

ORDINANCE NO. O-2019-32

**AN ORDINANCE AUTHORIZING THE SIGNING OF AN ANNEXATION AGREEMENT – 25W665 ELMWOOD DRIVE - RUSSELL**

WHEREAS, a written petition has been filed with the City Clerk of Wheaton, Illinois, requesting the annexation to the City of Wheaton, Illinois ("City"), of certain territory, legally described in Exhibit 'A', which is contiguous to the boundaries of the City and not within the corporate boundaries of any other municipality, pursuant to a proposed annexation agreement ("Annexation Agreement") which sets forth the terms and conditions under which annexation shall take place; and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on July 22, 2019 to consider the terms and conditions of the proposed Annexation Agreement; and

WHEREAS, the Annexation Agreement dated August 5, 2019, between the City and Stuart H. Russell and Laurie F. Russell as Co-Trustees of the Russell Family 2006 Declarations of Trust dated March 16, 2006 ("Owner"), is the direct result of deliberations on the proposed annexation pursuant to the public hearing and other meetings before the City Council and City Staff.

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

Section 1: The Mayor of the City is authorized to sign and the City Clerk is directed to attest to the Annexation Agreement between the City of Wheaton and Owner. A copy of the Annexation Agreement is attached herein as Exhibit 'B'.

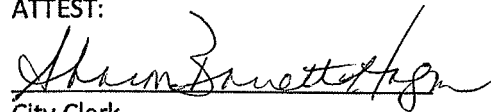
Section 2: The Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, at the expense of the Owner.

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Roll Call Vote

Ayes: Councilman Barbier  
Councilwoman Bray-Parker  
Mayor Suess  
Councilman Rutledge  
Councilman Zaruba

Nays: None

Absent: Councilwoman Fitch

Motion Carried Unanimously

Passed: August 5, 2019  
Published: August 6, 2019

**EXHIBIT 'A'**

LOT 1 IN BROWN'S ARROWHEAD ESTATES PLAT OF LOT 1, BEING A PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-29-110-002

The subject property is commonly known as 25W665 Elmwood Drive, Wheaton, IL 60189.



## **ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT ("Agreement"), made and entered into this 5th day of August, 2019 among the City of Wheaton, Illinois, an Illinois corporation, located in DuPage County, State of Illinois ("City"), and Stuart H. Russell and Laurie F. Russell as Co-Trustees of the Russell Family 2006 Declarations of Trust dated March 16, 2006 ("Owner").

### **WITNESSETH**

WHEREAS, the Owner has an interest in or controls the real estate comprised of a parcel of property approximately 30,030 square feet in size, a description of which is set forth on the Plat of Annexation, marked as Exhibit "A", which is attached to and made a part of this Agreement (the real estate will hereafter be referred to in its entirety as "Subject Property").

WHEREAS, the Subject Property is contiguous to the corporate limits of the City; and

WHEREAS, it is the desire of the Owner that all of the Subject Property be annexed to the City under the terms and conditions of this Agreement; and

WHEREAS, Owner desires to connect to a City water line; and

WHEREAS, the City has concluded that annexation of the Subject Property under the terms and conditions of this Agreement would further the growth of the City, enable the City to control the development of the area, increase the taxable value of the property within the City, extend the corporate limits and jurisdiction of the City, permit the sound planning and development of the City, and otherwise enhance and promote the health, safety, and general welfare of the City; and

WHEREAS, pursuant to the provisions of Section 6.1, *et. seq.* of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed annexation agreement in substance and form of the same as this Agreement was submitted to the Wheaton City Council, and a public hearing was held thereon pursuant to notice as provided by law; and

WHEREAS, the City has had such hearings and heard such testimony as prescribed by law with respect to the annexation and requested zoning classification of R-3 Residential District; and

WHEREAS, notice has been duly served in the manner provided by statute on the appropriate governmental entities and an affidavit that service of said notice has been duly served has been placed on record with the Recorder of Deeds, DuPage County, Illinois.

NOW, THEREFORE, in consideration of the foregoing preambles and mutual covenants and agreements contained herein, together with other good and valuable consideration, the receipt of which the parties acknowledge, the parties hereto agree as follows:

**1. LEGAL CONFORMANCE WITH LAW.** This Agreement is made pursuant to and in accordance with the provisions of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution.

**2. PETITION TO ANNEX.** The Owner has filed with the Clerk of the City, a petition pursuant to the provisions of Section 7-1-8 of the Illinois Compiled Statutes [65 ILCS 5/7-1-8], conditioned upon the signing of this Agreement, to annex the Subject Property to the City. The petition is attached to, and incorporated in, this Agreement as Exhibit "B". This Agreement in its entirety, together with the petition for annexation, shall be null, void, and of no force and effect unless the Subject Property is validly zoned and classified under the City's Zoning Ordinance as hereinafter set forth and amended.

**3. ANNEXATION ORDINANCE.** Immediately upon the complete signing of this Agreement, the City Council will enact an ordinance annexing the Subject Property to the City.

**4. REZONING.** Immediately after the passage of the ordinance annexing the Subject Property, the City shall, without further hearing, adopt an amendment to its Zoning Map which is part of the Zoning Ordinance of the City and the Comprehensive Plan of the City, zoning and classifying the Subject Property in the R-3 Residential District.

**5. CONNECTION TO WHEATON SANITARY DISTRICT SANITARY SEWER FACILITIES.** Owner shall connect the existing single-family residence on the Subject Property ("Existing Dwelling") to the sanitary

sewer main of the Wheaton Sanitary District and such connection to the Wheaton Sanitary District sanitary sewer main shall occur within one (1) year of the date of this Agreement. Owner shall pay all Wheaton Sanitary District permit and connection fees in full force and effect at the time of the connection of the Existing Dwelling to the sanitary sewer main. The Owner shall abandon the existing septic system servicing the property upon connection to the sewer main, in accordance with the requirements of the DuPage County Health Department.

**6. STORM WATER FACILITIES.** The Owner agree to design and construct suitable storm water facilities for the Subject Property which comply with the requirements and standards contained in Chapter 34 of the Wheaton City Code and all other applicable Federal, State, County and local statutes and ordinances governing stormwater management.

**7. CONNECTION TO THE CITY WATER SYSTEM.** Owner shall connect the existing single-family residence on the Subject Property ("Existing Dwelling") to the water main of the City in accordance with City Code and such connection to City water shall occur within one (1) year of the date of this Agreement. Owner shall pay all City permit and connection fees in full force and effect, pursuant to the City Code, at the time of the connection of the Existing Dwelling to the water main. The Owner shall abandon all equipment connected to the existing well servicing the Existing Dwelling upon connection to the City's water system as approved by the Director of Engineering.

**8. ADDRESS.** Following the annexation of the subject property to the City, the subject property will be known as 665 Elmwood Drive, Wheaton, IL 60189.

**9. STOP ORDERS.** The City reserves the right to terminate and stop all activities at the job site, with written notice, to correct a situation which presents a direct hazard to the public health, safety, and welfare. Any such stop work order shall be issued in accordance with the provisions of the Wheaton City Code and adopted Building Codes.

**10. ANNEXATION AND PERMIT FEES.** The amount of the permit, license, tap-on or connection fees imposed by the City which are applicable to or required to be paid by Owner or successor Owner,

contractors, subcontractors, material men, or others performing work or supplying materials in connection with the development or construction of improvements on the Subject Property shall be the amount or rate of said fees in effect at the time of application for same.

**11. WHEATON PARK DISTRICT ANNEXATION.** The City customarily requires all newly annexed properties to annex to the Wheaton Park District within one (1) year of the date of an Annexation Agreement, pursuant to Statute. However, because the Subject Property already lies inside the boundaries of the Wheaton Park District, the City and the Owner agree that no such action is necessary.

**12. CONFLICT IN REGULATIONS.** The provisions of this Annexation Agreement shall supersede the provisions of any ordinances, codes, or regulations of the City which may be in conflict with the provisions of this Annexation Agreement.

**13. AMENDMENT OF ANNEXATION AGREEMENT.** This Annexation Agreement, and any exhibit attached hereto, may be amended pursuant to the provisions of Chapter 6 of the City Code.

**14. TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

**15. INVALIDITY.** If any provision of this Annexation Agreement, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Annexation Agreement and the application of such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

**16. TERM OF AGREEMENT.** This Annexation Agreement shall be binding upon the parties hereto, their respective successors and the assigns for a full term of ten (10) years from the date of this Agreement.

**17. INDEMNIFICATION.** Owner shall indemnify and hold the City harmless from all injuries to persons and property which arise due to the actions of the Owner, its agents, assigns, employees, contractors, and subcontractors. Owner shall indemnify and hold the City harmless from all causes of action, suits, judgments, settlements, legal fees, and all other costs which may be incurred by the City as



a result of its actions and conduct. Owner shall provide the City with certificates of insurance as required by any Subdivision Improvement Agreement hereafter entered between the City and Owner.

**18. BINDING EFFECT.** This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, assigns, successors, and grantees.

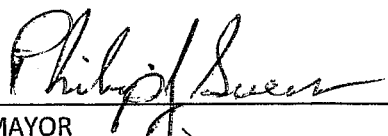
**19. NOTICES.** Notices or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

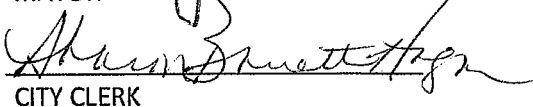
- A. Stuart H. Russell and Laurie F. Russell as Co-Trustees of the Russell Family 2006  
Declarations of Trust dated March 16, 2006  
665 Elmwood Drive  
Wheaton, IL 60189
- B. City of Wheaton  
City Clerk  
City of Wheaton  
303 West Wesley Street  
Wheaton, IL 60189-0727

**20. RECORDING.** This Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of Owner.

IN WITNESS WHEREOF, the Corporate authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here, all on the day and year first above written.

CITY:

By:   
MAYOR

Attest:   
CITY CLERK

**TRUSTEES:**

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Stuart H. Russell and Laurie F. Russell as Co-Trustees of the Russell Family 2006 Declarations of Trust dated March 16, 2006

**EXHIBIT A**

**PLAT OF ANNEXATION**



**EXHIBIT B**

**PETITION FOR ANNEXATION**

EXHIBIT B

CITY OF WHEATON  
PETITION FOR ANNEXATION

To: THE WHEATON CITY COUNCIL

Petitioners on oath states as follows:

1. That they are the owners of record of all of the land within the property described herein.
2. That (they are the only) or (there are other) electors residing thereon. (Circle the appropriate answer).
3. That no portion of the property is within the corporate limits of any municipality.
4. That the property which petitioners desire to have annexed to the City of Wheaton is described as follows:  
single family residence at 25W1665 Elmwood Dr,  
Wheaton, IL
5. That this petition shall be in full force and effect from and after the date hereof and until the property is contiguous and annexed to the City of Wheaton.

WHEREFORE, the applicant petitions that the property be annexed by ordinance to the City of Wheaton, Illinois, in accordance with the appropriate statutes.

The undersigned on oath states that he/she has read the foregoing petition for annexation, has knowledge of the allegations contained therein, and that said allegations are true and correct to the best of his/her knowledge.

Date: May 5 2019

Owner(s) of record of said property

Name: STUART H. RUSSELL

Signature: [Signature]

Address: 1665 Elmwood Drive, Wheaton, IL

cell Tel. No.: (630) 688-0710

home Fax No.: (630) 752-9729

Elector(s) residing on said property

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Subscribed and sworn before me this 6 day of May 2019

[Signature]  
Notary Public

