

RESOLUTION 2014-071
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY BOND
ALLOCATION FOR 2014 TO THE FORT COLLINS HOUSING AUTHORITY
TO FINANCE THE REHABILITATION OF AFFORDABLE HOUSING UNITS
AT THE VILLAGES AT CUNNINGHAM CORNER

WHEREAS, the City of Fort Collins is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for purposes including the financing of multi-family rental housing projects for low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among various State and local governmental units, and further providing for the assignment of such allocations from such governmental units to any entity or person with the authority to issue bonds; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City has received a direct allocation of the 2014 State Ceiling for the issuance of Private Activity Bonds in the aggregate principal amount of \$7,408,350 (the "2014 Allocation"); and

WHEREAS, if the City does not issue bonds or assign its annual allocation to another entity by September 15 of each year, its allocation is relinquished to the statewide balance; and

WHEREAS, the City of Fort Collins Housing Authority (the "Authority") has requested that the City assign all of the 2014 Allocation (the "Assigned Allocation") to the Authority pursuant to Section 24-32-1706 of the Allocation Act for the purpose of assisting in the financing of the rehabilitation of 284 affordable housing units (the "Project") located in the Villages at Cunningham Corner, which is owned by the non-profit development subsidiary of the Authority and consists of three rental housing projects whose names and respective addresses are: Hickory Hill Village Apartments, 3425 Windmill Drive, Fort Collins, Larimer County, Colorado; Rose Tree Village Apartments, 1000 Horsetooth Road, Fort Collins, Larimer County, Colorado; and Willow Grove Village, 1025 Cunningham Drive, Fort Collins, Larimer County, Colorado; and

WHEREAS, the City has determined that the 2014 Allocation can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing the Project; and

WHEREAS, the City has determined that such assignment to the Authority will advance the City's objective of increasing the availability of adequate affordable housing for low- and moderate-income persons and families within the city; and


WHEREAS, the Council wishes to assign the 2014 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority in substantially the form attached and incorporated herein as Exhibit "A" (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fort Collins as follows:

Section 1. That the assignment to the Authority of the City's 2014 Allocation of \$7,408,350, for use by the Authority for the purposes set forth herein, is hereby approved.

Section 2. That the City Manager is hereby authorized to execute the Assignment of Allocation in substantially the form attached hereto as Exhibit "A", along with such other terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 19th day of August, A.D. 2014.



Mayor

ATTEST:



City Clerk



ASSIGNMENT OF ALLOCATION

THIS ASSIGNMENT (the "Assignment"), dated August ____, 2014, is between the City of Fort Collins, Colorado, a municipal corporation (the "Assignor"), and the Fort Collins Housing Authority, a body corporate and politic (the "Assignee").

RECITALS

A. The Assignee intends to finance the rehabilitation of 284 affordable housing units located at the Villages at Cunningham Corner which consists of three rental housing projects whose names and respective addresses are as follows: Hickory Hill Village Apartments, 3425 Windmill Drive, Fort Collins, Larimer County, Colorado; Rose Tree Village Apartments, 1000 Horsetooth Road, Fort Collins, Larimer County, Colorado; and Willow Grove Village, 1025 Cunningham Drive, Fort Collins, Larimer County, Colorado (collectively, the "Project"). The Project will be designed to qualify as a "project" within the meaning of Title 29, Article 4, Part 2, Colorado Revised Statutes, as amended (the "Act").

B. The Assignee intends to provide for the issuance of its Multifamily Housing Revenue Bonds (the "Proposed Bonds"), pursuant to the provisions of the Act for the purpose of financing the Project.

C. The Assignee has requested that the Assignor assign to the Assignee all \$7,408,350 of the Assignor's 2014 allocation (the "Allocation") under the bond ceiling for the State of Colorado and its issuing authorities (the "State Ceiling") computed under Section 146(d) of the Internal Revenue Code of 1986 (the "Code") as provided for the Assignor as a "designated local issuing authority" under part 17 of article 32 of title 24, Colorado Revised Statutes (the "Allocation Act"), for use in connection with the financing of the Project.

D. Subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept, \$7,408,350 of the Assignor's 2014 allocation from the State Ceiling.

ASSIGNMENT

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:

1. The Assignor hereby assigns and transfers to the Assignee the Assignor's 2014 Allocation from the State Ceiling for private activity bonds in an amount equal to \$7,408,350. The Assignor and the Assignee understand that such assigned allocation shall automatically be relinquished to the "Statewide Balance" as defined under the Allocation Act unless (a) the Proposed Bonds are issued by the Assignee on or before September 15, 2014, or (b) Section 24-32-1706(3)(c), C.R.S., pertaining to the carryforward of the assigned allocation, applies.

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

3. The Assignee hereby:

(a) accepts the assignment of \$7,408,350 of the Assignor's Allocation from the State Ceiling described above;

(b) agrees to use its best efforts to issue and use the Proposed Bonds for the purpose of financing the Project; and

(b) agrees to abide by each of the terms and conditions of this Assignment in connection with the use of such Allocation.

4. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, and if the Project has a carryforward purpose, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

5. This Assignment shall not constitute the debt or indebtedness or financial obligation of the Assignor within the meaning of the constitution or statutes of the State of Colorado, nor give rise to a pecuniary liability or charge against the general credit or taxing power of the Assignor.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this instrument to be executed to be effective as of the date and year first written above.

CITY OF FORT COLLINS, COLORADO,
as Assignor

[SEAL]

Darin A. Atteberry, City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

Assistant City Attorney

FORT COLLINS HOUSING AUTHORITY,
as Assignee

[SEAL]

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

[Signature Page to Assignment of Allocation]