ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team
at MileHighOrdinance@DenverGov.org by **3:00pm on Monday.**

All fields must be completed.
Incomplete request forms will be returned to sender which may cause a delay in processing.

Date of Request: **October 19, 2015**

Please mark one: ☐ **Bill Request** **or** ☒ **Resolution Request**

1. **Has your agency submitted this request in the last 12 months?**
   ☐ **Yes** ☒ **No**

   If yes, please explain:

2. **Title:** *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)*

   Amends an existing, fully executed loan agreement (OEDEV-201313697) in place with Chestnut & 18th, LP, dated November 18, 2013, changing the collateral of the loan and loan terms to accommodate new project financing.

3. **Requesting Agency:** Office of Economic Development

4. **Contact Person:** (W*ith actual knowledge of proposed ordinance/resolution.)*
   - **Name:** Susan Liehe
   - **Phone:** (720) 913-1689 office (720) 480-3481 mobile
   - **Email:** susan.liehe@denvergov.org

5. **Contact Person:** (W*ith actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*
   Name: Doug Selbee
   Phone: (720) 913-1794 office
   Email: douglas.selbee@denvergov.org

   General description of proposed ordinance including contract scope of work if applicable:

   This resolution amends loan documents for a $2,341,383 loan made from the General Fund to the 18th & Chestnut mixed-income housing project, which will offer 34 units affordable at 60% AMI, 34 units affordable at 50% AMI, and 7 units affordable at 30% AMI. The project financing has changed since the original loan was made in 2013, necessitating changes to the terms of the loan. The project also received a $950,000 loan from the IHO Fund, to which we are also requesting to amend in a separate resolution.

   *****Please complete the following fields:** (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

   a. **Contract Control Number:** OEDEV-201313697
   b. **Duration:** Currently 50 years, amending to 42 years
   c. **Location:** City and County of Denver
   d. **Affected Council District:** 9
   e. **Benefits:** affordable housing
   f. **Costs:** $2,341,383 from General Fund (already disbursed)

7. **Is there any controversy surrounding this ordinance?** *(Groups or individuals who may have concerns about it?)* **Please explain** No.

EXECUTIVE SUMMARY

18th and Chestnut is a planned mixed-income housing development located just steps from Union Station. This project will offer a total of 75 affordable units (34 units affordable at 60% AMI, 34 affordable at 50% AMI, and 7 affordable at 30% AMI) and we believe is one of the last opportunities to secure affordability at this key TOD site.

The City initially funded the project in 2013 with two loans - $2,500,000 from the General Fund and $950,000 from the IHO Fund. The project was also awarded 2013 low-income housing tax credits by CHFA, which were the major part of the equity component of the project's financing.[1] The original project financing plan also included an EB-5 equity investment, which fell through, leaving a gap in the project's financing. In the meantime, the project had already used its funds from the City to acquire the land, but construction has not proceeded.

Now our partner agency, Denver Housing Authority (DHA), has stepped up to co-invest in the deal and close the financing gap. The project will sell the land to DHA and reserve back a 70-year ground lease in exchange for $2.75M of project financing. Some of the $2.75M will be paid outright as the purchase price for the land, and some will be in the form of a loan from DHA to the project. In lieu of a ground lease payment, the project will make an annual loan repayment to DHA. The State Department of Housing has also made a loan to the project, and Enterprise is the tax credit partner (see footnote).

This new project structure requires some changes to the City's loan documents, which are as follows:

- Because the developer no longer owns the land, we can no longer secure our loan with a direct Deed of Trust on the land (known as a fee simple interest in the land). Instead, we can place a Deed of Trust on all of the developer's rights under its ground lease with DHA.
- The developer has asked for changes to the $2.5M loan that have no material impact for the City but help the project avoid negative tax consequences: shortening the term from 50 years to 42 years, and making the loan payable at maturity rather than being a performance loan (which would be forgiven at maturity, as long as the project remained affordable).
- If DHA were to buy the project at the end of the tax period partnership, they would have the option to purchase this loan for $1,000 – conditional on continuing its affordable status.
- Our debt is subordinated to all other debt on the project.
- The developer has also asked for some more technical amendments to our boilerplate, including a definition of Net Cash Flow, the addition of a notice & cure period, an amendment to the Hazardous Materials clause, a clarification of the Guaranty on the smaller loan, and a minor update of the project description.

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[1] *A note on low-income housing tax credits*: Low-income housing tax credits (LIHTC) are a tax credit that directly reduces the holder's tax liability by a certain percentage of the project budget. Normally, a developer does not have enough tax liability to make full use of the tax credits, so they sell the credits to a partner and use the cash as equity to finance the project. Because of IRS rules, the partner who buys the credits must be part owner of the project for 15 years. At the end of 15 years, the tax credits have been fully paid out and the tax credit partnership ends. The amendments above will refer to "the end of the tax credit partnership" as a significant event for the project.