

RESOLUTION R-06-05

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH
THE DOWNTOWN WHEATON ASSOCIATION FOR MANAGEMENT, MAINTENANCE
AND PROMOTION OF SPECIAL SERVICE AREA #6

WHEREAS, the City of Wheaton, Illinois ("City"), is an Illinois Home Rule Municipality pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and as such, the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this Resolution pertains to the government and affairs of the City and its residents; and

WHEREAS, the subject matter of this Resolution pertains specially to the disposition of funds collected in Special Service Area #6; and

WHEREAS, the City has determined it to be in the best interests of the City and its residents to establish an Agreement with the Downtown Wheaton Association to provide management, maintenance and promotion services to Special Service Area #6.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is authorized to sign and the City Clerk is authorized to attest to an Agreement between the City of Wheaton and the Downtown Wheaton Association dated February 7, 2005, for management, maintenance and promotion services to Special Service Area #6.

ADOPTED this 7th day of February, 2005.


James Carr

ATTEST:

Errol M. Conroy Jr.
City Clerk

Roll Call Vote
Ayes: Councilman Mork
Councilman Bolds
Councilwoman Corry
Mayor Carr
Councilwoman Johnson

Nays: None

Absent: Councilman Johnson
Councilman Mouhelis

Motion Carried Unanimously

IMPLEMENTING AGREEMENT

This Agreement is made this ^{1st} day of ^{February}, 2005, by and between THE CITY OF WHEATON, a municipal corporation existing under the laws of the State of Illinois, having its principal place of business at 303 West Wesley Street, Wheaton, Illinois (hereinafter the "City"), and DOWNTOWN WHEATON ASSOCIATION, a Not-for-Profit corporation organized and existing under the laws of the State of Illinois, having its principal place of business at 129 W. Front Street, Wheaton, Illinois (hereinafter the "Corporation").

- A. The City is a municipal corporation organized and existing under the laws of the State of Illinois;
- B. The City has established Special Service Area Number Six (SSA #6) pursuant to Ordinance No. F-0960 dated November 1, 2004 adopted by the City Council of the City of Wheaton, DuPage County, Illinois entitled an "*Ordinance Establishing City of Wheaton Special Service Area Number Six*" (the "SSA #6 Ordinance"). A map of said area is attached hereto as Exhibit A.
- C. The City has by Ordinance dated November 1, 2004, imposed an *ad valorem* tax not to exceed ninety-five hundredths of one percent (0.95%) of the assessed value of real property located in SSA #6 in anticipation and for the purpose of providing management, maintenance, and promotional services in the district.
- D. The Corporation is an Illinois Not-for-Profit corporation whose membership consists of owners and commercial tenants of property in SSA #6.
- E. The City and the Corporation desire to enter into this Agreement whereby the Corporation will assume increased, but not exclusive responsibility for managing, promoting and maintaining the retail development and environment of the property contained within SSA #6 and the City will agree to provide services and to contribute funds to the Corporation in the amounts and for the purposes hereafter set forth.

NOW, THEREFORE, intending to be legally bound, and in consideration of the premises and other promises and covenants between the City and the Corporation as hereinafter set forth, the parties hereto agree as follows:

1. Services: The City recognizes the Corporation as the entity that will provide management, maintenance and promotional services to SSA #6.
2. Scope of Services: The services to be performed by the City and the Corporation shall include the following:
 - a. The City -- The City shall provide, at no costs other than those included in general or special taxes or as may be presently invoiced to the recipients of such services, such municipal services as are commonly provided from time to time to other commercial areas in the City of Wheaton.
 - b. The Corporation -- The Corporation shall provide for any services which, in its discretion, are deemed necessary for the proper management, promotion and maintenance of SSA #6.
3. The City's Contribution: For the purpose of permitting the Corporation to provide the services described herein, the City shall provide to the Corporation the taxes collected in each year in the SSA #6 fund.
4. Approval of Budget: The Corporation shall submit to the City for written approval on or before December 1, of each year, the Corporation's proposed budget for the following fiscal year. The City's review of the Corporation's budget shall be limited to a determination that such contribution will be expended only on matters reasonably related to the public purposes set forth in this Agreement and by the "SSA #6 Ordinance".
5. Fiscal Year: The Corporation shall operate on a fiscal year beginning the first of May.
6. Borrowing Funds: The Corporation shall not borrow funds in excess of the district's *ad valorem* taxes in that fiscal year. Any funds borrowed must be repaid within the fiscal year.
7. Books and Records: The Corporation shall for the purpose of verifying the use of the above described funds, provide the City with annual financial reports prepared by a certified

public accountant no later than one-hundred twenty (120) days after the close of the Corporation's fiscal year, which report shall include at least a balance sheet and a statement of operations for the Corporation's prior fiscal year. A summary of activities or accomplishments aimed at providing management, maintenance and promotion in the district shall be included. The City shall have the right to inspect the books and records of the Corporation at any reasonable time.

8. Surpluses: Any portion of the SSA #6 *ad valorem* taxes not expended by the Corporation in any fiscal year shall be retained by the Corporation and used for purposes as set forth in the SSA #6 Ordinance.

9. City Representative: The City shall appoint or designate to the Corporation an individual to represent the City on the Corporation's Board of Directors pursuant to the Corporation's By-Laws.

10. State of Cooperation: The City agrees, where possible, to cooperate with the Corporation in achieving its corporate purpose and, further, where possible to cooperate with the Corporation in the implementation of promotional events.

11. Termination of Agreement: This Agreement shall terminate on the earliest of the following: (a) May 17, 2011; or (b) the voluntary or involuntary dissolution of the Corporation.

12. Distribution of Assets: Upon dissolution, any portion of the SSA #6 *ad valorem* taxes not expended by the corporation shall be returned to the City to be used for purposes set forth in the SSA #6 Ordinance.

13. Dissolution Meeting: In the event of the dissolution of the Corporation pursuant to Article IX of the By-Laws, the City shall meet with the Board of Directors of the Corporation for the purpose of discussing the events that will need to occur following the dissolution of the Corporation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ATTEST:

Emily M. Cimbalay
City Clerk

THE CITY OF WHEATON, a municipal corporation existing under the laws of the State of Illinois.

By: James Carr

msh02

ATTEST:

DOWNTOWN WHEATON ASSOCIATION, a Not-for-Profit corporation organized and existing under the laws of the State of Illinois.

By: Janice M. Fuchs