

Second Amended Project Plan No. 3 Approval Ordinance

ORDINANCE

AN ORDINANCE APPROVING CERTAIN AMENDMENTS TO AMENDED PROJECT PLAN NO. 3 FOR THE TAX INCREMENT FINANCING DISTRICT IN THE CITY OF WHEELING, WEST VIRGINIA KNOWN AS “CITY OF WHEELING REDEVELOPMENT PROJECT DISTRICT NO. 1” AS APPROVED BY THE WEST VIRGINIA DEPARTMENT OF ECONOMIC DEVELOPMENT; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, The City of Wheeling, in Ohio County, West Virginia (the “City”) is authorized by the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the Code of West Virginia, 1931, as amended (the “Act”) to create a development or redevelopment project area or district, cause project plans to be prepared, issue tax increment financing obligations and take other actions to facilitate the orderly development and economic stability of the City, all as more fully set forth in the Act;

WHEREAS, by an Ordinance enacted by the City Council of the City (the “City Council”) on December 16, 2003 (the “District Creation Ordinance”), the City created the property tax increment financing district known as “City of Wheeling Redevelopment Project District No. 1” (“TIF District No. 1”) as a redevelopment district under the Act and established a tax increment financing fund for TIF District No. 1;

WHEREAS, by an Ordinance enacted by the City Council on June 21, 2005, the City removed certain parcels of real estate from TIF District No. 1;

WHEREAS, by an Ordinance enacted by the City Council on September 7, 2004, the City approved a Project Plan for TIF District No. 1 known as “The City of Wheeling Stone Building Renovation Project No. 1” (“Project Plan No. 1”), which included (i) the acquisition, renovation and equipping of the former Stone & Thomas Department Store building and (ii) improvements to public infrastructure on Market Plaza and adjacent to the building, including, but not limited to public street resurfacing, utility improvements, sidewalks, curbs and curb cuts, lighting, and landscaping;

WHEREAS, by an Ordinance enacted by the City Council on August 2, 2005, the City approved a Project Plan for TIF District No. 1 known as “G.G.P. Wheeling 2003, LLC Project Area No. 1” (“Project Plan No. 2”), which included a “pay-as-you-go” project under and pursuant to the Act consisting generally of the acquisition and rehabilitation of an existing “brownfield” site, including sanitary and storm sewer line relocation, site clearing and grubbing,

fill and grading, retaining walls and erosion control, storm water management and related infrastructure improvements;

WHEREAS, by an Ordinance enacted by the City Council on June 3, 2008, the City approved a Project Plan for TIF District No. 1 known as “Downtown Redevelopment Project Plan No. 3” (“Project Plan No. 3”), which included all or some of the following: (i) acquisition, demolition, site preparation, infrastructure improvements, and redevelopment of buildings and properties in the 1100 block of Main and Market Streets and related infrastructure, and (ii) renovation and rehabilitation of the Capital City Music Hall, together with costs of preparation of the Project Plan and related costs;

WHEREAS, by an Ordinance enacted by the City Council on September 20, 2011, the City approved an amendment to Project Plan No. 3 for the purpose of amending the geographical area included in Project Plan No. 3 (“Amended Project Plan No. 3”);

WHEREAS, Ohio Valley ADC, Inc. (“ADC”) has requested that the City consider amending Amended Project Plan No. 3 to add the parcel of real estate comprising the former Wheeling Pittsburgh Steel Building, identified for tax purposes in Tax District 10, Wheeling City Corp., Tax Map W50B, Parcel 118 (the “Wheeling Pittsburgh Steel Parcel”), to TIF District No. 1;

WHEREAS, the City has received and reviewed a Tax Increment Financing Application (the “Application”) for the proposed addition of the Wheeling Pittsburgh Steel Parcel to TIF District No. 1 (the “Second Amended Project Plan No. 3”);

WHEREAS, the City did, on May 17, 2022, following proper notice thereof, hold a public hearing with respect to the Application wherein interested parties were afforded a reasonable opportunity to express their views on the proposed approval of the Second Amended Project Plan No 3;

WHEREAS, the City submitted the Application to the Secretary of the West Virginia Department of Economic Development (the “Secretary”) for his review and approval, all in accordance with the applicable provisions of the Act;

WHEREAS, the Secretary has, by letter dated July 19, 2022, notified the City that the West Virginia Department of Economic Development has reviewed the Application and has found the Application to be complete and thereby approved, which approval letter is attached hereto as **Exhibit A**;

WHEREAS, it is hereby found and determined that the Application meets the criteria set forth in the Act for amendment of a project plan; and

WHEREAS, City Council has determined to enact this Ordinance which approves and certifies Second Amended Project Plan No. 3.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL, AS FOLLOWS:

1. Justification for Approval of Second Amended Project Plan No. 3. It is hereby found and determined that the real property within TIF District No. 1 will be benefitted by implementing Second Amended Project Plan No. 3 by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment therein or any combination thereof.

2. Approval of Second Amended Project Plan No. 3. Second Amended Project Plan No. 3, an excerpt of which is set forth in Exhibit B, is hereby expressly found to be economically feasible and is hereby approved and certified. The projects set forth in Second Amended Project Plan No. 3, or any portion thereof subsequently deemed by the City to be included (the "Projects"), are hereby approved and declared to be eligible for funding in whole or in part, from tax increment financing obligations and from moneys remaining in the tax increment financing fund established by the City for TIF District No. 1 (the "TIF Fund") after there has first been paid all debt service, reserve fund deficiency and other payments payable in connection with any bonds, notes or other obligations payable from the TIF Fund, which the City, in its discretion, may determine to issue from time to time in accordance with the provisions of the Act.

3. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

4. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

5. Conflicting Provision Repealed. All ordinances, resolutions, indentures or orders, or parts thereof, that conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed with respect to the subject matter of this Ordinance.

6. Covenant of Due Procedure, Etc. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, City Manager, City Clerk and members of the City Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

7. Effective Date. This Ordinance shall take effect immediately upon enactment.

8. Statutory Notice and Public Hearing. Following the first reading by title hereof, an abstract of this Ordinance, determined by the City to contain sufficient information as to give

Adopted this ___ day of _____, 2022.

CITY OF WHEELING

By: _____
Its City Manager

By: _____
Its Mayor

APPROVED:

By: _____
Its City Solicitor

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Clerk of the City of Wheeling, does hereby certify that the foregoing Ordinance was duly adopted by the City Council of the City of Wheeling at a regular meeting duly held, pursuant to proper notice thereof, on _____, 2022, a quorum being present and acting throughout, and which Ordinance has not been modified, amended or revoked and is a true, correct and complete copy thereof as of this ___ day of _____, 2022.

By: _____
City Clerk

Exhibit A

West Virginia Department of Economic Development Approval

(attached hereto)

Exhibit B

Section II.A of Second Amended Project Plan No. 3

(attached hereto)

Section II. Project Information

A. Detailed Description of Project

Include a description of how the project fits with the overall development plans for the development or redevelopment project area or district or the overall development plans of the municipality, City, or region.

TIF District No. 1

By an Ordinance enacted by the City Council of the City (the “City Council”) on December 16, 2003 (the “District Creation Ordinance”), the City created the property tax increment financing district known as “City of Wheeling Redevelopment Project District No. 1” (“TIF District No. 1”) as a redevelopment district under the Act and established a tax increment financing fund for TIF District No. 1 which included parts of Wheeling Island, Downtown, East Wheeling, Center Wheeling, and South Wheeling, including Market Plaza as well as adjacent residential and commercial properties. No project plan was submitted or approved as part of the District Creation Ordinance.

City of Wheeling Stone Building Renovation Project No. 1 (“Project Plan No. 1”)

By an Ordinance enacted by the City Council on September 7, 2004, the City approved a Project Plan for TIF District No. 1 known as “The City of Wheeling Stone Building Renovation Project No. 1” (“Project Plan No. 1”), which included (i) the acquisition, renovation and equipping of the former Stone & Thomas Department Store building and (ii) improvements to public infrastructure on Market Plaza and adjacent to the building, including, but not limited to public street resurfacing, utility improvements, sidewalks, curbs and curb cuts, lighting, and landscaping.

Boundary Modification

By an Ordinance enacted by the City Council on June 21, 2005, the City removed the Wheeling Pittsburgh Steel Parcel and associated personal property assessments from TIF District No. 1.

G.G.P. Wheeling 2003, LLC Project Area No. 1 (“Project Plan No. 2”)

By an Ordinance enacted by the City Council on August 2, 2005, the City approved a Project Plan for TIF District No. 1 known as “G.G.P. Wheeling 2003, LLC Project Area No. 1” (“Project Plan No. 2”), which included a “pay-as-you-go” project under and pursuant to the West Virginia Tax Increment Financing Act (the “Act”) consisting generally of the acquisition and rehabilitation of an existing “brownfield” site, including sanitary and storm sewer line relocation, site clearing and grubbing, fill and grading, retaining walls and erosion control, storm water management and related infrastructure improvements.

Downtown Redevelopment Project Plan No. 3 (“Project Plan No. 3”)

By an Ordinance enacted by the City Council on June 3, 2008, the City approved a Project Plan for TIF District No. 1 known as “Downtown Redevelopment Project Plan No. 3” (“Project Plan

No. 3”), which included all or some of the following: (i) acquisition, demolition, site preparation, infrastructure improvements, and redevelopment of buildings and properties in the 1100 block of Main and Market Streets and related infrastructure, and (ii) renovation and rehabilitation of the Capital City Music Hall, together with costs of preparation of the Project Plan and related costs.

Amended Project Plan No. 3

By an Ordinance enacted by the City Council on September 20, 2011, the City approved an amendment to Project Plan No. 3 for the purpose of amending the geographical area included in Project Plan No. 3 (“Amended Project Plan No. 3”).

Proposed Addition of Wheeling Pittsburgh Steel Parcel

The Developer and the City are proposing to modify TIF District No. 1 by adding the Wheeling Pittsburgh Steel Parcel to TIF District No. 1 (“Second Amended Project Plan No. 3”). The Wheeling Pittsburgh Steel Parcel is identified for tax purposes in Tax District 10, Wheeling City Corp., on Tax Map W50B, as Parcel 118, and is presently assessed to Access Infrastructure LLC, a West Virginia limited liability company.

A map showing the addition of the Wheeling Pittsburgh Steel Parcel to TIF District No. 1 is provided in **Attachment 2**. A public hearing will be held/was held by the City on May 17, 2022, in order for the City to hear public comments on the proposed addition of this parcel to TIF District No. 1 and the submission of this Application to the West Virginia Department of Economic Development.