

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2019

COUNCIL BILL NO. 19-0771  
COMMITTEE OF REFERENCE:  
Finance & Governance

5 **A BILL**

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

12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

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 and  
20 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 use  
24 as the sole place of residence by the owners or intended occupants thereof; and

25 **WHEREAS**, George K. Baum & Company (“GKB”) was selected through a competitive  
26 process and has presented to the City an updated program identified as the metroDPA Program  
27 (the “Program”) for which the City continues to 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 as  
30 the sole place of residence by the owners or intended occupants thereof and promote the health,  
31 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 Seller and Servicing  
34 Agreement, between the City and Lakeview Loan Servicing, LLC (the “Servicer”), and  
35 acknowledged by George K. Baum & Company (the “Administrator”) (City Clerk’s Filing No.

1 20190065); (b) the proposed form of the Seller and Servicing Agreement (Wholesale) (the “Seller  
2 and Servicing Agreement Wholesale”), between the City and each servicer (City Clerk’s Filing No.  
3 20190066); (c) the proposed form of the Program Lender Agreements to be entered into by and  
4 between the City and each lender under the Program (City Clerk’s Filing No. 20190062); (d) the  
5 proposed form of the Professional Services Agreement to be entered into by and between the City  
6 and the Administrator (City Clerk’s Filing No. 20190061); (e) the proposed form of the Escrow  
7 Agreement to be entered into by and between the City and a to-be-determined escrow agent (the  
8 “Escrow Agent”) (City Clerk’s Filing No. 20190064); (f) the proposed form of the Program  
9 Monitoring Agreement, to be entered into by and between the City and a to-be-determined  
10 program monitor (the “Program Monitor”), (City Clerk’s Filing No. 20190063); and (g) the proposed  
11 form of the Master Absolute Assignment Agreement, to be entered into by and between the City  
12 and GKB Mortgage Assets, LLC (City Clerk’s Filing No. 20190067) which are available in the office  
13 and on the web page of the Council, and to be filed in the office of the Clerk and Recorder, Ex-  
14 Officio Clerk of the City and County of Denver (the “City Clerk”) under the City Clerk’s Filing  
15 Numbers set forth above (collectively, the Program Documents);

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

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

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

25 **Section 3.** The Program shall not constitute nor give rise to a pecuniary liability of the City  
26 or be a charge against the general credit or taxing powers of the City, the State or any county,  
27 municipality or political subdivision of the State. The Program shall not constitute a “multiple fiscal  
28 year direct or indirect debt or other financial obligation” of the City under Article X, Section 20 of  
29 the Colorado Constitution, nor shall the Program ever be deemed to be an obligation or agreement  
30 of any officer, director, agent or employee of the City in such person’s individual capacity, and  
31 none of such persons shall be subject to any personal liability by reason of the Program.

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

7           **Section 5.** Lakeview Loan Servicing, LLC is hereby appointed to serve as Servicer. GKB is  
8 hereby appointed to serve as Administrator.

9           **Section 6.** The Chief Financial Officer of the City is hereby delegated to retain a Program  
10 Monitor, Escrow Agent and any servicer under a Seller and Servicing Agreement Wholesale.

11           **Section 7.** The City is hereby authorized to pay all costs associated with the Program.

12           **Section 8.** All actions consistent with the provisions of this Ordinance heretofore taken by  
13 the Council and the officers of the City directed toward the Program are hereby ratified, approved  
14 and confirmed.

15           **Section 9.** The officers of the City shall take all action in conformity with the Charter  
16 necessary or reasonably required to sponsor the Program and shall take all action necessary or  
17 desirable in conformity with the Charter for carrying out, giving effect to and consummating the  
18 transactions contemplated by this Ordinance, including, but not limited to effecting the transactions  
19 with the member jurisdictions of the Metro Mayors Caucus and any other jurisdiction contemplated  
20 under the Program and the Program Documents, further, including, but not limited to the execution  
21 of any intergovernmental agreements with such jurisdictions and the execution of any other  
22 documents related to the Program.

23           **Section 10.** The Council hereby authorizes all ancillary agreements and amendments to  
24 the Program Documents that are necessary for the Program. The Council hereby delegates to the  
25 Chief Financial Officer, or in the absence of the Chief Financial Officer, the Executive Director of  
26 the Office of Economic Development, the power to execute any and all documents relating to the  
27 Program and the power to execute any and all amendments to the Program Documents, including  
28 extensions and modifications to the terms of the Program, adding additional servicers and taking  
29 any actions necessary to administer and manage the Program consistent with the transactions  
30 contemplated by this Ordinance.

31           **Section 11.** After the Program is implemented, this Ordinance shall be and remain  
32 irrevocable.

1       **Section 12.** If any section, paragraph, clause or provision of this Ordinance shall for any  
2 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section,  
3 paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

4       **Section 13.** All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent  
5 herewith are hereby repealed to the extent only of such inconsistency, and if so repealed, no other  
6 bylaw, order, resolution, ordinance, or part thereof, shall be revived. This repealer shall not be  
7 construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

8

9       COMMITTEE APPROVAL DATE: August 6, 2019 by Consent

10       MAYOR-COUNCIL DATE: August 13, 2019

11       PASSED BY THE COUNCIL: \_\_\_\_\_

12       \_\_\_\_\_ - PRESIDENT

13       APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_

14       ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
15   EX-OFFICIO CLERK OF THE  
16   CITY AND COUNTY OF DENVER

17       NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_;

18       PREPARED BY: KUTAK ROCK LLP   DATE: August 15, 2019

19       REVIEWED BY: Jo Ann Weinstein, Assistant City Attorney

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

24       Kristin M. Bronson, Denver City Attorney

25       BY: \_\_\_\_\_, Assistant City Attorney     DATE: \_\_\_\_\_