

ORDINANCE NO. 19-\_\_\_\_\_

**AN ORDINANCE APPROVING THE TRANSFER OF VOLUME CAP  
IN CONNECTION WITH PRIVATE ACTIVITY BOND ISSUES  
IN SUCH MANNER AS SHALL BE DIRECTED BY SAND CREEK CAPITAL**

**RECITALS**

**WHEREAS**, the City of Naperville, DuPage County and Will Counties, 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**, pursuant to the provisions of 26 U.S.C.A Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), the City has volume cap equal to \$105.00 per resident of the City for calendar year 2019, which volume cap may be reserved and allocated to certain tax-exempt private activity bonds; and

**WHEREAS**, pursuant to the City's home rule authority and the Illinois Private Activity Bond Allocation Act, 30 ILCS 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 unit of local government, any home rule unit of government, or the State of Illinois or any agency thereof; and

**WHEREAS**, on January 1, 2019, the City received its 2019 Volume Cap of \$15,506,610; and

**WHEREAS**, on February 5, 2019, the City reserved a portion of its volume cap allocation for calendar year 2019 to be applied toward the issuance of private activity Bonds ("Bonds") or for such other purpose permitted by law; and

**WHEREAS**, it is now deemed necessary and desirable by the City to transfer its volume cap allocation for calendar year 2019, as permitted by this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE and WILL COUNTIES, in exercise of its home rule authority, as follows:**

**SECTION 1:** The Recitals above are incorporated herein and made part hereof as fully set forth in this Section 1.

**SECTION 2:** That, pursuant to Section 146 of the Code and the Act, the entire volume cap of the City for calendar year 2019 has been reserved by the City, which shall transfer such volume cap in such manner as shall be directed by Sand Creek Capital, without any further action required on the part of the City, 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, the City Manager, or any other proper officer or employee of the City; provided further, that, upon the issuance of the bonds, there shall be paid to the City a fee by the obligor of the bonds of one percent (1.00%) of the volume cap so reserved.

**SECTION 3:** That the City 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 4:** That the Mayor, the City Manager, 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 5:** 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 6:** 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.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk