

**PLANNING DEPARTMENT
MEMORANDUM 15-18**

DATE: June 8th, 2015
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: John Pick, City Manager *JP*
Brook Svoboda, Director of Planning & Development *BS*
SUBJECT: CR-78 Private Activity Bonds Assignment to CHFA

BACKGROUND

Every year the City of Northglenn receives an allocation of Private Activity Bond (PAB) capacity to benefit the community. The 2015 allocation for Northglenn is \$1,868,550. PABs are tax exempt bonds issued by public entities, in this case the City of Northglenn, to provide low cost financing for private projects that serve a public purpose. The federal government grants annual allocations of this bonding authority to states under the Tax Reform Act of 1986. Colorado's allocation program for PABs was established by Colorado Revised Statute 24-32-1706 and is administered through the Department of Local Affairs.

Eligible Activities Include:

- **Qualified residential rental projects** - Bonds may finance new construction or acquisition/rehabilitation of housing for low/moderate income persons.
- **Single-family mortgage revenue bonds (SFMRB)** - Bonds sold by local and state agencies for mortgages for persons with low and moderate incomes.
- **Mortgage Credit Certificates (MCC)** - Local issuers may use a bond allocation as mortgage credit certificates for qualified homebuyers.
- **Student loans** provide low interest loans to eligible students at institutions of higher education.
- **Manufacturing "small issue" industrial development bonds (not to exceed \$10,000,000)** - Bonds sold for construction of manufacturing facilities that cause a change in the condition of goods or products.
- **Qualified redevelopment bonds** - Bonds sold to acquire property in blighted areas; prepare land for redevelopment; and relocate occupants of structures on the acquired property.
- **Exempt facility bonds** - Hazardous waste facilities, solid waste disposal facilities, water and sewer facilities, mass commuting facilities, local district heating and cooling facilities, local electric energy or gas facilities, and multifamily housing bonds.
- **Qualified 501(c) (3) bonds** - For use by non-profit hospitals and private universities.

Staff is proposing to allocate the PABs to the Colorado Housing and Financing Authority (CHFA) who would apply the City's PAB allocation to the following eligible activities:

- Qualified residential rental projects
- Single-family mortgage revenue bonds (SFMRB)
- Mortgage Credit Certificates (MCC)

As part of the documentation, the City Attorney provides certification of the assignment of the PAB by separate document, which is provided as **ATTACHMENT 1**.

RECOMMENDATION

Approve Resolution CR-78, a resolution that would allocate the City's its Private Activity Bonds for 2015 to the Colorado Housing and Financing Authority (CHFA) in which they would allocate these funds for qualified housing programs.

STAFF REFERENCE

Brook Svoboda, Director of Planning & Development bsvoboda@northglenn.org 303.450.8937

ATTACHMENT 1 Certificate of the City of Northglenn, CO Concerning Assignment of Private Activity Bond Volume Cap Allocation

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-78
Series of 2015

Series of 2015

A RESOLUTION AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY THE CITY OF NORTHGLENN'S 2015 ALLOCATION FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PROVIDING HOUSING PROGRAMS, TO LOW- AND MODERATE-INCOME PERSONS AND FAMILIES IN 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 housing programs to low- and moderate-income persons and families;

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 housing programs and for certain other purposes (the "State Ceiling");

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, constituting Part 17 of Article 32 of Title 24, Colorado Revised Statutes, as amended (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;

WHEREAS, pursuant to an allocation under C.R.S. § 24-32-1706, the City has an allocation of the 2015 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2015 (the "2015 Allocation");

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 2015 Allocation;

WHEREAS, the City has determined that the 2015 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 housing programs to low- and moderate-income persons and families; and

WHEREAS, the City has determined to assign \$1,868,550 of its 2015 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").

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

Section 1. The assignment to the Authority of \$1,868,550 of its 2015 Allocation is hereby approved.

Section 2. The form and substance of the Assignment of Allocation are hereby 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 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 carry out and give effect to the assignment in accordance with the intent of this Resolution.

Section 4. Nothing contained in this Resolution, the Assignment, or the Delegation and Participation Agreement 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 of Colorado 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 5. 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 6. This Resolution shall be in full force and effect upon its passage and approval.

DATED at Northglenn, Colorado, this _____ day of _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

APPROVED AS TO FORM:

JOHANNA SMALL, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney

ASSIGNMENT OF ALLOCATION
(Multi-family Housing Facility Bonds/Single Family Mortgage Revenue Bonds)

This Assignment of Allocation (the "Assignment"), dated this _____ day of _____, 2015, is between the City of Northglenn, Colorado (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 financing qualified residential rental projects for low- and moderate-income persons and families; and

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 finance such projects 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 2015 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2015, (the "2015 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the City of Northglenn, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2015 Allocation; and

WHEREAS, the Assignor has determined that the 2015 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 financing one or more multi-family rental housing projects for low- and moderate-income persons and families or 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 2015 Allocation; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee \$1,868,550 of its 2015 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 \$1,868,550 of its 2015 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 \$1,868,550 of Assignor's 2015 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than \$1,868,550, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of two (2) years from the date of this Assignment to finance multi-family rental housing projects located in the City of Northglenn, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the City of Northglenn.

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 or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

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 any particular multi-family rental housing project located in the City of Northglenn, Colorado or elsewhere or to finance single-family 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 or mortgage credit certificates to finance single-family housing facilities in the City of Northglenn, provided that any Revenue Bond proceeds attributable to the Assignor's 2015 Allocation shall be subject to paragraph 2 above.

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, COLORADO

[S E A L]

By: _____
Joyce Downing
Mayor

ATTEST:

By: _____
Johanna Small, CMC
City Clerk

COLORADO HOUSING AND FINANCE
AUTHORITY

[S E A L]

By: _____
Title: _____

ATTEST:

By: _____
Assistant Secretary

CERTIFICATE OF THE CITY OF NORTHGLENN, COLORADO
CONCERNING ASSIGNMENT OF
PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION

I, the undersigned, hereby certify that I am a duly chosen, qualified and City Attorney of the City of Northglenn, Colorado (the "City"), and that:

1. The City is a public body politic and corporate, duly organized and existing under the constitution and laws of the State of Colorado.

2. The City has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), it has an allocation of the State ceiling (as defined in the Allocation Act) for 2015 in the amount of \$1,868,550 (the "2015 Allocation").

3. Attached hereto as Exhibit A is a true and correct copy of a resolution and the related minutes thereto (the "Resolution") authorizing the assignment to the Colorado Housing and Finance Authority (the "Authority") of all or a portion of the 2015 Allocation in an amount equal to \$1,868,550 (the "Assigned Allocation"), and authorizing the execution and delivery of an Assignment of Allocation dated as of June 8th, 2015 (the "Assignment of Allocation") between the City and the Authority in connection therewith, which Resolution was duly adopted by the City Council of the City (the "City Council") at a meeting thereof held on June 8th 2015, at which meeting a quorum was present and acting throughout and which Resolution has not been revoked, rescinded, repealed, amended or modified and is in full force and effect on the date hereof.

4. The meeting of the City Council at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.

5. With respect to the Assigned Allocation, the City has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another "issuing authority," as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carry forward purpose, as defined in the Allocation Act.

6. The Assignment of Allocation, attached hereto as Exhibit B, is in the form presented to and approved by the City Council at the meeting thereof held on June 8th, 2015.

7. On or before the date hereof, counterparts of the Assignment of Allocation were officially executed by the Mayor and the City Clerk of the City. On the date of such signing, such persons were the duly sworn, qualified and acting officers of the City authorized to execute the Assignment of Allocation and holding the offices of the Mayor and City Clerk, respectively.

8. The City has authorized the execution, delivery and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the City with the provisions thereof, will not, to the best of my knowledge, conflict with or constitute on the part of the City a breach of or a default under any existing Colorado law, City resolution, court or administrative regulation, decree or order or any agreement or other instrument to which the City is subject or by which it is bound.

9. To the best of my knowledge, there does not exist any action, suit, proceeding or investigation pending, or threatened against the City, contesting (a) the corporate existence of the City, (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the City Council, (c) the validity of the Assignment of Allocation or (d) the power of the City to execute, deliver or perform the Assignment of Allocation.

10. No referendum petition has been filed concerning the Resolution; and to the best of my knowledge none is being circulated or planned for circulation.

WITNESS my hand and the seal of the City this _____, 2015.

COREY Y. HOFFMANN
City Attorney

EXHIBIT A
RESOLUTION

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-78
Series of 2015

Series of 2015

A RESOLUTION AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY THE CITY OF NORTHGLENN'S 2015 ALLOCATION FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS TO ISSUE REVENUE BONDS FOR THE PURPOSE OF PROVIDING HOUSING PROGRAMS, TO LOW- AND MODERATE-INCOME PERSONS AND FAMILIES IN 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 housing programs to low- and moderate-income persons and families;

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 housing programs and for certain other purposes (the "State Ceiling");

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, constituting Part 17 of Article 32 of Title 24, Colorado Revised Statutes, as amended (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;

WHEREAS, pursuant to an allocation under C.R.S. § 24-32-1706, the City has an allocation of the 2015 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2015 (the "2015 Allocation");

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 2015 Allocation;

WHEREAS, the City has determined that the 2015 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 housing programs to low- and moderate-income persons and families; and

WHEREAS, the City has determined to assign \$1,868,550 of its 2015 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").

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

Section 1. The assignment to the Authority of \$1,868,550 of its 2015 Allocation is hereby approved.

Section 2. The form and substance of the Assignment of Allocation are hereby 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 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 carry out and give effect to the assignment in accordance with the intent of this Resolution.

Section 4. Nothing contained in this Resolution, the Assignment, or the Delegation and Participation Agreement 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 of Colorado 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 5. 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 6. This Resolution shall be in full force and effect upon its passage and approval.

DATED at Northglenn, Colorado, this _____ day of _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

APPROVED AS TO FORM:

JOHANNA SMALL, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney

EXHIBIT B

ASSIGNMENT OF ALLOCATION

ASSIGNMENT OF ALLOCATION
(Multi-family Housing Facility Bonds/Single Family Mortgage Revenue Bonds)

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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 financing qualified residential rental projects for low- and moderate-income persons and families; and

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 finance such projects 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 2015 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2015, (the "2015 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the City of Northglenn, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2015 Allocation; and

WHEREAS, the Assignor has determined that the 2015 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 financing one or more multi-family rental housing projects for low- and moderate-income persons and families or 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 2015 Allocation; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee \$1,868,550 of its 2015 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 \$1,868,550 of its 2015 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 \$1,868,550 of Assignor's 2015 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than \$1,868,550, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of two (2) years from the date of this Assignment to finance multi-family rental housing projects located in the City of Northglenn, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the City of Northglenn.

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 or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

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 any particular multi-family rental housing project located in the City of Northglenn, Colorado or elsewhere or to finance single-family 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 or mortgage credit certificates to finance single-family housing facilities in the City of Northglenn, provided that any Revenue Bond proceeds attributable to the Assignor's 2015 Allocation shall be subject to paragraph 2 above.

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, COLORADO

[S E A L]

By: _____
Joyce Downing
Mayor

ATTEST:

By: _____
Johanna Small, CMC
City Clerk

COLORADO HOUSING AND FINANCE
AUTHORITY

[S E A L]

By: _____
Title: _____

ATTEST:

By: _____
Assistant Secretary