

ORDINANCE NO. F-1756

AN ORDINANCE OF THE CITY OF WHEATON, DU PAGE COUNTY, ILLINOIS,
AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CERTAIN FOURTH
AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING THE CITY OF WHEATON
COURTHOUSE REDEVELOPMENT PROJECT AREA

WHEREAS, the City Council of the City of Wheaton, DuPage County, Illinois (the "City"), has heretofore determined that it is necessary and advisable for the public health, safety, welfare and convenience of residents of the City that the City undertake a redevelopment project and have heretofore approved a redevelopment plan and designated a redevelopment project area (the "Project Area") for that portion of the City known as the City of Wheaton Courthouse Redevelopment Project Area, all as authorized by the Tax Increment Allocation Redevelopment Act, as amended; and

WHEREAS, the City has previously entered into a Development Agreement (the "Agreement") dated March 21, 2005 with Courthouse Land Development, LLC (the "Developer") regarding said Project Area, as amended by a First Amendment to Development Agreement entered into on or about January 16, 2007, by a Second Amendment to Development Agreement entered into on or about June 15, 2010, and by a Third Amendment entered into on or about October 2, 2012; and;

WHEREAS, the City and the Developer desire to further amend the Agreement; and

WHEREAS, the Fourth Amendment to Development Agreement is on file with the City Clerk of the City and available for public inspection.

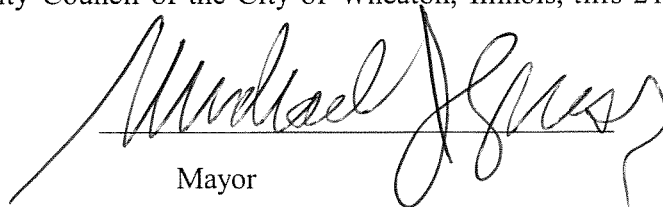
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, a home rule municipality in the exercise of its home rule powers, as follows:

Section 1. That the Mayor is hereby authorized to execute and the City Clerk is hereby directed to execute the "Fourth Amendment to Development Agreement between the City and the Developer", in the form attached hereto and incorporated herein as Exhibit "A".

Section 2. 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or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.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 3. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet for as provided by law.

PASSED AND APPROVED by the City Council of the City of Wheaton, Illinois, this 21st day of January, 2014.



Mayor

ATTEST:



City Clerk

City Clerk

Roll Call Vote:

Ayes: Councilman Prendiville
Councilman Rutledge
Councilman Saline
Mayor Pro Tem Suess
Councilwoman Pacino Sanguinetti
Councilman Scalzo

Nays: None

Absent: Mayor Gresk

Motion Carried Unanimously

Passed: January 21, 2014
Published: January 22, 2014

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

This FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter referred to as the "FOURTH AMENDMENT") is made and entered into as of the 21st day of January, 2014, by and between the CITY OF WHEATON, a municipal corporation and home rule unit, organized and incorporated under the laws of the State of Illinois (hereinafter referred to as the "CITY") and COURTHOUSE LAND DEVELOPMENT, LLC (the "DEVELOPER"); the CITY and the Developer being sometimes hereinafter referred to individually as the "PARTY" and collectively as the "PARTIES".

RECITALS

A. The PARTIES previously entered into a Development Agreement dated March 21, 2005 (the "AGREEMENT").

B. The AGREEMENT was amended by a First Amendment was amended by a First Amendment to Development Agreement dated January 16, 2007 (the "FIRST AMENDMENT"), by a Second Amendment to Development Agreement dated June 15, 2010 (the "SECOND AMENDMENT"), and by a Third Amendment to Development Agreement dated October 2, 2012; the AGREEMENT, FIRST AMENDMENT, SECOND AMENDMENT, and THIRD AMENDMENT collectively referred to herein as the "ORIGINAL AGREEMENT").

C. The PARTIES desire to further amend the ORIGINAL AGREEMENT to provide for certain changes to the PROJECT.

D. The City Council of the CITY has determined that such amendment would be, in all respects, consistent with and in furtherance of the REDEVELOPMENT PLAN.

THEREFORE, in consideration of the foregoing premises and in further consideration of the mutual covenants, conditions and agreements herein contained, the PARTIES hereto agree as follows:

SECTION ONE

**INCORPORATION OF
RECITALS**

The PARTIES hereby confirm the truth and validity of their respective representations and recitations set forth in the foregoing recitals and acknowledge that they are material to this FOURTH AMENDMENT. Such recitals are hereby incorporated into and made a part of this FOURTH AMENDMENT as though they were fully set forth in this Section One.

SECTION TWO

**INTEGRATION OF DEVELOPMENT
AGREEMENT**

The provisions of this FOURTH AMENDMENT shall be deemed by the PARTIES to be fully integrated into the ORIGINAL AGREEMENT. The ORIGINAL AGREEMENT shall remain in full force and effect except to the extent that it is expressly modified by the terms of this FOURTH AMENDMENT. Should any provision of the ORIGINAL AGREEMENT conflict with any provision of this FOURTH AMENDMENT, the provisions of this FOURTH AMENDMENT shall control.

SECTION THREE

DEFINITIONS

Terms capitalized in this FOURTH AMENDMENT and not otherwise defined herein shall have the meanings ascribed to those terms in the ORIGINAL AGREEMENT: Terms defined and capitalized herein shall have the meanings ascribed to those terms in this FOURTH AMENDMENT and, to the extent such terms are also defined terms in the ORIGINAL AGREEMENT, the definitions of those terms as herein provided shall be deemed to control the interpretation of those terms in the ORIGINAL AGREEMENT.

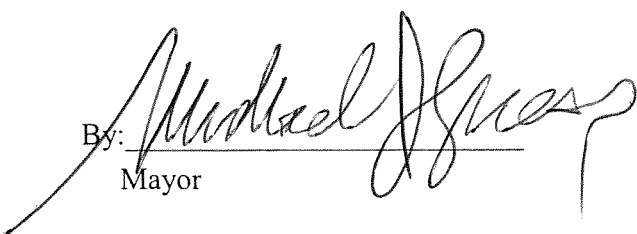
SECTION FOUR

AMENDMENT TO ORIGINAL AGREEMENT

A. Exhibit "C" of the AGREEMENT – the description of the PROJECT - is hereby amended as follows: The 3rd paragraph is deleted in its entirety and the following substituted in its place: "Courthouse Square shall include no less than forty-three (43) Georgetown-style homes dispersed around the site but located primarily north of Liberty Drive between Washington Street and Naperville Road. Each of the town homes shall be designed with two or three living levels above a two-car garage. The Washington Street and Naperville Road townhomes shall have direct street access from these streets to their front doors. The townhomes in the center of the site will contain elevated landscaped court yards with brick paving and patio areas."

IN WITNESS WHEREOF, thePARTIEShereto have caused this FOURTH AMENDMENT to be executed on or as of the day and year first above written.

CITY OF WHEATON, an Illinois
municipal corporation,

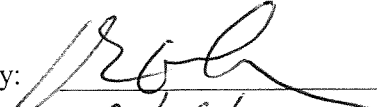
By: 
Mayor

Attest:


City Clerk

COURTHOUSE LAND
DEVELOPMENT, LLC, an Illinois
limited liability company

By: Airhart Development, ILC, an
Illinois limited liability company,
Member/Manager

By: 

Name: Mark Glassman

Title: Sec/Treas

Airhart Construction Corp
its sole member