

RESOLUTION NO. R-2020-97

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN
AND DIRECTING THE CITY CLERK TO ATTEST TO THAT CERTAIN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF WHEATON, THE COUNTY OF DUPAGE, THE DUPAGE
COUNTY HEALTH DEPARTMENT AND THE BOARD OF HEALTH OF DUPAGE COUNTY**

WHEREAS, the CITY OF WHEATON (hereinafter "the City"), the COUNTY OF DUPAGE (hereinafter "the County"), the DUPAGE COUNTY HEALTH DEPARTMENT (hereinafter "the Health"), and the BOARD OF HEALTH OF DUPAGE COUNTY (hereinafter "the BHDC"), (collectively referred to as "the Parties" or singularly as "a Party"), are all parties to this Agreement; and

WHEREAS, the County owns property located on County Farm Road and Manchester Road (hereinafter "the Campus"), which is located within the City limits of Wheaton as depicted on attached EXHIBIT A; and

WHEREAS, the current uses within the Campus are facilities which operate DuPage County government, including offices for the Health Department and the BHDC; and

WHEREAS, the Campus is zoned Wheaton I-2 with a special use permit for the County's operations; and

WHEREAS, within the DuPage County Campus there is a parcel owned by BHDC; and

WHEREAS, City staff has reviewed a plan for a project, submitted by the County and the Health Department and the BHDC for the construction of a storage garage on the BHDC parcel (hereinafter "the Project") and has concluded that the Project is a "major change" under Wheaton Zoning Ordinance to the County's existing special use, but can be approved by the City Council without public hearing; and

WHEREAS, the BHDC intends to allow construction of a storage garage on the BHDC parcel for the use of the Health Department and fund it through the Federal Coronavirus Aid, Relief and Economic Security Act of 2020 (hereinafter "CARES Act"); funding for which is required to be expended before December 31, 2020; and

WHEREAS, the Parties desire to complete review of the Project for compliance with the City's ordinances, codes and any other applicable regulations, as swiftly as possible to comply with the CARES Act funding requirements; and

WHEREAS, the Parties desire to mutually agree to a review method to promote efficient review of building improvement plans for compliance with all applicable ordinances and Code requirements; and

WHEREAS, the Director of Building and Code Enforcement for the City of Wheaton has reviewed this proposed Intergovernmental Agreement and concluded that it will maximize

efficiencies for the Parties while not compromising the enforcement of City codes or the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule authority, as well as the Illinois Constitution and the Illinois Intergovernmental Cooperation Act that:

1. The foregoing recitals are incorporated herein as representing the intent of the parties and as substantive provisions.
2. The Mayor is hereby authorized to sign and the City Clerk is hereby directed to attest to that certain Intergovernmental Agreement (hereinafter "IGA") between the City of Wheaton, the County, the Health Department and the BHDC attached hereto and incorporated herein as EXHIBIT B.
3. That City staff is directed and authorized to undertake any and all necessary acts to facilitate effectuation of the IGA.

DATED this 19th day of October 2020.

ATTEST:



Sharon Bennett
City Clerk


Philip Suess

Mayor

Roll Call Vote:

Ayes: Councilwoman Robbins
Councilman Rutledge
Councilman Zaruba
Councilwoman Bray-Parker
Councilwoman Fitch
Mayor Suess

Nays: None

Absent: Councilman Barbier
Motion Carried Unanimously

EXHIBIT A

THAT PART OF SECTION 18, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF MANCHESTER ROAD WITH THE CENTER LINE OF COUNTY FARM ROAD AND RUNNING THENCE NORTHERLY ALONG THE CENTER LINE OF COUNTY FARM ROAD 742.12 FEET; THENCE EASTERLY AT RIGHT ANGLES TO SAID CENTER LINE 782.0 FEET; THENCE DEFLECTING 45 DEGREES 00 FEET TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, 414.69 FEET; THENCE SOUTHERLY PARALLEL WITH THE CENTER LINE OF COUNTY FARM ROAD 355.63 FEET TO THE CENTER LINE OF MANCHESTER ROAD; THENCE SOUTHWESTERLY ALONG THE CENTER LINE OF MANCHESTER ROAD 1079.27 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.: PART OF 05-18-211-001

The subject property is commonly known as the DuPage County Health Department (DCHD) portion of the DuPage County Government Campus located at 111 North County Farm Road, Wheaton, IL.

Resolution

FM-R-0616-20

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WHEATON,
THE DU PAGE COUNTY BOARD OF HEALTH, THE DU PAGE COUNTY
HEALTH DEPARTMENT AND THE COUNTY OF DU PAGE FOR THE
CONSTRUCTION OF THE DU PAGE COUNTY
HEALTH DEPARTMENTS STORAGE GARAGE

WHEREAS, the COUNTY OF DUPAGE (hereinafter "the County"), the BOARD OF HEALTH OF DUPAGE COUNTY (hereinafter "the BHDC), the DUPAGE COUNTY HEALTH DEPARTMENT (hereinafter "the DCHD") and the CITY OF WHEATON (hereinafter "the City") (collectively referred to as "the Parties" or singularly as "a Party"), desire to enter into an Intergovernmental Agreement (also known as the "Memorandum of Agreement") for the following reasons; and

WHEREAS, the County maintains property located on County Farm Road and Manchester Road (hereinafter "the Campus"), which is located within the City limits of Wheaton; and

WHEREAS, the current uses located on the Campus are the various facilities of DuPage County government, including offices for the DuPage County Health Department and the BHDC; and

WHEREAS, within the DuPage County Campus there is a parcel owned by BHDC; and

WHEREAS, the Campus is subject to the City's zoning ordinance and building code; and

WHEREAS, City staff has reviewed a plan for a project, submitted by the County and the DuPage County Health Department for the construction of a storage garage on the BHDC parcel; and

WHEREAS, the BHDC intends to allow construction of a storage garage (hereinafter referred to as "the Project") on the BHDC parcel for the use of the DuPage County Health Department and fund it through the Federal Coronavirus Aid, Relief and Economic Security Act of 2020 (hereinafter "CARES Act"): funding for which is required to be expended before December 31, 2020; and

WHEREAS, the Parties desire to complete review of the Project for compliance with the City's ordinances, codes and any other applicable regulations, as swiftly as possible to meet the CARES Act funding requirements; and

WHEREAS, the Parties have agreed to cooperate to expedite the review of the Project as set forth in the attached Intergovernmental Agreement.

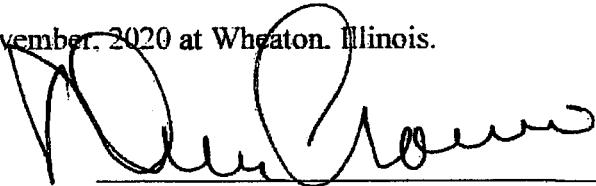
NOW, THEREFORE, BE IT RESOLVED that the DuPage County Board authorizes the DuPage County Board Chairman to sign on behalf of the County of DuPage the attached Intergovernmental Agreement between the County of DuPage, the City of Wheaton, and the Board of Health of DuPage County, attached hereto and made a part hereof.

Resolution

FM-R-0616-20

BE IT FURTHER RESOLVED, that certified copies of this resolution along with copies of the First Amendment, be transmitted by the County Clerk to the City of Wheaton, 303 W Wesley Street, Wheaton, IL 60187.

Enacted and approved this 10th day of November, 2020 at Wheaton, Illinois.



DANIEL J. CRONIN, CHAIRMAN
DU PAGE COUNTY BOARD

Attest:



JEAN KACZMAREK, COUNTY CLERK

AYES 16
NAYS 0
ABSENT 2

EXHIBIT B

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WHEATON,
COUNTY OF DUPAGE, BOARD OF HEALTH OF DUPAGE COUNTY, AND THE DUPAGE
COUNTY HEALTH DEPARTMENT**

BE IT HEREBY AGREED by and between the COUNTY OF DUPAGE (hereinafter "the County"), DUPAGE COUNTY HEALTH DEPARTMENT (hereinafter "the Health Department") the BOARD OF HEALTH OF DUPAGE COUNTY (hereinafter "the BHDC"), and the CITY OF WHEATON (hereinafter "the City") (collectively referred to as "the Parties" or singularly as "a Party"), as follows:

WHEREAS, the County owns property located on County Farm Road and Manchester Road (hereinafter "the Campus"), which is located within the City limits of Wheaton as depicted on attached EXHIBIT A; and

WHEREAS, the current uses within the Campus are facilities which operate DuPage County government, including offices for the DuPage County Health Department and the BHDC; and

WHEREAS, the Campus is zoned Wheaton I-2 with a special use permit for the County's operations; and

WHEREAS, within the DuPage County Campus there is a parcel owned by BHDC; and

WHEREAS, City staff has reviewed a plan for a project, submitted by the County and the DuPage County Health Department for the construction of a storage garage on the BHDC parcel and has concluded that the project is a "major change" under the Wheaton Zoning Ordinance to the County's existing special use, but can be approved by the City Council without public hearing; and

WHEREAS, the BHDC intends to allow construction of a storage garage (hereinafter referred to as "the Project") on the BHDC parcel for the use of the DuPage County Health Department and fund it through the Federal Coronavirus Aid, Relief and Economic Security Act of 2020 (hereinafter "CARES Act"); funding for which is required to be expended before December 31, 2020; and

WHEREAS, the Parties desire to complete review of the Project for compliance with the City's ordinances, codes and any other applicable regulations, as swiftly as possible to meet the CARES Act funding requirements.

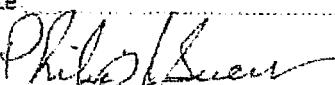
NOW, THEREFORE, the Parties agree as follows:

1. The recitals stated above are incorporated herein as representing the intent of the Parties and as substantive provisions.
2. The Project shall be performed in accordance with the terms of this Agreement and all required plans necessary to complete the Project in conformance with Wheaton's ordinances, codes and regulations, including stormwater ordinances, code and regulations: said plans being attached hereto and incorporated herein as if fully set forth as EXHIBIT B. No "other work" is authorized by this Agreement to be performed on campus.

3. The BHDC shall secure a building permit with the City prior to commencing construction of any of the work on the Project.
4. The City shall issue building permits required for the Project, so long as the Project conforms to the City's applicable codes, ordinances and regulations. All permit reviews shall be completed by the City, or its designee, but the City retains the right, and the County shall agree, to the delegation by assignment of any City activity to be undertaken for the Project at the BHDC's sole cost and in conformance with the City's ordinances, codes and regulations. This could include the hiring of outside consultants by the City to perform permit reviews. Delegations made in writing by the City's Engineer, Development Director or Director of Building and Code Enforcement shall be authorized and enforceable for the Project. Before delegation, the respective Wheaton department head shall communicate the intent to delegate to the County and Health Department. The decision of the Wheaton Department head to delegate shall be final. City permit fees shall be paid by the BHDC to the City for permit reviews conducted by the City. Where the City delegates permit reviews to the County and the County or its designee performs the review, there shall be no City Permit fees. The City may bill out-of-pocket costs it incurs as a result of the Project. The out-of-pocket costs shall be memorialized in written documentation adequate to establish that they are related to the Project and reasonable.
5. At all times during construction of the Project, the City shall have reasonable access to the Project and may observe the construction activities and improvements. The City shall not have a duty to perform inspections and shall have no contractual obligation under this Agreement to perform activities for which it would be immune from liability under the provision of the Illinois Local Governmental Employees Tort Immunity Act 745 ILCS 10/1-101.1, et seq. (hereinafter "TIA"). The immunities set forth in the TIA shall be applicable to any inspection and inspection results performed or issued by the City.
6. If the City identifies violations of its codes, ordinances or regulations during the inspections of the Property which the City Building and Code Enforcement Director concludes are an imminent threat to the public safety and welfare, he shall notify the other parties by email that the work shall cease until he determines that the issue has been resolved. The order shall be honored by the parties.
7. For any building code activities delegated to the County Health Department or BHDC, the County's building official shall independently certify to the City that the work was, or is being, performed in compliance with the Project plans and applicable City building, codes, rules and regulations.
8. By submitting this matter to the City Council for amendment of the County's special use permit, the City agrees that no further zoning procedures are necessary and the City, in conjunction with the adoption of this Agreement, has adopted an amendment to the County's existing special use permit for the County campus to allow the proposed use.

9. There are or no third-party beneficiaries of this Agreement, and nothing in this Agreement shall be interpreted to waive either Party's TIA immunities for the Project.
10. Nothing in this Agreement constitutes or shall be interpreted to constitute the representation, promise, warranty or guarantee that the Project will qualify, or shall be awarded funds, under the CARES Act.
11. The undersigned shall have the legal authority to sign this document and it shall be binding on their principals.

Date: _____



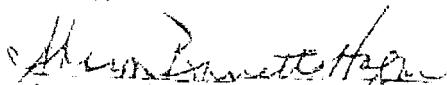
Philip J. Suess
Mayor, City of Wheaton

Date: 11/4/2020

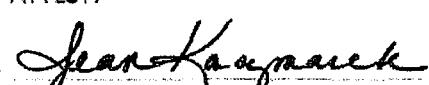


Daniel J. Cronin
DuPage County Board Chairman

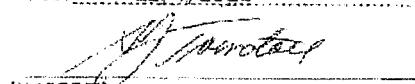
ATTEST:


Sharon Barrett-Hagen
City Clerk

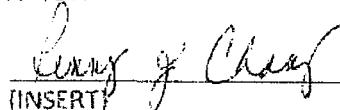
ATTEST:


Jean Kaczmarek
DuPage County Clerk

Date: 11/4/2020


(INSERT)
DuPage County Board of Health

ATTEST:


(INSERT)