

**ORDINANCE NO. F- O-2018-22**

**AN ORDINANCE OF THE CITY OF WHEATON, DU PAGE COUNTY, ILLINOIS  
APPROVING A SECOND AMENDMENT TO THE COURTHOUSE  
REDEVELOPMENT PROJECT AREA PLAN AND PROGRAM**

**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 March 21, 2005, the City, pursuant to and in accordance with the TIF Act, adopted (i) Ordinance No. F-1010 approving the Courthouse Redevelopment Project Area Plan and Program (the “Plan and Program”), (ii) Ordinance No. F-1011 establishing the Courthouse Redevelopment Project Area (the “Area”), and (iii) Ordinance No. F-1012 adopting Tax Increment Allocation Financing (collectively, the “TIF Ordinances”), which established what is commonly referred to as Tax Increment Financing District #3 (the “TIF #3”); and

**WHEREAS**, pursuant to Ordinance No. F-1665, passed on October 1, 2012 (the “First Amendment”), the Corporate Authorities approved certain amendments to the Plan and Program to allow for a senior housing facility in the TIF #3 Area; and

**WHEREAS**, TIF #3 district is contiguous or separated only by a public right-of-way from the Wheaton Main Street Redevelopment Area, also known as TIF #2 district (the “TIF #2”); both districts having been created pursuant to the TIF Act; and

**WHEREAS**, Section 11-74.4-4(q) of the TIF Act allows for the utilization of tax increment revenues from one redevelopment project area in another redevelopment project area that is contiguous or separated only by a public right-of-way from the redevelopment project area from which the tax income revenues are received; and

**WHEREAS**, the Corporate Authorities have determined that it is desirable to modify the estimated project costs in the TIF #3 Plan and Program to allow TIF #3 revenues to act as a loan and/or as “backup” funding for the TIF #2 redevelopment project to provide for the responsiveness needed to react to potential revenue changes resulting from possible variables that could decrease the projected TIF #2 assessed values and lead to lower than anticipated TIF #2 increment revenue which may not be adequate to cover the TIF #2 expenses, including those associated with the downtown Wheaton streetscape and infrastructure improvements; and

**WHEREAS**, there are properties within the TIF #3 Area which have been newly identified by DuPage County as being located within the flood-plain, and the Corporate Authorities have determined that it is desirable to increase the estimated project costs for TIF #3 to allow for the possible property assembly of those newly identified flood-plain properties; 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 Program (the “Second 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 Second Amendment to the Plan and Program 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-2018-08 calling for the convening of a Joint Review Board (the “JRB”) meeting and a public hearing (the “Public Hearing”) regarding the Second Amendment to the Plan and Program and fixed the time and place for such Public Hearing, being the 9<sup>th</sup> 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 Second Amendment to the Plan and Program, 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 14, 2018; and

**WHEREAS**, notice of availability of the Second Amendment to the Plan and Program 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 Second Amendment to the Plan and Program to the Corporate Authorities; and

**WHEREAS**, as a matter of law, the JRB recommended approval of the Second 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 Second Amendment to the Plan and Program 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 Second Amendment to the Plan and Program for TIF #3.

**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 the further implementation of the Plan and Program for TIF #3; and

C. This Ordinance allows the estimated project costs contained in the Plan and Program to be increased to allow for (i) a possible transfer of funds to TIF #2, and (ii) for possible property assembly of those newly identified properties by DuPage County as flood-plain; and

D. This Ordinance does not alter the original Courthouse Redevelopment Project Area; and

E. The adoption and approval of the Second Amendment to the Plan and Program 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 Second Amendment to the Plan and Program which was the subject matter of the Public Hearing held on the 9<sup>th</sup> day of April, 2018 is hereby adopted and approved. A copy of the Second Amendment to the Plan and Program 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.

  
Mayor

ATTEST:

  
City Clerk

Roll Call Vote

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

Nays: None

Absent: None

Motion Carried Unanimously

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

**“EXHIBIT A”**

**SECOND AMENDMENT TO THE CITY OF WHEATON  
COURTHOUSE REDEVELOPMENT PROJECT AREA PLAN AND PROGRAM**

The City of Wheaton's (hereinafter the "City") Courthouse Redevelopment Project Area Plan and Program (hereinafter "TIF #3 Plan") is hereby amended as described herein. The amendatory language contained herein constitutes the Second Amendment to the Courthouse Redevelopment Project Area Plan and Program adopted on March 21, 2005 pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, and as amended on October 1, 2012.

- 1) Page 16 of the TIF #3 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	\$300,000
Property Assembly	\$4,500,000
Rehabilitation, Reconstruction, Repair of Existing Public, or Private Buildings	\$6,500,000
Construction of Public Works and Improvements	\$500,000
Financing Costs	\$11,350,000
Transfers Out	\$5,300,000
Total Estimated Redevelopment Project Costs	\$28,450,000

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

