

PLANNING & DEVELOPMENT MEMORANDUM

#08-23

August 14, 2008

TO: Honorable Mayor Kathleen M. Novak and City Council Members

FROM: David Allen, Acting City Manager *DA*
James Hayes, Director of Planning and Development *JH*
Debra Gray, Housing and Grants Administrator *DG*

SUBJECT: CR-119 Designation of 2008 Private Activity Bond Allocation

RECOMMENDATION:

Staff recommends approval of the attached Resolution, which, if approved, would authorize the assignment of the City's 2008 Private Activity Bond (PAB) allocation to the Colorado Housing Finance Authority (CHFA).

BACKGROUND INFORMATION:

The City's 2008 Private Activity Bond (PAB) allocation is \$1,515,805. The City must establish its priority and decide on a proposed course of action no later than September 15, 2008, or the allocation is relinquished to the Colorado Statewide Balance.

There are four options available for the allocation:

- a. Issue bonds directly which requires an inducement resolution and closing by December 23, 2008; or
- b. Carry forward for a specific purpose to close within a 3 year period (requires filing with IRS); or
- c. Assignment to another issuer for eligible purpose; or
- d. Relinquish bond allocation to the Statewide Balance. (Note: If the City does not designate its intended use or assign the bond capacity by September 15, 2008, the capacity will go to the statewide balance and the residents of the City lose the opportunity to directly benefit from the PAB program.

REVIEW OF STUDY SESSION:

On July 17, 2008, the Department of Planning and Development staff presented information on Private Bond Activity Bonds (PAB) to City Council. The information provided included general information on PABs, history of the City's PAB assignments, eligible uses and/or programs available under Colorado statute, available options for the City's PAB allocation and staff recommendation for the City's 2008 allocation.

Discussion focused on which option would have the greatest benefit for the City's residents. A majority of the Council members present discussed the City continuing to assign its PAB cap to either the Metro Mayors Caucus or to Colorado Housing Finance Authority (CHFA). The Metro Mayors Caucus program retains assigned bond cap, making it available for single family first-time homebuyer mortgages in the City for 60

days after the bonds are issued. CHFA retains assigned bond cap, making it available for single family first-time homebuyer mortgages in the City for two years. Staff provided information received from both organizations regarding their plans for 2008 bond issuance. CHFA plans to issue bonds in November or December, and the Metro Mayors Caucus to date have not made a decision whether to issues bonds for 2008.

There was some discussion regarding the possibility of carrying forward the PAB allocation for a future use; however, the general consensus of the Council members present at the Study Session agreed that the assignment of the City's 2008 PAB allocation to CHFA would provide the greatest benefit to the City's residents this year.

During the course of the next 12 months, staff will further investigate the feasibility of carrying forward PAB allocations for future projects.

BUDGET/TIME IMPLICATIONS:

There are no budget implications. Council must select act before September 15, 2008, or the PAB allocation will to the Statewide Balance.

STAFF REFERENCE:

If Council members have any comments or questions they may contact James Hayes at jhayes@northglenn.org or at 303-450-8937 or Debra Gray at dgray@northglenn.org or at 303-450-8931.

SPONSORED BY: MAYOR NOVAK

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-119
Series of 2008

Series of 2008

A RESOLUTION AUTHORIZING THE ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY, THE CITY OF NORTHGLENN'S 2008 ALLOCATION FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PROVIDING SINGLE-FAMILY MORTGAGE LOANS TO LOW- AND MODERATE-INCOME PERSONS AND FAMILIES WITHIN THE CITY OF NORTHGLENN AND ELSEWHERE IN THE STATE OF COLORADO; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT OF ALLOCATION

WHEREAS, the City of Northglenn, Colorado (the "City") is authorized by the County and Municipality Development Revenue Bond Act, constituting article 3 of title 29, Colorado Revised Statutes, as amended (the "Act"), to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes ("the State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City has an allocation of the 2008 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2008 (the "2008 Allocation"); and

WHEREAS, the City has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2008 Allocation; and

WHEREAS, the City has determined that the 2008 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the City has determined to assign \$1,515,805.00 of its 2008 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO:

Section 1. The assignment to the Authority of \$1,515,805.00 of the City's 2008 Allocation be and hereby is approved.

Section 2. The form and substance of the Assignment of Allocation be and hereby are approved; provided, however, that the officers of the City hereby are authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as they shall deem necessary or appropriate and not inconsistent with the approval thereof by this Resolution.

Section 3. The Mayor of the City is hereby authorized and directed to execute and deliver and the Acting City Clerk is hereby authorized and directed to attest and deliver the Assignment of Allocation on behalf of the City of Northglenn and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this Resolution.

Section 4. If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution

Section 5. Nothing contained in this Resolution or the Assignment of Allocation shall constitute a debt, indebtedness or multiple-fiscal year direct or indirect debt or other financial obligation of the City within the meaning of the Constitution or statutes of the State or the home rule charter of any political subdivision thereof, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 6. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. This Resolution shall be in full force and effect upon its passage and approval.

DATED at Northglenn, Colorado, this ____ day of _____, 2008.

KATHLEEN M. NOVAK
Mayor

ATTEST:

JOHANNA SMALL, CMC
Acting City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this _____ day of _____, is between the City of Northglenn (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2008 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2008, the "Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City of Northglenn and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the Allocation; and

WHEREAS, the Assignor has determined that the 2008 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2008 Allocation; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee \$1,515,805.00 of its 2008 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$1,515,805.00 of its 2008 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of \$1,515,805.00 of Assignor's 2008 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to make proceeds of such Revenue Bonds available from time to time during the period of two (2) years from the date of this Assignment for the purchase of mortgage loans in at least the aggregate amount of \$1,515,805.00 to finance single-family housing facilities located in the City of Northglenn. Unless otherwise agreed to in writing, the mortgage loans will be subject to all applicable current requirements of Assignee's mortgage revenue bond program, including Assignee's income and purchase price limits.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans to finance single-family housing facilities located in the City Northglenn.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

CITY OF NORTHGLENN

By: KATHLEEN M. NOVAK
Its: Mayor

ATTEST:

By: JOHANNA SMALL, CMC
Title: Acting City Clerk

APPROVED AS TO FORM:

By: COREY Y. HOFFMANN
Title: City Attorney

COLORADO HOUSING AND FINANCE
AUTHORITY

By: _____
Its: Executive Director

ATTEST:

By: _____
Assistant Secretary