

ORDINANCE NO. F-0232

AN ORDINANCE APPROVING THE TRANSFER OF VOLUME CAP IN CONNECTION WITH A PRIVATE ACTIVITY BOND ISSUE, AND RELATED MATTERS.

WHEREAS, the City of Wheaton, DuPage County, Illinois (the "City") is a municipality and a home rule unit of government under Section 6 of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the City has volume cap equal to \$50 per resident of the City in each calendar year, which volume cap may be allocated to certain tax-exempt private activity bonds; and

WHEREAS, the Illinois Private Activity Bond Allocation Act, 30 *Illinois Compiled Statutes* 1996, 345/1 *et seq.*, as supplemented and amended (the "Act"), provides that a home rule unit of government may transfer its allocation of volume cap to any other home rule unit of government, the State of Illinois or any agency thereof or any non-home rule unit of government; and

WHEREAS, BFC Inc., an Illinois corporation (the "Company"), has previously discussed with the City the issuance of revenue bonds to finance certain manufacturing facilities for use by the Company or its designee (the "Project"), and has requested the City of West Chicago, DuPage County, Illinois (the "Issuer") to issue its revenue bonds to finance a portion of the cost of the Project in 1998 (the "Bonds"), which Bonds will require an allocation of volume cap; and

WHEREAS, it is now deemed necessary and desirable by the City to transfer a portion of its unused volume cap allocation for calendar year 1998 to the Issuer to be applied toward the issuance of Bonds;

NOW, THEREFORE, Be It Ordained by the City Council of the City of Wheaton, DuPage County, Illinois, as follows:

SECTION 1. That, pursuant to Section 146 of the Code and the Act, a portion of the volume cap of the City for calendar year 1998 in the amount of \$1,000,000 is hereby transferred to the Issuer, which shall issue the Bonds using such transfer of volume cap, and the adoption of this ordinance shall be deemed to be an allocation of such volume cap to the issuance of the Bonds; and that, upon the issuance of the Bonds, the Company will pay the City a fee of one percent (1.0%) of the amount of said volume cap so allocated to the Bonds.

SECTION 2. That the Mayor, the City Clerk and all other proper officers, officials, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents and certificates as may be necessary to further the purposes and intent of this Ordinance.

SECTION 3. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision of this Ordinance shall for any reason be declared to be invalid, such declaration shall not affect the remainder of the sections, phrases and provisions of this Ordinance.

SECTION 4. That all ordinances, resolutions or orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded; and that this Ordinance shall be in full force and effect upon its adoption and approval.

Presented, passed and approved this 20th day of April, 1998.

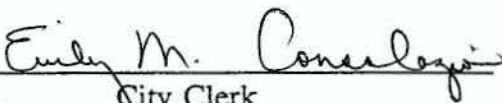
Approved:



Mayor

[SEAL]

ATTEST:



City Clerk

Ayes: Councilwoman Davenport; Councilman Eckhoff; Councilman Gresk; Mayor Carr
Councilman Johnson; Councilwoman Johnson; and Councilman Mork.

Nays: None.

Absent or Not Voting: None.

Motion Carried Unanimously

Passed: April 20, 1998
Published: April 21, 1998