

RESOLUTION 2016-072  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY  
BOND ALLOCATION FOR 2016 TO THE COLORADO HOUSING  
AND FINANCE AUTHORITY TO FINANCE THE DEVELOPMENT  
AND REHABILITATION OF AFFORDABLE HOUSING UNITS

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, including the Colorado Housing and Finance Authority (the "Authority"), 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 2016 State Ceiling for the issuance of Private Activity Bonds in the aggregate principal amount of \$7,728,500 (the "2016 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 Authority has requested that the City assign all of the 2016 Allocation (the "Assigned Allocation") to the Authority pursuant to Section 24-32-1706 of the Allocation Act; and

WHEREAS, the Authority intends to use the Assigned Allocation to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low-and moderate-income persons and families ("Revenue Bonds") including the following identified projects: (1) up to \$5,000,000 for the rehabilitation of DMA Plaza Apartments, a senior housing project; and (2) up to \$2,728,500 for the construction of Oakridge Crossing, a multifamily senior project, provided such projects otherwise qualify and are approved for financing or the allocation of tax credits as may be applicable (collectively, the "Projects"); and

WHEREAS, the Authority has expressed its willingness to attempt to issue Revenue Bonds in an amount equal to or greater than the 2016 Allocation assigned herein; and

WHEREAS, the City has determined that the 2016 Allocation can be utilized most efficiently by assigning it to the Authority to issue Revenue Bonds for the purpose of financing the Projects, and that such assignment 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 2016 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").

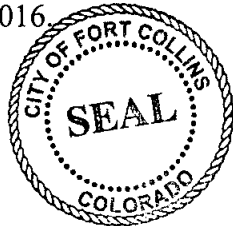
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

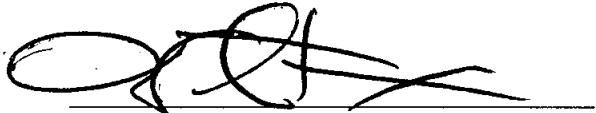
Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the assignment to the Authority of the City's 2016 Allocation of \$7,728,500, for use by the Authority for the purposes set forth herein, is hereby approved.

Section 3. That the Mayor 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 6th day of September, A.D. 2016.



  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

**ASSIGNMENT OF ALLOCATION**  
**(Multi-family Housing Facility Bonds)**

This Assignment of Allocation (the "Assignment"), dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016, is between the City of Fort Collins, Colorado (the "Assignor" or the "Jurisdiction") and the Colorado Housing and Finance Authority (the "Assignee").

**WITNESSETH:**

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental 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 to finance such projects and for certain other purposes (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 the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2016 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2016, (the "2016 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the Jurisdiction and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2016 Allocation; and

WHEREAS, the Assignor has determined that the 2016 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to support the issuance of Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate- income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds in an amount equal to or greater than the 2016 Allocation assigned herein; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee all or a portion of its 2016 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$7,728,500 of its 2016 Allocation (the "Assigned Allocation"), subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.
2. The Assignee hereby accepts the assignment to it by the Assignor of the Assigned Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than the amount of the Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of two (2) years from the date of this Assignment to finance multifamily rental housing projects located in the Jurisdiction, including the following identified projects: (i) up to \$5,000,000 for the rehabilitation of DMA Plaza Apartments, a senior housing project; and (ii) up to \$2,728,500 for the construction of Oakridge Crossing, a multifamily senior project; provided such projects otherwise qualify and are approved for financing and/or the allocation of tax credits as may be applicable.
3. 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 Assigned Allocation as an allocation for a project with a carryforward purpose, in lieu of issuing Revenue Bonds.
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 Assignment.
5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multi-family rental housing project located in the Jurisdiction, subject to paragraph 2 above.
6. 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.
7. This Assignment is effective upon execution and is irrevocable.

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

[S E A L]

City of Fort Collins, Colorado  
a municipal corporation

By: \_\_\_\_\_  
Name: Wade O. Troxell, Mayor

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

COLORADO HOUSING AND FINANCE  
AUTHORITY

[S E A L]

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Assistant Secretary