

Private Activity Bond Staff Report

Date: February 25, 2025
To: Douglas County Board of County Commissioners
Through: Douglas J. DeBord, County Manager
From: Jennifer L. Eby, AICP, Director of Community Services
CC: Melody D’Haillecourt, Community Programs Coordinator
Rand M. Clark, CCAP, NCRT, Assistant Director Community Services
Subject: **2025 PRIVATE ACTIVITY BOND CAP ALLOCATION ASSIGNMENT**

Board of County Commissioners Business Meeting

March 11, 2025 @ 1:30 p.m.

I. EXECUTIVE SUMMARY

Douglas County received \$15,344,854 in 2025 Private Activity Bond (PAB) Cap allocation. The County, the Town of Parker and the Town of Castle Rock have collaborated since 2013 to assign their PAB Cap allocations to the Douglas County Housing Partnership (DCHP). The PAB program is used to increase development of low- and moderate-income multi-family housing throughout the County.

II. REQUEST

Adoption of a Resolution approving the assignment of Douglas County’s 2025 PAB Cap allocation of \$15,344,854 to the Douglas County Housing Partnership for attainable multi-family housing projects.

III. BACKGROUND

PABs are tax-exempt bonds that can be issued to encourage private investment in housing, higher education, jobs, solid and hazardous waste treatment, and water and sewer facilities. Allocations of tax-exempt bonding authority are granted to the states annually, and, in Colorado, are administered by DOLA. At the beginning of each year, pursuant to State law, fifty percent of the State’s PAB Cap is given to statewide authorities and the other fifty percent is distributed to local issuing authorities based on population.

DCHP was formed as a cooperative effort between the City of Lone Tree, the Town of Castle Rock, the Town of Parker, and Douglas County (the Members). As of 2020, the City of Castle Pines joined the partnership as a member, to jointly address the lack of affordable and attainable housing for low- and moderate-income residents who work in the area.

DCHP has the power to act as an issuing authority of PABs allocation under the Private Activity Bond Ceiling Allocation Act, sections 24-32-1701, et seq., C.R.S. On December 10, 2013, the Members amended their Intergovernmental Agreement to provide DCHP the ability to act as an issuing authority of PAB Cap allocation under Federal law. This Resolution reiterates DCHPs authority to

take all necessary actions regarding the management and preservation of any PAB Cap allocations assigned to it.

IV. DISCUSSION

Douglas County received the 2025 PAB Cap allocation from the Department of Local Affairs (DOLA) on January 15, 2025. State law requires that the County take action regarding the use of the PAB Cap allocation prior to September 15th of the allocation year.

The PAB Cap allocation is a limited resource, critical in the financing of attainable housing for low- and moderate-income (LMI) residents. Douglas County, Parker and Castle Rock have assigned their PAB Cap allocations to the DCHP since 2013, enabling DCHP to manage the PAB process and work directly with developers interested in building attainable housing. The 2025 combined PAB Cap allocation available through Douglas County, Castle Rock, and Parker equals \$24,773,264.

Previously, DCHP received allocations of PAB Cap from the Town of Parker, Town of Castle Rock, Douglas County and the statewide balance. The Cap is typically accumulated for 2-3 years to acquire enough bond cap for an affordable housing development. DCHP has met all previous PAB commitments and continues to respond to inquiries for PABs from affordable housing developers on a regular basis.

V. RECOMMENDED ACTION

It is staff’s recommendation that the Board of County Commissioners approve the Resolution assigning Douglas County’s 2025 PAB Cap allocation to DCHP for multi-family projects.

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Resolution No. R-025-_____

A RESOLUTION ASSIGNING AND TRANSFERRING TO THE DOUGLAS COUNTY HOUSING PARTNERSHIP, A MULTIJURISDICTIONAL HOUSING AUTHORITY, ALL OF DOUGLAS COUNTY, COLORADO'S 2025 ALLOCATION (AS DEFINED BELOW) FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT OF ALLOCATION AND OTHER DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the Colorado County and Municipality Development Revenue Bond Act, constituting Title 29, Article 3 of Colorado Revised Statutes, as amended (the "Revenue Bond Act") and the Supplemental Public Securities Act, Title 11, Article 57, Part 2, Colorado Revised Statutes (C.R.S.), as amended (the "Supplemental Public Securities Act"), authorize Douglas County, Colorado (the "County"), to finance one or more housing projects to the end that residential facilities for low- and middle-income persons or families may be provided which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, the County has received its private activity bond cap allocation in the amount of \$15,344,854 (the "2025 Allocation") for the State of Colorado and its issuing authorities computed under Section 146(d) of the Internal Revenue Code of 1986, as amended (the "Code"), and under the Colorado Private Activity Bond Ceiling Allocation Act, Title 24, Article 32, Part 17, C.R.S., as amended (the "Allocation Act"), for use in the issuance of private activity bonds; and

WHEREAS, the Douglas County Housing Partnership, a Multijurisdictional Housing Authority ("DCHP"), is authorized by Section 29-1-204.5, C.R.S., as amended, the Amended and Restated Establishing Intergovernmental Agreement for the Douglas County Housing Authority, a Multijurisdictional Housing Authority, dated December 30, 2020, as amended, by and among the City of Lone Tree, the Town of Castle Rock, the City of Castle Pines, the Town of Parker and Douglas County, Colorado (the "DCHP Intergovernmental Agreement") and the Supplemental Public Securities Act, to finance one or more housing projects to provide dwelling accommodations at rental prices within the means of families of low or moderate income and to provide affordable housing projects for employees or employers located within the jurisdiction of DCHP; and

WHEREAS, the DCHP Intergovernmental Agreement expressly grants DCHP the power to issue conduit revenue bonds and enter into financing agreements to provide residential facilities for low-and middle-income facilities or persons intended for use as the sole place of residence by owners or intended occupants, to act as an issuing authority for the purpose of being an assignee of private activity bond volume cap allocation under the Allocation Act and to take all such actions as are necessary in connection with the management and preservation of any private activity bond volume cap allocations assigned to DCHP; and

WHEREAS, the County desires to assign its 2025 Allocation in the amount of \$15,344,854 to DCHP pursuant to Section 24-32-1706 of the Allocation Act, to be used to issue bonds to finance the acquisition, construction, rehabilitation, improvement and/or equipping of dwelling accommodations at rental prices within the means of families of low and moderate income and

affordable housing projects for employees or employers located within the jurisdiction of DCHP pursuant to Section 29-1-204.5, C.R.S., as amended, the DCHP Intergovernmental Agreement and the Supplemental Public Securities Act; and

WHEREAS, the Board of County Commissioners (the “Board”) desires to enter into the Assignment of Allocation (the “Assignment of Allocation”) with DCHP to assign the 2025 Allocation to DCHP; and

WHEREAS, the proposed form of the Assignment of Allocation has been presented to the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, COLORADO, THAT:

Section 1. The County hereby authorizes the assignment of the 2025 Allocation to DCHP (the “Assignment”) and the execution and delivery of the Assignment of Allocation by and between the County and DCHP, attached hereto and incorporated herein (the “Assignment of Allocation”).

Section 2. Nothing contained in this Resolution or the Assignment of Allocation shall constitute a debt, indebtedness or multiple-fiscal year direct or indirect debt or other financial obligation of the County within the meaning of the Constitution or statutes of the State of Colorado, nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Section 3. The Board hereby assigns and transfers to DCHP an amount equal to all of the County’s 2025 Allocation.

Section 4. All actions not inconsistent with the provisions of this Resolution heretofore taken by the Board or any officer or employee of the County in furtherance of the Assignment are hereby ratified, approved and confirmed.

Section 5. All prior acts, orders or resolution, or parts thereof, of the County in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive an act, order or resolution, or part thereof, heretofore repealed.

Section 6. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

Section 7. All bylaws, orders or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency, and, if so repealed, no other bylaw, order or resolution, or part thereof, shall be revived.

Section 8. This Resolution shall take effect immediately upon its adoption.

INTRODUCED AND ADOPTED at a regular meeting of the Board of County
Commissioners on _____, 2025.

THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF
DOUGLAS, STATE OF COLORADO

By: _____
Abe Laydon
Chair

[SEAL]

ATTEST:

By: _____
Clerk to the Board

ASSIGNMENT OF ALLOCATION
(Multifamily Housing Revenue Bonds)

This Assignment of Allocation (the “Assignment”), dated _____, 2025, is between The Board of County Commissioners of Douglas County, Colorado (the “Assignor”) and the Douglas County Housing Partnership, a Multijurisdictional Housing Authority (the “Assignee”).

WITNESSETH:

WHEREAS, the Assignor has been awarded \$15,344,854 (the “2025 Allocation”) of private activity bond volume cap allocation for the State of Colorado and its issuing authorities (the “State Ceiling”) computed under Section 146(d) of the Internal Revenue Code of 1986, as amended (the “Code”), and under the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes, as amended (the “Allocation Act”), for use in the issuance of private activity bonds; and

WHEREAS, subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept all of the Assignor’s 2025 Allocation, which the Assignor has committed and reserved for the issuance of such private activity bonds; and

WHEREAS, the private activity bonds will be issued by the Assignee pursuant to Section 29-1-204.5, Colorado Revised Statutes, as amended (the “Act”), the Amended and Restated Establishing Intergovernmental Agreement for the Douglas County Multijurisdictional Housing Authority, dated December 30, 2020, as amended, by and among the City of Lone Tree, the Town of Castle Rock, the City of Castle Pines, the Town of Parker and Douglas County, Colorado (the “DCHP Intergovernmental Agreement”) and the Supplemental Public Securities Act, constituting Part 2 of Article 57 of Title 11, Colorado Revised Statutes, as amended (the “Supplemental Act”), and such bonds will be used only for purposes as described in the Act; and

WHEREAS, the DCHP Intergovernmental Agreement expressly grants Assignee the power to issue conduit revenue bonds and enter into financing agreements to provide residential facilities for low-and middle-income facilities or persons intended for use as the sole place of residence by owners or intended occupants, to act as an issuing authority for the purpose of being an assignee of private activity bond volume cap allocation under the Allocation Act and to take all such actions as are necessary in connection with the management and preservation of any private activity bond volume cap allocations assigned to the Assignee;

NOW THEREFORE, in exchange for the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. The Assignor hereby assigns and transfers to the Assignee all of the Assignor’s 2025 Allocation. The Assignee agrees to use all of the Assignor’s 2025 Allocation only for the purposes described in the Act. In addition, the Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the Assignor’s 2025 Allocation as an allocation for a project with a carryforward purpose, thus avoiding reversion

of such 2025 Allocation to the statewide balance under the Allocation Act, or to assign such 2025 Allocation or a portion thereof to another Assignee.

Section 2. The Assignor represents that it has received no monetary consideration for the assignment set forth above.

Section 3. The Assignee hereby accepts the assignment of all of the Assignor's 2025 Allocation from the State Ceiling described above, subject to the terms and conditions contained herein.

Section 4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Agreement, including but not limited to the Assignee filing an IRS Form 8328 "Carryforward Election of Unused Private Activity Bond Volume Cap" with respect to all of the Assignor's 2025 Allocation.

Section 5. This Assignment is effective upon execution and is irrevocable.

(Remainder of this page intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

[S E A L]

THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, COLORADO

By: _____
Abe Laydon, Chair

APPROVED AS TO CONTENT:

ATTEST:

Douglas J. DeBord, County Manager

Clerk to the Board

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Christopher K. Pratt
Senior Asst. County Attorney

Andrew Copland, Director of Finance

DOUGLAS COUNTY HOUSING
PARTNERSHIP, A MULTIJURISDICTIONAL
HOUSING AUTHORITY

By: _____
Maria Ciano
Executive Director