

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2019

COUNCIL BILL NO. 18-1502
COMMITTEE OF REFERENCE:
SAFEHOUSE

5 A BILL

6 **For an ordinance (I) authorizing and approving the City’s sponsorship of the**
7 **Metro Mortgage Assistance Plus Program; (II) authorizing the execution of all**
8 **Program Documents; (III) authorizing the appointment of a Master Servicer,**
9 **Custodian, Administrator, Program Monitor and Program Advisor for the**
10 **Program; (IV) allocating funds for down payment assistance; and (V)**
11 **delegating the power to take all such actions as are necessary or appropriate**
12 **to accomplish the foregoing.**

13 WHEREAS, the City and County of Denver, Colorado (the “City”) is a legally and regularly
14 created, established, organized and existing home rule city, municipal corporation and political
15 subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the
16 “State”) and the Home Rule Charter of the City (the “Charter”); and

17 WHEREAS, the City is authorized to promote the financing of mortgage loans for low- and
18 moderate-income persons or families intended for use as the sole place of residence by the
19 owners or intended occupants and to promote the public health, welfare, safety, convenience
20 and prosperity of the people of the City; and

21 WHEREAS, the City desires to sponsor a program to provide competitive mortgage loans
22 which will be coupled with down payment and closing cost assistance (the “Assistance”) in
23 connection with financing mortgage loans for low–and moderate–income families intended for
24 use as the sole place of residence by the owners or intended occupants thereof; and

25 WHEREAS, George K. Baum & Company (“GKB”) has presented to the City a program
26 identified as the Metro Mortgage Assistance Plus Program (the “Program”) for which the City
27 would be the sponsor; and

28 WHEREAS, the City finds and determines that sponsoring the Program will assist in the
29 financing of mortgage loans for low–and moderate–income families or persons intended for use
30 as the sole place of residence by the owners or intended occupants thereof and promote the
31 health, safety and general welfare of the people of the City;

32 WHEREAS, there have been presented to the City Council of the City (the “Council”) the
33 following documents in substantially final form: (a) the proposed form of the Program

1 Administration Agreement to be entered into by and between the City and Housing and
2 Development Services, Inc. d/b/a eHousingPlus (“Administrator”), as administrator of the
3 Program (City Clerk’s Filing No. 20180597); (b) the proposed form of the Master Mortgage-
4 Backed Security Purchase Agreement (the “Purchase Agreement”) to be entered into by and
5 between the City and GKB (City Clerk’s Filing No. 20180597-001); (c) the proposed form of the
6 Custody Agreement to be entered into by and between the City and U.S. Bank National
7 Association, as custodian thereunder (City Clerk’s Filing No. 20180597-002); (d) the proposed
8 form of the Lender Agreements to be entered into by and between the City and each lender
9 under the Program (City Clerk’s Filing No. 20180597-003); (e) the proposed form of the
10 Servicing Agreement to be entered into by and between the City and U.S. Bank National
11 Association, as servicer thereunder (City Clerk’s Filing No. 20180597-004); (f) the proposed form
12 of the Legally Enforceable Obligation Letter for HUD by the City (City Clerk’s Filing No.
13 20180597-005); and (g) the proposed form of the Program Monitoring Agreement, to be entered
14 into by and between the City and CSG Advisors, as program monitor (City Clerk’s Filing No.
15 20180597-006); which are available in the office and on the web page of the Council, and to be
16 filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver
17 (the “City Clerk”) under the City Clerk’s Filing Numbers set forth above (collectively, the Program
18 Documents).

19 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY AND**
20 **COUNTY OF DENVER, COLORADO:**

21 **Section 1.** In order to benefit the residents of the City, the Council authorizes and
22 approves its sponsorship of the Program in connection with the financing of mortgage loans for
23 low–and moderate–income families or persons intended for use as the sole place of residence
24 by the owners or intended occupants thereof.

25 **Section 2.** The City shall allocate monies to directly fund all or a portion of the
26 Assistance, cause all or a portion of the Assistance to be funded or reimburse entities funding all
27 or a portion of the Assistance on behalf of the City, if necessary.

28 **Section 3.** The Program shall not constitute nor give rise to a pecuniary liability of the
29 City or be a charge against the general credit or taxing powers of the City, the State or any
30 county, municipality or political subdivision of the State. The Program shall not constitute a
31 “multiple fiscal year direct or indirect debt or other financial obligation” of the City under Article X,
32 Section 20 of the Colorado Constitution, nor shall the Program ever be deemed to be an

1 obligation or agreement of any officer, director, agent or employee of the City in such person's
2 individual capacity, and none of such persons shall be subject to any personal liability by reason
3 of the Program.

4 **Section 4.** The form, terms and provisions of the Program Documents are hereby
5 approved; with such changes and modifications as the appropriate officers of the City deem
6 necessary and advisable; and the City shall execute and deliver the Program Documents, in
7 substantially the form heretofore filed with the Council and to be filed with the City Clerk; and the
8 Chief Financial Officer or Executive Director of the City's Office of Economic Development is
9 hereby authorized and directed to execute and deliver the Program Documents.

10 **Section 5.** U.S. Bank National Association is hereby appointed to serve as the
11 Program's Master Servicer and Custodian. Housing and Development Services, Inc. d/b/a
12 eHousingPlus is hereby appointed to serve as Administrator. GKB is hereby appointed to serve
13 as Program Advisor. CSG Advisors is hereby appointed to serve as Program Monitor.

14 **Section 6.** The City is hereby authorized to pay all costs associated with the Program.

15 **Section 7.** All actions consistent with the provisions of this Ordinance heretofore taken
16 by the Council and the officers of the City directed toward the Program are hereby, ratified,
17 approved and confirmed.

18 **Section 8.** The officers of the City shall take all action in conformity with the Charter
19 necessary or reasonably required to sponsor the Program and shall take all action necessary or
20 desirable in conformity with the Charter for carrying out, giving effect to and consummating the
21 transactions contemplated by this Ordinance, including, but not limited to effecting the
22 transactions with the member jurisdictions of the Metro Mayors Caucus contemplated under the
23 Program and the Program Documents, further, including, but not limited to the execution of any
24 intergovernmental agreements with such member jurisdictions and the execution of any other
25 documents related to the Program.

26 **Section 9.** The Council hereby delegates to the Chief Financial Officer, or in the
27 absence of the Chief Financial Officer, the Executive Director of the Office of Economic
28 Development, the power to execute any and all documents relating to the Program and the
29 power to execute any and all amendments to the Program Documents, including extensions and
30 modifications to the terms of the Program, and take any actions necessary to administer and
31 manage the Program consistent with the transactions contemplated by this Ordinance.

1 **Section 10.** After the Program is implemented, this Ordinance shall be and remain
2 irrevocable.

3 **Section 11.** If any section, paragraph, clause or provision of this Ordinance shall for any
4 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section,
5 paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

6 **Section 12.** All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent
7 herewith are hereby repealed to the extent only of such inconsistency, and if so repealed, no
8 other bylaw, order, resolution, ordinance, or part thereof, shall be revived. This repealer shall not
9 be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

10 COMMITTEE APPROVAL DATE: December 19, 2018

11 MAYOR-COUNCIL DATE: December 25, 2018 by Consent

12 PASSED BY THE COUNCIL: _____ January 14, 2019

13 _____ - PRESIDENT

14 APPROVED: _____ - MAYOR _____

15 ATTEST: _____ - CLERK AND RECORDER,
16 EX-OFFICIO CLERK OF THE
17 CITY AND COUNTY OF DENVER

18 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

19 PREPARED BY: KUTAK ROCK LLP DATE: January 3, 2019

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21 REVIEWED BY: Jo Ann Weinstein, Assistant City Attorney DATE: January 3, 2019

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23 Pursuant to section 13-12, D.R.M.C., this proposed Ordinance has been reviewed by the Office
24 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
25 proposed Ordinance. The proposed Ordinance is not submitted to the City Council for approval
26 pursuant to § 3.2.6 of the Charter.

27 CITY ATTORNEY FOR THE CITY AND COUNTY OF DENVER

28 BY: Kirsten J Crawford, Assistant City Attorney DATE: Jan 3, 2019