

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team

at MileHighOrdinance@DenverGov.org by **3:00pm on Monday**. Contact the Mayor's Legislative team with questions

Date of Request: November 21, 2022

Please mark one: ☒ Bill Request or ☐ Resolution Request

1. Type of Request:

☐ Contract/Grant Agreement ☐ Intergovernmental Agreement (IGA) ☐ Rezoning/Text Amendment

☐ Dedication/Vacation ☐ Appropriation/Supplemental ☐ DRMC Change

☒ Other: Authorize and approve the City's utilization of private activity volume cap for the Montbello FreshLo Hub Project.

2. Title: For an ordinance authorizing the issuance and sale of an amount not to exceed \$25,670,000 of the City and County of Denver, Colorado Multifamily Housing Revenue Note (Montbello FreshLo Hub) Series 2023A and not to exceed \$7,330,000 of the City and County of Denver, Colorado Multifamily Housing Taxable Revenue Note (Montbello FreshLo Hub) Series 2023B for the purpose of financing the acquisition, construction, and equipping of an affordable multifamily rental housing facility located in the City and County of Denver, Colorado and to pay certain expenses of such Notes (as defined below) issue; approving and authorizing execution of a Funding Loan Agreement, a Borrower Loan Agreement, and a Tax Regulatory Agreement with respect to the Notes; making findings and determinations with respect to the Project (as defined below) and the Notes; authorizing the execution and delivery of related documents; and repealing all action heretofore taken in conflict herewith.

3. Requesting Agency: Department of Finance, Capital Planning and Programming

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Michael Kerrigan – Finance	Name: Kiki Turner – Finance
Email: michael.kerrigan@denvergov.org	Email: kiki.turner@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

The proposed ordinance approves the City's issuance of its Multifamily Housing Revenue Note (Montbello FreshLo Hub) Series 2023A in the amount of \$25.67 million (the "Series 2023A Note") and Multifamily Housing Revenue Taxable Note (Montbello FreshLo Hub) Series 2023B in the amount of \$7.33 million (the "Series 2023B Note", and together with the Series 2023A, the "Notes"). The ordinance also approves the City's utilization of the Private Activity Bond Volume Cap Allocation for the purpose of financing multifamily housing by the Montbello Organizing Committee and its affiliates located at 12444 E. Albrook Dr. in Denver, Colorado. The Notes will be a part of the financing package for the Montbello Organizing Committee, or its affiliates, to construct a new 6-story, 97-unit affordable multifamily apartment complex. The Project is expected to include 7 units limited to 30% of Area Median Income ("AMI"), 17 units limited to 50% AMI, 55 units limited to 60% AMI, and 18 units limited to 70% AMI (the "Project"). The State of Colorado's Department of Local Affairs has awarded sufficient Private Activity Bond Volume Cap Allocation to the City for this Project. The ordinance authorizes the use of \$25,670,000 of Private Activity Bond Volume Cap Allocation and is consistent with the City Charter, Colorado statutes and the Internal Revenue Code. Additionally, this ordinance authorizes the City to be a party to the Funding Loan Agreement, the Borrower Loan Agreement, and the Tax Regulatory Agreement.

6. City Attorney assigned to this request (if applicable):

Brad Neiman

7. City Council District:

Council District #8, Christopher Herndon

To be completed by Mayor's Legislative Team:

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8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet**: N/A**

EXECUTIVE SUMMARY

Project and Developer. The proposed ordinance enables the City and County of Denver to utilize its Private Activity Bond Volume Cap Allocation in an amount not to exceed \$25,670,000. The City will issue up to \$25.67 million of its Multifamily Housing Revenue Note (Montbello FreshLo Hub) Series 2023A and up to \$7.33 million of its Multifamily Housing Taxable Revenue Note (Montbello FreshLo Hub) Series 2023B for the proposed project located at 12444 E. Albrook Dr. in Council District 8

The Montbello Organizing Committee (“MOC”) or its affiliates is partnering with FLO Development Services, LLC to build the Project. The Notes will be a part of the financing package to acquire, construct, equip, fund reserves, and pay issuance costs for a new 97-unit affordable multifamily apartment project. The City’s issuance of these Notes will allow the Project to use approximately \$19.7 million of Federal low-income housing tax credits. The Project is expected to include a community service facility providing office space for WellPower (fka Mental Health Center of Denver), several small retail spaces, and community meeting rooms. The project is expected to include 7 units limited to 30% of AMI, 17 units limited to 50% AMI, 55 units limited to 60% AMI, and 18 units limited to 70% AMI. The construction of the project is expected to start in first quarter of 2023 and be ready for occupancy in the 2nd half of 2024.

Multifamily Housing Revenue Notes. The Series 2023A Note issue needs to meet the Federal government’s rules for a tax-exempt private activity financing and be issued by a local or state government or agency for a project to be owned and operated by a private party. The Series 2023A Note is expected to be issued as a tax-exempt obligation, while the Series 2023B Note is expected to be issued as a taxable obligation. The interest paid on the Series 2023A Note is expected to be exempt from Federal and Colorado state taxation. The issuance of the Series 2023A Note requires a portion of the Private Activity Bond Volume Cap Allocation that the Federal government allots annually to each state. The State of Colorado, in turn, allocates a portion of such Private Activity Bond Volume Cap Allocation amount to each local government issuer based upon population. The State of Colorado’s Department of Local Affairs has allocated Private Activity Bond Volume Cap Allocation to the City. This ordinance authorizes an allocation of up to \$25,670,000 of the City’s total and currently available Private Activity Bond Volume Cap Allocation of \$85,211,667 to be applied to the Series 2023A Note and the proposed multifamily project, and is consistent with the City’s Home Rule Charter, Colorado statutes, and the Internal Revenue Code.

The Notes are special limited obligations of the City, do not constitute a general debt or indebtedness of the City, and do not give rise to a charge against the general credit or taxing power of the City. The only sources of repayment of the Notes are the payments by the developer that are derived from the Project, and other funds and money pledged from the Project. The Notes are not a debt or multiple fiscal year obligation of the City. The owner of the Project is solely responsible for all principal and interest payment on the Notes, as well as compliance with Federal regulations for tax-exempt private activity obligations and the Low-Income Housing Tax Credit regulations.

The Notes are being purchased by US Bank pursuant to the Funding Loan Agreement, and concurrently, the City is making loan advances to FreshLo LIHTC, LLLP, pursuant to the Borrower Loan Agreement. Both the Funding Loan Agreement and the Borrower Loan Agreement are authorized pursuant to this ordinance. The maximum amount of the Funding Loan to the City and the City’s Borrower Loan to FreshLo is \$33,00,000. FreshLo LIHTC, LLLP, will use the Borrower Loan funds on a draw down basis for reimbursement of acquisition, construction, and equipping of the Project. FreshLo LIHTC, LLLP’s repayment obligations will be evidenced by a Borrower Note and secured by a Deed of Trust. FreshLo LIHTC, LLLP’s payments on the Borrower Note will repay the Borrower Loan which will in turn repay the Funding Loan.

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