

21 -
RESOLUTION ~~20~~ - 2020
AUTHORIZING ASSIGNMENT TO THE
COLORADO HOUSING AND FINANCE
AUTHORITY OF A PRIVATE ACTIVITY
BOND ALLOCATION OF MONTROSE COUNTY
PURSUANT TO THE COLORADO PRIVATE ACTIVITY
BOND CEILING ALLOCATION ACT

WHEREAS, the County of Montrose is 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 County of Montrose is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to 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 provide such mortgage loans and for certain other purposes; 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 Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the County of Montrose has an allocation of the 2020 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to **September 15, 2020** (the "2020 Allocation"); and

WHEREAS, the County of Montrose has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the County of Montrose and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2020 Allocation; and

WHEREAS, the County of Montrose has determined that the 2020 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority 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 or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

WHEREAS, the Board of County Commissioners of Montrose County has determined to assign \$1,213,570 of its 2020 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the County of Montrose and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Montrose County as follows:

1. The assignment to the Authority of \$1,213,570 of the County of Montrose's 2020 Allocation be and hereby is approved.

2. The form and substance of the Assignment of Allocation be and hereby are approved; provided, however, that the Board of County Commissioners be and hereby are authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as they shall deem necessary or appropriate and not inconsistent with the approval thereof by this resolution.

3. The Board of County Commissioners of Montrose County be and hereby are authorized to execute and deliver the Assignment of Allocation on behalf of Montrose County and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this resolution.

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 such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.


5. This resolution shall be in full force and effect upon its passage and approval.


C-36

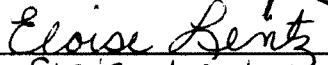
PASSED, ADOPTED AND APPROVED this __20th day of May, 2020.

Assignor:

COUNTY OF MONTROSE, COLORADO

By: 
Name: Keith Caddy
Title: Chairman

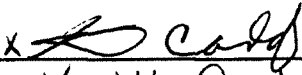
ATTEST: 

By: 
Name: Eloise Lentz
Title: Clerk to the Board

C-36

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

County of Montrose, Colorado

By: x 
Name: Keith Caddy
Title: Chairman

COLORADO HOUSING AND FINANCE
AUTHORITY

By: _____
Name: _____
Title: _____

EXHIBIT A
RESOLUTION

CERTIFICATE OF MONTROSE COUNTY, COLORADO
CONCERNING ASSIGNMENT OF
PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION

I, the undersigned, hereby certify that I am a duly chosen, qualified and County Attorney of Montrose County, Colorado (the "County"), and that:

1. The County is a legally and regularly created, established, organized, and existing county under the Constitution and laws of the State of Colorado, its full corporate name being "Montrose County, Colorado."

2. The County has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), it has an allocation of the State ceiling (as defined in the Allocation Act) for 2020 in the amount of \$1,213,570 (the "2020 Allocation").

3. Attached hereto as Exhibit A is a true and correct copy of a resolution and the related minutes thereto (the "Resolution") authorizing the assignment to the Colorado Housing and Finance Authority (the "Authority") of all or a portion of the 2020 Allocation in an amount equal to \$1,213,570 (the "Assigned Allocation"), and authorizing the execution and delivery of an Assignment of Allocation dated as of May 20, 2020 (the "Assignment of Allocation") between the County and the Authority in connection therewith, which Resolution was duly adopted by the Board of County Commissioners of the County (the "Board") at a meeting thereof held on May 20, 2020, at which meeting a quorum was present and acting throughout and which Resolution has not been revoked, rescinded, repealed, amended or modified and is in full force and effect on the date hereof.

4. The meeting of the Board at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.

5. With respect to the Assigned Allocation, the County has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another "issuing authority," as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carryforward purpose, as defined in the Allocation Act.

6. The Assignment of Allocation, attached hereto as Exhibit B, is in the form presented to and approved by the Board at the meeting thereof held on May 20, 2020.

7. On or before the date hereof, counterparts of the Assignment of Allocation were officially executed by the Chair of the Board of County Commissioners and the County Clerk of the County. On the date of such signing, such persons were the duly sworn, qualified and acting officers of the County authorized to execute the Assignment of Allocation and holding the offices of the Chair of the Board of County Commissioners and County Clerk, respectively.


8. The County has authorized the execution, delivery and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the County with the provisions thereof, will not, to the best of my knowledge, conflict with or constitute on the part of the County a breach of or a default under any existing Colorado law, County resolution, court or administrative regulation, decree or order or any agreement or other instrument to which the County is subject or by which it is bound.

9. To the best of my knowledge, there does not exist any action, suit, proceeding or investigation pending, or threatened against the County, contesting (a) the corporate existence of the County, (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the Board, (c) the validity of the Assignment of Allocation or (d) the power of the County to execute, deliver or perform the Assignment of Allocation.

10. No referendum petition has been filed concerning the Resolution; and to the best of my knowledge none is being circulated or planned for circulation.

WITNESS my hand and the seal of the County this May 20, 2020.

(SEAL)



County Attorney

**RECEPTION#: 920993, Date: 5/20/2020 1:45 PM,
Pages: 8 of 10 , RES
Montrose County, CO. Tressa Guynes, Clerk and Recorder**

**EXHIBIT B
ASSIGNMENT OF ALLOCATION**



assignment of allocation - county

Multifamily Housing Facility Bonds/Single Family Mortgage Revenue Bonds

This Assignment of Allocation (the "Assignment"), dated this 20th day of May, 2020, is between the County of Montrose Colorado (the "Assignor" or the "Jurisdiction") and 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 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 providing single- family mortgage loans to 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 2020 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2020, (the "2020 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, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2020 Allocation; and

WHEREAS, the Assignor has determined that the 2020 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2020 Allocation assigned herein; and

WHEREAS, the Board of County Commissioners of the Assignor has determined to assign to the Assignee all or a portion of its 2020 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 \$ 1,213,570 of its 2020 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 Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of one (1) year from the date of this Assignment to finance multifamily rental housing projects located in the Jurisdiction, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the Jurisdiction.
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 or to make a mortgage credit certificate election, 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 or elsewhere or to finance single-family mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans or mortgage credit certificates to finance single-family housing facilities in the Jurisdiction, provided that any Revenue Bond proceeds attributable to the Assigned Allocation shall be subject to paragraph 2 above.
6. This Assignment is effective upon execution and is irrevocable.