financing District #2 (the “TIF #2”); and

WHEREAS, the Corporate Authorities approved certain amendments to the Plan and Project pursuant to Ordinance No. F-0675, passed on January 7, 2002 (the “First Amendment”) which revised the TIF #2 Area without altering its exterior boundaries; Ordinance No. F-0941, passed on September 7, 2004 (the “Second Amendment”) which amended the TIF #2 Plan and Project’s future land uses for the Block 324/Jewel Opportunity Site and which also addressed the City’s policy on Housing and Relocation Assistance in light of Ordinance No. F-0504 which was created after the creation of the TIF #2 district; and Ordinance No. F-0995, passed on February 7, 2005 (the “Third Amendment”) which decreased the estimated redevelopment project costs and increased the estimated Equalized Assessed Valuation for the Area; and

WHEREAS, it has become evident to the City that the Plan and Project, as previously amended, does not accurately reflect the actual project costs that have occurred to date for TIF #2 and that the estimated project costs for the Plan and Project need to be increased to allow funding for proposed public improvements associated with the downtown Wheaton streetscape and infrastructure improvements project in the TIF #2 Area; and

WHEREAS, the Corporate Authorities have determined that it is desirable and for the best interests of the City to make certain additional amendments to the Plan and Project (the “Fourth Amendment”); and

WHEREAS, the TIF Act authorizes municipalities with existing tax increment allocation financing districts to amend the ordinances and the redevelopment project and plan in relation thereto, subject to first complying with the specific notice, public meeting, joint review board meeting and public hearing requirements; and

WHEREAS, on January 25, 2018 the City made the proposed Fourth Amendment to the Plan and Project available for public inspection; and

WHEREAS, pursuant to Section 11-74.4-5 of the TIF Act, the Corporate Authorities on February 5, 2018 adopted Ordinance No. O-2018-07 calling for the convening of a Joint Review Board (the "JRB") meeting and a public hearing (the "Public Hearing") regarding the Fourth Amendment to the Plan and Project and fixed the time and place for such Public Hearing, being the 9th day of April, 2018, at 7:00 P.M. at the Wheaton City Hall, 303 W. Wesley Street, Wheaton, Illinois; and

WHEREAS, due notice in respect to that Public Hearing was given pursuant to Section 11-74.4-6 of the TIF Act, said notice being given to: the affected taxing districts, along with a copy of the Fourth Amendment to the Plan and Project, and the name of a person to contact for further information, by certified mail on February 6, 2018 and on February 12, 2018; to the Illinois Department of Commerce and Economic Opportunity by certified mail on February 6, 2018; by publication in the Daily Herald on March 14, 2018 and on March 21, 2018; to the taxpayers of record for each parcel of land located within the Area by certified mail on March 13, 2018; and to each residential address located within the Area by regular mail on March 15, 2018; and

WHEREAS, notice of availability of the Fourth Amendment to the Plan and Project and how to obtain this information, was provided by mail on February 7, 2018 to all residential addresses that, after a good faith effort, the City determined are located outside the boundaries of the Area but which are within 750 feet of the boundaries of the Area; and

WHEREAS, the JRB met on February 28, 2018, as required by the TIF Act and the JRB voted to recommend approval of the Fourth Amendment to the Plan and Project to the Corporate Authorities; and

WHEREAS, as a matter of law, the JRB recommended approval of the Fourth Amendment; and

WHEREAS, the City held the Public Hearing on April 9, 2018, at the Wheaton City Hall, 303 W. Wesley Street, Wheaton, Illinois; and

WHEREAS, at the Public Hearing any interested person or affected taxing district was permitted to file with the Corporate Authorities written comments, objections, and protests and to be heard orally as to any issues embodied in the notice of said Public Hearing; and no written or oral comments, objections, or protests were presented to the Corporate Authorities at the Public Hearing; and

WHEREAS, the Public Hearing was adjourned on April 9, 2018; and

WHEREAS, no changes have been made to the Fourth Amendment to the Plan since the adjournment of the Public Hearing; and

WHEREAS, pursuant to the TIF Act, the City has waited at least fourteen (14) days, but not more than ninety (90) days, from the Public Hearing date to take action on this Ordinance approving the Fourth Amendment to the Plan and Project for TIF #2.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section 1. Findings. The Corporate Authorities hereby find, determine and declare as follows:

A. The matters hereinabove set forth in the preambles and recitals to this ordinance are true, correct and complete and are hereby incorporated herein by this reference thereto; and

B. This Ordinance is adopted in connection with further implementation of the Plan and Project for TIF #2; and

C. This Ordinance allows (i) the estimated project costs contained in the Plan and Project to be modified to reflect the actual expenses that occurred to date since the adoption of the Third Amendment to the Plan and Project and (ii) for TIF #2 revenue funding for the anticipated public improvements associated with the City's proposed streetscape and infrastructure improvements located within the TIF #2 Area boundaries; and

D. This Ordinance does not alter the original Wheaton Main Street Redevelopment Project Area; and

E. The adoption and approval of the Fourth Amendment to the Plan and Project is a necessary and proper public purpose to promote and protect the health, safety, and welfare of the public, and to encourage private development in order to enhance the local tax base, create employment and ameliorate blight.

Section 2. Approval of Amended Plan. That the Fourth Amendment to the Plan and Project which was the subject matter of the Public Hearing held on the 9th day of April, 2018 is hereby adopted and approved. A copy of the Fourth Amendment to the Plan and Project is attached hereto and incorporated herein as if fully set forth as Exhibit "A."

Section 3. Invalidity of Any Section. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

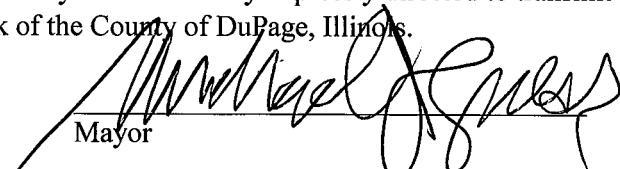
Section 4. Superseder. That all ordinances and resolutions, or parts thereof in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 5. Effective Date. That this ordinance shall be in full force and effect immediately upon its passage by the Corporate Authorities and approval as provided by law.

Section 6. Transmittal to County Clerk. The City Clerk is hereby expressly directed to transmit a certified copy of this ordinance to the County Clerk of the County of DuPage, Illinois.

ATTEST:


Alan Bennett Hogan
City Clerk


Michael J. Garry
Mayor

Roll Call Vote

Ayes: Councilman Prendiville
Mayor Gresk
Councilman Rutledge
Councilman Scalzo
Councilman Suess
Councilman Barbier
Councilwoman Fitch

Nays: None

Absent: None

Motion Carried Unanimously

Passed: May 7, 2018
Published: May 8, 2018

“EXHIBIT A”

**FOURTH AMENDMENT TO THE
WHEATON MAIN STREET REDEVELOPMENT AREA PROJECT AND PLAN**

The City of Wheaton's (hereinafter the "City") Main Street Redevelopment Area Project and Plan (hereinafter "TIF #2 Plan") is hereby amended as described herein. The amendatory language contained herein constitutes the Fourth Amendment to the Wheaton Main Street Redevelopment Area Project and Plan adopted on December 6, 1999 pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, and as amended on January 7, 2002, September 7, 2004, and on February 7, 2005.

- 1) Page 22 of the TIF #2 Plan is amended by deleting Table 1, "Estimated Project Costs" in its entirety and replacing it with the following new Table 1:

Estimated Redevelopment Project Costs	
Professional Services, Administrative Costs	\$2,500,000
Property Assembly	\$4,000,000
Rehabilitation, Reconstruction, Repair of Existing Public, or Private Buildings	\$1,800,000
Construction of Public Works and Improvements	\$33,000,000
Financing Costs	\$8,200,000
Interest Cost Incurred by a Redeveloper Related to the Construction, Renovation, or Rehabilitation of a Redevelopment Project	\$605,000
Total Estimated Redevelopment Project Costs	\$50,105,000

- 2) Terms capitalized in this Fourth Amendment and not otherwise defined herein shall have the meanings ascribed to those terms in the Act, and the TIF #2 Plan.
- 3) The provisions of this Fourth Amendment shall be deemed to be fully integrated into the TIF #2 Plan.
- 4) The TIF #2 Plan shall remain in full force and effect except to the extent that it is expressly modified by the terms of this Fourth Amendment.
- 5) Should any provision of the TIF #2 Plan conflict with any provision of this Fourth Amendment, the provisions of this Fourth Amendment shall control.

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