



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 19, 2019

AGENDA TITLE

Consideration of a motion to authorize the city manager to execute a Delegation and Participation Agreement and adopt Resolution 1253 allowing low- and moderate-income households in Boulder to participate in the revised Denver Metro Mortgage Assistance Plus Program that provides competitive mortgage loans coupled with down payment and closing cost assistance in connection with financing mortgage loans.

PRESENTERS

Jane S. Brautigam, City Manager
Kurt Firnhaber, Director of Housing and Human Services (HHS)
Jay Sugnet, Senior Planner (HHS)

EXECUTIVE SUMMARY

The City of Denver launched the Metro Mortgage Assistance Plus Program in 2013, which provides down payment assistance to homebuyers throughout the region. Denver recently updated the program with improvements which requires the City of Boulder to sign a Delegation and Participation Agreement to continue the city's participation. Twenty-eight of our metro cities participated in the last program that helped 1,450 households (two from the City of Boulder) by providing \$320 million in affordable fixed rate mortgages and \$12.8 million in down-payment assistance.

There is no cost to the City of Boulder to offer the program to residents, however, loans will not be made in Boulder to eligible buyers unless there is an executed Delegation and Participation Agreement (**Attachment A**). The adoption of Resolution 1253 (**Attachment B**) authorizes the City Manager to sign the Delegation and Participation Agreement.

PROGRAM BASICS

Some highlights for the refreshed program are listed below:

- Since inception, Denver has provided a grant of up to four percent for down payment assistance. Due to secondary mortgage market pricing, the loans coupled with a grant no longer generate sufficient value to provide the down payment assistance at a competitive rate for the borrowers;
- Denver is moving to provide the down payment assistance via a no interest second loan that is forgivable after 36 months. Assistance levels will increase to five percent;
- Denver does not use any bond capacity to fund the assistance for the program. The down payment assistance is provided by the value generated by the loans in the secondary mortgage market; and
- In exchange for obtaining the down payment assistance the borrowers accept a slightly higher interest rate than they would in the absence of assistance.

The new program has similar requirements as the previous program, including:

- Provides a grant for down payment and closing cost assistance of up to three, four, or five percent of the loan;
- Requires a 30-year fixed rate mortgage;
- Purchaser's income cannot exceed \$125,860;
- Owner must occupy the home as their primary residence;
- No limit on the property price beyond what a purchaser can qualify for;
- Minimum FICO score of 640 and a maximum debt-to-income ratio of 45;
- Complete a HUD-approved homebuyer education; and
- May need 0.5 percent down payment (one-half of one percent of the total mortgage).

If you have any questions about the refreshed Metro Mortgage Assistance Program, please contact Michael Kerrigan, Financial Analyst Specialist, Department of Finance, with the City and County of Denver, Colorado at (720) 913-5550 or michael.kerrigan@denvergov.org.

NEXT STEPS

Once the Delegation and Participation Agreement is signed, low- and moderate-income households in Boulder will be eligible to participate in a revised Denver Metro Mortgage Assistance Plus Program.

ATTACHMENTS

- A. Delegation and Participation Agreement
- B. Resolution 1253

DELEGATION AND PARTICIPATION AGREEMENT

This DELEGATION AND PARTICIPATION AGREEMENT, dated as of _____, 20__ (this “Delegation and Participation Agreement”), is by and between the CITY OF BOULDER, a Colorado home rule city, (“Boulder”) and the CITY AND COUNTY OF DENVER, COLORADO, a legally and regularly created, established, organized and existing home rule charter city and political subdivision under the Constitution and statutes of the State of Colorado (“Denver”);

RECITALS

WHEREAS, the State of Colorado (the “State”) Constitution Article XIV, Section 18(2)(a) provides that nothing in the Constitution shall prohibit any of the State’s political subdivisions from cooperating with one another to provide any service lawfully authorized to each of the cooperating units; and

WHEREAS, Denver is authorized pursuant to its Home Rule Charter to promote the financing of mortgage loans for low- and moderate-income persons or families intended for use as the sole place of residence by the owners or intended occupants and to promote the public health, welfare, safety, convenience and prosperity of the people of Denver; and

WHEREAS, Denver sponsors the Metro Mortgage Assistance Plus Program to provide competitive mortgage loans which will be coupled with down payment and closing cost assistance in connection with financing mortgage loans for low- and moderate-income persons or families intended for use as the sole place of residence by the owners or intended occupants thereof (the “Program”); and

WHEREAS, Denver has invited Boulder to participate in the Program; and

WHEREAS, Boulder has the full legal authority to participate in the Program pursuant to the general powers granted to it in Title 29, Article 1, Section 203 of the Colorado Revised Statutes, as amended; Title 31, Article 15, Section 101 *et. seq.*, Colorado Revised Statutes, as amended; and the Resolution adopted by the Boulder City Council authorizing Boulder’s participation in the Program and this Delegation and Participation Agreement (collectively the “Act”); and

WHEREAS, Boulder desires to delegate to Denver the authority of Boulder to take action and exercise power under the Act on behalf of Boulder with respect to the Program within Boulder’s unincorporated boundaries;

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, Boulder and Denver hereby agree as follows:

Section 1. Boulder hereby delegates to Denver the authority of Boulder to take action and exercise power under the Act on behalf of Boulder with respect to the Program within Boulder’s boundaries.

Section 2. Denver hereby accepts the delegation of authority from Boulder pursuant to Section 1 hereof and agrees to abide by each of the terms and conditions of this Delegation and Participation Agreement in connection with the use of such delegation. Denver agrees to make the Program available to Boulder for the origination of home mortgages within Boulder's unincorporated boundaries.

Section 3. In the event that the Program is discontinued by Denver, this Delegation and Participation Agreement, and all duties, obligations and rights of Denver and Boulder hereunder, shall terminate. If the Program is terminated, Boulder agrees to hold Denver harmless for any costs or any other liabilities incurred by Boulder with respect to the adoption and approval of this Delegation and Participation Agreement or any other Boulder actions related thereto.

Section 4. Boulder's participation in the Program pursuant to this Delegation and Participation Agreement shall not be construed as creating or constituting a general obligation or multiple fiscal year direct or indirect indebtedness or other financial obligation whatsoever of Boulder nor a mandatory payment obligation of Boulder in any fiscal year during which this Delegation and Participation Agreement shall be in effect.

[Signatures on the following pages]

IN WITNESS WHEREOF, Boulder and Denver have caused this Delegation and Participation Agreement to be executed and be effective as of _____, 20__.

CITY OF BOULDER,
a Colorado home rule city

By: _____
Jane S. Brautigam,
City Manager

Attest:

City Clerk,
Lynnette Beck

Approved as to Form:

By: _____
City Attorney's Office

Date: _____

CITY AND COUNTY OF DENVER,
COLORADO

By _____
Chief Financial Officer

[Signature Page to Delegation and Participation Agreement]

RESOLUTION 1253

AUTHORIZING AND APPROVING THE CITY OF BOULDER'S PARTICIPATION IN THE METRO MORTGAGE ASSISTANCE PLUS PROGRAM AND AUTHORIZING THE EXECUTION OF THE DELEGATION AND PARTICIPATION AGREEMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the State of Colorado (the "State") Constitution Article XIV, Section 18(2)(a) provides that nothing in the Constitution shall prohibit any of the State's political subdivisions from cooperating with one another to provide any service lawfully authorized to each of the cooperating units; and

WHEREAS, the City and County of Denver, Colorado ("Denver") is authorized pursuant to its Home Rule Charter to promote the financing of mortgage loans for low- and moderate-income persons or families intended for use as the sole place of residence by the owners or intended occupants thereof; and

WHEREAS, Denver sponsors the Metro Mortgage Assistance Plus Program to provide competitive mortgage loans which will be coupled with down payment and closing cost assistance in connection with financing mortgage loans for low- and moderate-income persons or families intended for use as the sole place of residence by the owners or intended occupants thereof (the "Program"); and

WHEREAS, Denver has invited the City of Boulder (the "City") to participate in the Program; and

WHEREAS, the City has the full legal authority to participate in the Program pursuant to Section 11 of the Charter of the City of Boulder and the general powers granted to it in Title 29, Article 1, Section 203 of the Colorado Revised Statutes, as amended; and Title 31, Article 15, Section 101 *et. seq.*, Colorado Revised Statutes, as amended (collectively, the "Act"); and

WHEREAS, the City desires to delegate to Denver the authority of the City to take action and exercise power under the Act on behalf of the City with respect to the Program within the City's boundaries;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that:

Section 1. In order to benefit the residents of the City, the City Council authorizes and approves its participation in the Program in connection with the financing of mortgage loans for low- and moderate-income families or persons intended for use as the sole place of residence by the owners or intended occupants thereof, and the City delegates to Denver the authority of the City to take action and exercise power under the Act on behalf of the City with respect to the Program.

Section 2. The city manager 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 Delegation

and Participation Agreement attached hereto as Appendix A and such other agreements and certificates and to take such other actions as may be necessary or convenient to carry out and give effect to the City's participation in the Program.

Section 3. Nothing contained in this Resolution or the Assignment 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 4. 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 5. This Resolution shall be in full force and effect upon its passage and approval.

INTRODUCED, READ, PASSED AND ADOPTED this ____ day of February, 2019.

Suzanne Jones,
Mayor

ATTEST:

Lynnette Beck,
City Clerk