

**BOND AUTHORIZING ORDINANCE OF
THE CITY OF WHEELING**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$20,000,000 AGGREGATE PRINCIPAL AMOUNT OF TAX INCREMENT REVENUE AND REFUNDING BONDS, IN ONE OR MORE SERIES (THE “BONDS”), OF THE CITY OF WHEELING (THE “CITY”); AUTHORIZING THE USE OF THE PROCEEDS OF THE BONDS TO REFUND THE TAX INCREMENT REFUNDING AND REVENUE BONDS, SERIES 2016 (BANK QUALIFIED) OF THE CITY (THE “SERIES 2016 BONDS”), TO FINANCE COSTS OF THE DESIGN, PERMITTING, ACQUISITION, CONSTRUCTION AND EQUIPPING OF INFRASTRUCTURE AND OTHER IMPROVEMENTS WITHIN, OR FOR THE BENEFIT OF, THE CITY OF WHEELING COMBINED REDEVELOPMENT DISTRICT NO. 1 AND NO. 2 AND ALL NECESSARY APPURTENANCES AND RELATED FACILITIES, OTHER EXPENSES AND COSTS RELATED THERETO AND TO ISSUANCE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, ONE OR MORE DEVELOPMENT AGREEMENTS AND A BOND PURCHASE AGREEMENT; AUTHORIZING EXECUTION AND DELIVERY OF OTHER DOCUMENTS, INSTRUMENTS, AGREEMENTS AND CERTIFICATES IN CONNECTION WITH THE ISSUANCE OF THE BONDS AND THE UNDERTAKING OF SUCH IMPROVEMENTS; AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF SUCH BONDS; PROVIDING PARAMETERS FOR THE PRINCIPAL AMOUNTS, MATURITIES, INTEREST RATES AND OTHER TERMS OF SUCH BONDS; AUTHORIZING THE MAYOR AND CITY MANAGER TO APPROVE, EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT RELATING TO THE FINAL TERMS OF THE BONDS AND THE USES OF THE BOND PROCEEDS; APPOINTING A TRUSTEE, REGISTRAR, PAYING AGENT AND OTHER PARTICIPANTS IN THE FINANCING; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS RELATING TO COMBINED PROJECT PLAN NO. 1 AND THE ISSUANCE OF SUCH BONDS.

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

WHEREAS, pursuant to the Act and an Indenture of Trust dated February 29, 2016 (the “Series 2016 Indenture”), by and between the City and WesBanco Bank, Inc., the City has heretofore issued its Tax Increment Refunding and Revenue Bonds, Series 2016 (Bank Qualified), dated February 29, 2016, in the original aggregate principal amount of \$9,167,000 (the “Series 2016 Bonds”), for the purposes of (i) currently refunding and paying in full the Prior Bonds (as defined in the Series 2016 Indenture); (ii) financing costs of the Project (as defined in the Series 2016 Indenture), or a portion thereof; (iii) funding a debt service reserve fund; and (iv) paying costs of issuance of the Series 2016 Bonds;

WHEREAS, pursuant to the Act, by an Ordinance enacted on December 5, 2017 (the “District No. 2 Creation Ordinance”), the City created a property tax increment financing district known as “City of Wheeling Redevelopment District No. 2” (the “Prior TIF District No. 2”), and established a tax increment financing fund for Prior TIF District No. 2 (the “TIF District No. 2 TIF Fund”);

WHEREAS, pursuant to the Act and at the request of Ohio Valley ADC, Inc. (“ADC”), the City submitted an application (the “District Combination Application”) to the Secretary of the West Virginia Department of Economic Development proposing the combination of Prior TIF District No. 1 and Prior TIF District No. 2 into a combined tax increment financing district to be known as “The City of Wheeling Combined Redevelopment District No. 1 and No. 2” (the “Combined TIF District”), and approval of a project plan for the Combined TIF District designated as “Combined Project Plan No. 1” (the “Project Plan”) which provides for the design, permitting, acquisition, construction and equipping of site, infrastructure, and other improvements, both public and private, that will facilitate development within, or for the benefit of, the Combined TIF District, including, without limitation, water lines and waterworks facilities, sanitary sewer lines and sewerage facilities, stormwater facilities, electric, natural gas, telecommunications, cable, fiber optics, and other utility improvements and utility relocations, land acquisition, site preparation and excavation, renovations to existing buildings, demolition, community facilities, new construction of and improvements to roads, bridges, streetscape, including but not limited to sidewalks, curbing and gutters, street lighting and traffic signals, and site preparation and other earthwork which is necessary in connection with the foregoing, and specifically including redevelopment and restoration of the former Wheeling Pittsburgh Steel Building and the McFadden Building, including necessary acquisition costs, redevelopment and restoration of the Williams Lea-Stone Center, renovations and partial or full demolition of the Center Wheeling Parking Structure and renovations of four city-owned buildings in the 1400 block of Market Street into commercial and residential space;

WHEREAS, the City did, on May 17, 2022, following proper notice thereof, hold a public hearing with respect to the District Combination Application wherein interested parties were afforded a reasonable opportunity to express their views on the proposed combination of Prior TIF District No. 1 and Prior TIF District No. 2 into the Combined TIF District and the proposed Project Plan;

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

WHEREAS, pursuant to a letter from the Secretary dated July 19, 2022, approving the District Combination Application, the City enacted an Ordinance on August 16, 2022 (the “District Combination Ordinance”) which approved the combination of Prior TIF District No. 1 and Prior TIF District No. 2 into the Combined TIF District and the Project Plan in accordance with the Act;

WHEREAS, in connection with the combination of Prior TIF District No. 1 and Prior TIF District No. 2 pursuant to the District Combination Ordinance, the TIF District No. 1 TIF Fund and the TIF District No. 2 TIF Fund have been combined into a single tax increment financing fund for the Combined TIF District (the “Combined TIF Fund”);

WHEREAS, under provisions of the Act, the City is authorized and empowered to issue tax increment financing obligations to refund, pay in full and discharge all or any part of the outstanding Series 2016 Bonds, to fund a reserve fund pledged to the payment of such tax increment financing obligations and to pay the costs associated with the issuance of such tax increment financing obligations and related costs;

WHEREAS, the City desires to authorize the issuance of tax increment revenue and refunding bonds, in one or more series (the “Bonds”) and to authorize the use of the proceeds of the Bonds to (i) refund and redeem in full the Series 2016 Bonds, (ii) to finance costs of the design, permitting, acquisition, construction and equipping of all or a portion of the Project Plan (the “Phase I TIF Project”), (iii) to fund or partially fund a reserve fund for the Bonds and (iv) to pay costs of issuance of the Bonds;

WHEREAS, the forms of certain documents anticipated to be executed and delivered in connection with the issuance and sale of the Bonds, the purchaser of the Bonds and the conditions and provisions of the Bonds shall be approved by a resolution of the City which is supplemental to this Ordinance (the “Supplemental Resolution”);

WHEREAS, the refunding and redeeming in full of the Series 2016 Bonds, the design, permitting, acquisition, construction and equipping of the Phase I TIF Project by the City and the financing of costs of the same pursuant to the issuance of the Bonds by the City will benefit the inhabitants of the City, will increase opportunities for employment in the City and will help in establishing a balanced economy within the City, and the health, happiness, right of gainful employment and general welfare of the citizens and residents of the City will be promoted thereby and the same constitutes a public purpose of the City under the Act; and

WHEREAS, the City desires to take all steps necessary to authorize the foregoing actions as expeditiously as possible.

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

Section 1. It is hereby found and determined, following the public hearing heretofore held before the City, that the Series 2016 Bonds should be currently refunded and redeemed in full, that the City should undertake the design, permitting, acquisition, construction and equipping of the Phase I TIF Project, that the Bonds should be issued for the purposes of financing the costs of currently refunding the Series 2016 Bonds, paying costs of the Phase I TIF Project and related costs and that the current refunding of the Series 2016 Bonds and the financing of the costs of the Phase I TIF Project is a public purpose of the City, promotes the public purposes under the Act and is in the public interest, and that the current refunding of the Series 2016 Bonds and the financing of the costs of the Phase I TIF Project in conformance with the terms and provisions hereof complies in all respects with the Act.

Section 2. To accomplish the purposes of the Act, the City hereby authorizes the issuance of the Bonds in an aggregate principal amount not to exceed \$20,000,000, for the purposes of: (i) currently refunding and repaying in full the Series 2016 Bonds, (ii) paying costs of design, permitting, acquisition, construction and equipping of the Phase I TIF Project, (iii) funding or partially funding a reserve fund for the Bonds, and (iv) paying costs of issuance of the Bonds. The Bonds shall be dated such date or dates, shall bear interest payable at such times and at such rates (not to exceed 6% per annum), shall mature on such dates and in such principal amounts (with final maturity no later than June 1, 2047), shall have such provisions for redemption and shall have such other provisions as are set forth in the Indenture (hereinafter defined).

Section 3. The City hereby authorizes and approves the issuance of the Bonds within the parameters set forth in Section 2 above, and hereby further authorizes the Mayor and the City Manager of the City to approve the final terms thereof and the purposes for which the proceeds thereof shall be used as shall be set forth in Indenture to be executed thereby, which Bonds may be issued in one or more series or with different designations, all as may be set forth in the Indenture.

Section 4. The Bonds, together with the interest thereon and other costs incidental thereto, shall be secured solely by the pledges effected by the Indenture herein authorized and defined, and by the Combined TIF Fund and tax increment and other revenues and properties pledged for their payment in accordance with the Act. The Bonds, together with the interest thereon and other costs incidental thereto, shall not be deemed to be and shall not constitute an indebtedness of the City, but shall be special and limited obligations of the City, payable solely from the tax increment and other revenues and properties pledged for their payment under the Indenture and pursuant to the Act. Neither the Bonds nor the interest thereon, nor any other cost or charge in connection therewith, shall be a charge against or pledge of the property, faith and credit or taxing power, if any, of the State of West Virginia or the City, except as to such property expressly provided therefor in the Indenture, nor shall the same ever constitute an indebtedness of the State of West Virginia or the City within the meaning of any

constitutional provision or statutory limitation or constitute or give rise to a pecuniary liability of the State of West Virginia or the City. No recourse shall be had for the payment of the principal of and interest on the Bonds against the City or any official or member of the City. The holders of the Bonds shall have no right to have taxes levied by the legislature of the State of West Virginia or the taxing authority, if any, of the City for the payment of the principal of, premium, if any, or interest on the Bonds, but the Bonds shall be payable solely from the Tax Increment Revenues (as defined in the Indenture) deposited into the Combined TIF Fund and pledged therefor under the Indenture.

Section 5. The Indenture of Trust (the “Indenture”) to be dated on or prior to the date of delivery of the Bonds, by and between the City and WesBanco Bank, Inc., who shall serve as trustee, registrar and paying agent (the “Trustee”), shall be substantially in the form as shall be approved pursuant to the Supplemental Resolution. The Mayor and the City Manager of the City are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the Indenture, with such changes, insertions, variations and omissions as may be approved by the Mayor and the City Manager, and the City Clerk is authorized and directed to affix the seal of the City thereto and to attest the same. The execution of the Indenture by the Mayor and the City Manager shall be conclusive evidence of such approval.

Section 6. ADC is hereby approved and appointed as the developer of the Combined TIF District and the City hereby assigns its rights and responsibilities with respect to the design, permitting, acquisition, construction and equipping of the Phase I TIF Project and authorizes ADC to requisition Tax Increment Revenues from the Combined TIF Fund in order to make payments which are necessary or convenient to implement the Project Plan.

Section 7. One or more Development Agreements with respect to the design, permitting, acquisition, construction and equipping of specific components of the Phase I TIF Project (each a “Development Agreement” and collectively, the “Development Agreements”), by and between the City and one or more developers for such specific components of the Phase I TIF Project, shall each be substantially in the form as shall be approved pursuant to the Supplemental Resolution. The Mayor and the City Manager of the City are hereby authorized and directed to execute and deliver such Development Agreements, with such changes, insertions, variations and omissions as may be approved by the Mayor and the City Manager. The execution of such Development Agreements by the Mayor and the City Manager shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 8. The Bond Purchase Agreement (the “Bond Purchase Agreement”) to be dated the date of placement and sale of the Bonds to the Purchaser, by and between the purchaser of the Bonds and the City, shall be substantially in the form as shall be approved pursuant to the Supplemental Resolution. The Mayor and the City Manager of the City are hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such changes, insertions, variations and omissions as may be approved by the Mayor and the City Manager. The execution of the Bond Purchase Agreement by the Mayor and the City Manager shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 9. The Bonds shall be issued in fully registered form in accordance with the provisions of the Indenture and shall be delivered to the Trustee to be authenticated, registered and delivered to the Purchaser thereof in accordance with the terms of the Indenture. The Mayor, the City Manager and the City Clerk of the City shall execute the Bonds as necessary and affix, imprint or otherwise reproduce the official seal of the City thereto and the Bonds shall contain a recital to the effect that the Bonds are issued pursuant to the Act.

Section 10. The Mayor, the City Manager and the City Clerk and any other proper officers and employees of the City, together with all other members and employees thereof, are hereby authorized and directed to execute, acknowledge, if necessary, and deliver any and all papers, documents, agreements, certificates and instruments, to affix the seal of the City and attest the same for and on behalf of the City and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance, the Indenture, the Development Agreements, the Bond Purchase Agreement and other documents relating thereto.

Section 11. All covenants, stipulations, obligations and agreements of the City contained herein and contained in the Indenture, the Development Agreements, the Bond Purchase Agreement and other documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the City to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the City and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or the officials thereof by the provisions hereof and by the Indenture, as applicable, shall be exercised or performed by the City or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

Section 12. No covenant, stipulation, obligation or agreement herein contained or contained in the Indenture, or other documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity and neither the members of the City nor any officer executing the Bonds shall be subject to any personal liability or accountability by reason of the issuance of the Bonds. No member of the City or officer or employee of the City shall be individually or personally liable for the payment of the principal of or the interest on any Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 13. Steptoe & Johnson PLLC is hereby appointed as bond counsel to the City, Piper Sandler & Co. is hereby appointed as Placement Agent to the City, and WesBanco Bank, Inc. is hereby appointed as trustee, registrar and paying agent for the Bonds. The Mayor and the City Manager are authorized to negotiate, execute and deliver such engagement letters with such entities as shall be appropriate in the circumstances upon such terms and with such levels of compensation as shall be approved by the Mayor and the City Manager as evidenced by their execution and delivery of such engagement letters.

Enacted and entered of record this 4th day of October, 2022.

THE CITY OF WHEELING

By: _____
Its Mayor

By: _____
Its City Manager

APPROVED:

By: _____
Its City Solicitor

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of The City of Wheeling, does hereby certify that the foregoing Ordinance was duly adopted and enacted by the City Council of The City of Wheeling following a public hearing thereon, at regular meetings duly held, pursuant to proper notice thereof, on September 20, 2022, and October 4, 2022, quorums 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 _____, 2022.

By: _____

Its City Clerk