

**RESOLUTION 2021-063
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE ASSIGNMENT OF THE CITY'S PRIVATE ACTIVITY
BOND ALLOCATION FOR 2021 TO HOUSING CATALYST TO FINANCE THE NEW
CONSTRUCTION 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" or "PAB") which may be issued in the State (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado General Assembly 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 2021 State Ceiling for the issuance of Private Activity Bonds in the aggregate principal amount of \$9,438,581 (the "2021 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 received one application for the 2021 Allocation from Housing Catalyst, seeking PAB capacity for the Impala Redevelopment and Renovation project (the "Project"), which would convert eleven single family homes owned by Housing Catalyst into 26 renovated duplexes and 60 new apartments; and

WHEREAS, the City's PAB Committee considered the application and recommends assigning the 2021 Allocation to Housing Catalyst pursuant to Section 24-32-1706 of the Allocation Act; and

WHEREAS, Housing Catalyst has expressed its willingness to attempt to issue Revenue Bonds in an amount equal to or greater than the 2021 Allocation; and

WHEREAS, the City Council finds that the 2021 Allocation can be utilized most efficiently by assigning it to Housing Catalyst to issue Private Activity Bonds for financing the Project, 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 2021 Allocation to Housing Catalyst, which assignment is to be evidenced by an Assignment of Allocation agreement between the City and Housing Catalyst; and

WHEREAS, a draft of the proposed Assignment of Allocation is attached as Exhibit "A" and incorporated herein by reference.

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 City Council hereby approves assignment to Housing Catalyst of the City's 2021 Allocation of \$9,438,581 for the Project as described herein.

Section 3. That the City Council hereby authorizes the Mayor to execute an Assignment of Allocation with Housing Catalyst in substantially the form attached 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 1st day of June, A.D. 2021.



Mayor

ATTEST:



City Clerk



ASSIGNMENT OF ALLOCATION

THIS ASSIGNMENT (the “Assignment”), dated _____, 2021 is between the City of Fort Collins, Colorado, a municipal corporation (the “Assignor”), and Housing Catalyst, a body corporate and politic (the “Assignee”).

RECITALS

A. The Assignee intends to finance the construction of 86 units of new and renovated rental housing on Impala Drive and Impala Circle, all for households with incomes ranging from 30% to 80% of area median income (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 the Assignor’s 2021 allocation of \$9,438,581 (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 Projects.

D. Subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept, such 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 2021 Allocation of \$9,438,581 from the State Ceiling for private activity bonds. 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, 2021, or (b) Section 24-32-1706(3)(c), C.R.S., 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 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 Projects; 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, 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 a 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.

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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

Jeni Arndt, Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

(print name)

Assistant City Attorney

(print name)

HOUSING CATALYST, as Assignee

By: _____
Its: _____

ATTEST:

By: _____
Its: _____