

**ORDINANCE NO. F-0538**

**AN ORDINANCE RESERVING VOLUME CAP IN CONNECTION WITH  
PRIVATE ACTIVITY BOND ISSUES, AND RELATED MATTERS.**

**WHEREAS**, the City of Wheaton, DuPage County, Illinois (the "*Municipality*"), 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 Municipality has volume cap equal to \$50 per resident of the Municipality in each calendar year, which volume cap may be reserved and allocated to certain tax-exempt private activity bonds; and

**WHEREAS**, the Illinois Private Activity Bond Allocation Act, 30 *Illinois Compiled Statutes* 1998, 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**, it is now deemed necessary and desirable by the Municipality to reserve its entire volume cap allocation for calendar year 2001 to be applied toward the issuance of private activity bonds (the "*Bonds*"), as provided in this Ordinance, or to be transferred, as permitted by this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and 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, the entire volume cap of the Municipality for calendar year 2001 is hereby reserved by the Municipality, which shall issue the Bonds using such volume cap, as shall be directed by Gates Capital Corporation, or shall use or transfer such volume cap in such manner as shall be directed by Gates Capital Corporation, without any further action required on the part of the Municipality, and the adoption of this Ordinance shall be deemed to be an allocation of such volume cap to the issuance of the Bonds or such other bonds; *provided*, that any such transfer shall be evidenced by a written instrument executed by the Mayor of the Municipality; *provided further*, that, upon adoption of this Ordinance, there shall be paid to the Municipality a fee in the amount of two and one-half percent (2.50%) of the volume cap so reserved.

Section 2: That the Municipality shall maintain a written record of this Ordinance in its records during the term that the Bonds or any other such bonds to which such volume cap is allocated remain outstanding.

Section 3: That the Mayor and City Clerk and all other proper officers, officials, agents and employees of the Municipality 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 4: 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.

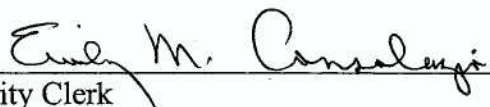
Section 5: That all ordinances, resolutions or orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded; and that this Ordinance shall be in full force and effect upon its adoption and approval.

Presented, passed and approved this 20<sup>th</sup> day of November, 2000.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

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

Roll Call Vote

Ayes: Councilman Mork  
Councilwoman Davenport  
Councilman Eckhoff  
Councilman Gresk  
Mayor Carr  
Councilman Johnson  
Councilwoman Johnson

Nays: None

Absent: None

Motion Carried Unanimously

Passed: November 20, 2000  
Published: November 21, 2000