



## Wellington Community Housing Board Agenda

Jul 5th, 2023 5:30pm - 6:30pm MDT

IN-PERSON at the Clubhouse at 3914 Roosevelt Avenue, Wellington (note there will be no remote option for this meeting)

This meeting will be an in-person meeting, at the clubhouse at 3914 Roosevelt Avenue.

There is no zoom option for this meeting.

### I. Attendees

5:30pm

### II. Call to Order (5:30-5:35 pm)

Amy Comstock

5:30pm

#### a. Mindful Moment

#### b. Citizen Input

### III. Approval of Minutes from March 2, 2023 (5:35-5:40)

Amy Comstock

5:35pm

 [Minutes WCH WHA March 2 2023.pdf](#)

### IV. Action Items (5:40-6:00)

5:40pm

#### a. Line of Credit Approval

Julie Brewen

5:40pm

 [WCH Board Action Memo - LOC.pdf](#)

 [First Bank - WCH LOI REVISED 2023.05.22.pdf](#)

 [WCH-RES-2023-06-01 - First Bank LOC.pdf](#)

#### b. Property Management Agreement

Julie Brewen

5:45pm

 [WellCH Property Management Agreement.pdf](#)

**V. Discussion Items (6:00-6:20)**

a. **Housing Authority and Non-profit  
Governance Management Agreement**

Julie Brewen

6:00pm

6:00pm

b. **Town of Wellington and Annual Audit**

Julie Brewen

6:05pm

**VI. Next Meeting Date: September 7, 2023**

**VII. Adjournment**

END  
6:30pm



**Wellington Community Housing Board of Directors**  
**March 2, 2023**  
**Minutes**

**Attendees**

Directors: Bob Novascone-Vice President, Calar Chaussee, Amy Comstock

Staff: Julie Brewen, Justin Corey, Tonya Frammolino, Julie Francis, Tara Gaffney, Rachel Gaisford, Traci McGraw

**I. Call to Order**

Vice President Bob Novascone called the meeting to order at 6:02 pm.

**a. Mindful Moment**

Chief Executive Officer Julie Brewen led the group in a mindful moment.

**II. Citizen Input**

There was no citizen input.

**III. Approval of Minutes from January 4, 2022 Meeting**

Director Calar Chaussee moved to accept the minutes of the January 4, 2022 meeting. Director Amy Comstock seconded, and the motion was passed unanimously.

**IV. Action Items**

**a. Annual Election of Officers**

The proposed slate of officers is as follows:

President: Amy Comstock

Vice President: Bob Novascone

Secretary/Treasurer: Julie Brewen

Director Chaussee moved to accept the slate of officers as presented above. Director Comstock seconded, and the motion was passed unanimously.

**b. Line of Credit**

Chief Financial Officer Tonya Frammolino reported that she secured quotes from three banks for the Line of Credit (LOC), to be used to pay for development costs incurred prior to securing funding for the project that will result from the recent Capital Needs Assessment (CNA). She noted that the LOC could potentially also be used if a property of interest in Wellington became available. Ms. Frammolino reviewed the quotes from the three banks. After discussion and review, it was decided to table further discussion in order to obtain more information on ANB's expectation that all bank accounts will be

moved over to them as a stipulation of the LOC. Ms. Frammolino will request more information from ANB and will report back to this Board.

Board members agreed that they are comfortable with staff making the decision on moving accounts, if appropriate, based on information received.

Director Chaussee moved to approve staff making the decision on the LOC once all information has been received and reviewed. Director Comstock seconded, and the motion was passed unanimously.

The resolution will be revised to include parameters under which staff can use the LOC and will be brought to the next meeting of this Board.

**c. Property Management Agreement**

Ms. Brewen noted that there is currently not an accurate and up-to-date Property Management Agreement in place at this time. She also discussed the history of the intergovernmental management agreement. This agreement is currently being modified and updated for Wellington Community Housing. A separate entity corporate management agreement will also be put together which speaks to how separate entities will be managed. It will note Housing Catalyst as the management company, which has the authority to make decisions and act on behalf of the Board in an emergency situation. Both documents will be presented to this Board at the next meeting.

**V. Staff Updates**

**a. Portfolio Improvement Plan Update**

Ms. Brewen noted that a plan is still being developed to bring back to the Board for review. Per unit per annum (PUPA) costs are being reviewed, as they are higher than funders would typically want to see. Discussion with potential funding sources needs to happen in order to find ways to go forward with the needed improvements.

Director Chaussee noted that the water rate structure in town has just been changed, which may help to lower the water rates.

**VI. Q4 Financial Report**

Ms. Frammolino reviewed the quarter four 2022 financial report. The full report and presentation are in Boardable for reference. She noted that she expects to have final 2022 financials, as well as audit results, for the next meeting of this Board.

**VII. Discussion Items**

The NAHRO national conference was discussed. Information on upcoming conferences will be sent to Board members as it becomes available.

Ms. Brewen noted that she is working with NAHRO staff to put together a Commissioner training in the local area. This Board will be invited to participate.

**VIII. Adjournment – Wellington Community Housing**

Vice President Novascone adjourned the meeting at 6:50 pm.

**IX. Call to Order – Wellington Housing Authority**

Vice Chair Novascone called the meeting to order at 6:50 pm.

**X. Election of Officers**

The proposed slate of officers is as follows:

Chair: Amy Comstock

Vice Chair: Bob Novascone

Secretary/Treasurer: Julie Brewen

Commissioner Chaussee moved to accept the slate of officers as presented above. Commissioner Comstock seconded, and the motion was passed unanimously.

**XI. Adjournment – Wellington Housing Authority – Next Meeting Date: June 1, 2023**

Vice Chair Novascone adjourned the meeting at 6:55 pm.

**To:** Wellington Community Housing – Board of Directors

**From:** Tonya Frammolino, Chief Financial Officer

**Meeting Date:** July 5, 2023

**Action Item:** WCH-RES-2023-07-01 | First Bank Line of Credit Loan

**Alignment to Strategic Plan:**

Alignment to Goal 2: Increase supply of affordable housing. More specifically, Strategy 1 to build new homes and preserve existing homes that are affordable.

**Background:**

Wellington Community Housing has asked Housing Catalyst to secure quotes for an unsecured Line of Credit (“LOC”) that will be utilized to pay for development costs incurred prior to securing project permanent funding. Housing Catalyst has secured three quotes from various local banking partners.

**Description of Action Item:**

The Board of Directors for Wellington Community Housing will need to vote to approve the resolution empowering Housing Catalyst staff’s ability to execute loan documents on their behalf.

**Fiscal Impact:**

Securing of a loan requires a loan fee plus any third-party costs such as appraisals, title policy, recording and attorney fees. Evaluation of the three quotes are as follows:

	<b>ANB Bank</b>	<b>First Bank</b>	<b>Bank of Colorado</b>
Loan Amount	\$ 500,000	\$ 500,000	\$ 500,000
Loan Origination Fee	\$ 2,500	\$ 500	\$ 2,500
Interest Rate	Prime - 50bp	Prime + 75bp	Prime - 50bp
Rate Floor	5.5%	7.0%	n/a
Term	36 Months	12 Months	24 Months
DSCR	n/a	1.25x	1.30x
LTV	tbd	tbd	Max 50%
Collateral	Real Estate	Bank Accounts	Real Estate

\*\* Despite the more favorable financial terms the utilization of the real estate as collateral detracts from the functionality of a line of credit. Thus the FirstBank offer is recommended.

Both ANB and Bank of Colorado declined to extend terms without using the real estate as collateral. Additional terms are provided in the attached Letter of Interest (“LOI”). Based upon the terms quoted it is recommended that the Wellington Community Housing Board proceed with First Bank since it has not required the real estate be utilized as collateral.

**Recommendation:**

It is recommended that the Board of Directors approve Resolution “WCH-RES-2023-07-01 | First Bank Line of Credit Loan” for approval and adoption.



**FirstBank**

1013 E. Harmony Road, Fort Collins CO 80525

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**PROPOSED TERM SHEET**

**EFFECTIVE DATE: 5/22/2023**

**Borrower:** Wellington Housing Authority

**Guarantor(s):** N/A

**Collateral:** Unsecured Supervised Line of Credit

**Loan Amount:** \$500,000

**Loan Terms:** 12 months, interest only

**Approximate Interest Rate:** The rate will be variable based on the Wall Street Journal Prime Rate plus .75%. The rate will be subject to a rate floor of 9%. Interest on the loan will accrue using an Actual/360 accounting method.

**Loan Fee:** \$500

**Required Deposits:** Borrower agrees to maintain their primary banking relationship with FirstBank

**Pre-payment penalty:** None

**Debt Service Coverage:** 1.25 on Wellington Housing Authority financial

**The terms disclosed herein are confidential for the exclusive use of the Borrower and should not be shared with any third parties, including any financial institution or intermediary, without FirstBank's prior written consent. It is important to note that the proposed terms are intended for discussion purposes only and do not constitute a commitment to lend on the part of FirstBank. Any commitment to lend must be formally approved by FirstBank and is subject to the full and satisfactory completion of a due diligence and underwriting process. Quotes of interest rates represent FirstBank's rates in effect on the date of this term sheet. Rates and terms are subject to change at any time.**

**Please contact me directly with any questions.**

**Nicole Walusis  
Executive Vice president  
FirstBank  
1013 E. Harmony Road  
Fort Collins CO 80525  
970-282-3929  
Nicole.walusis@efirstbank.com**

**RESOLUTION NO. WCH-RES-2023-07-01**  
**RESOLUTION OF THE BOARD OF DIRECTORS OF**  
**WELLINGTON HOUSING AUTHORITY**  
**APPROVING THE EXECUTION AND DELIVERY OF A NOTE**  
**IN AN AMOUNT NOT TO EXCEED \$500,000**

**WHEREAS**, Wellington Community Housing (the “Borrower”) desires to issue a short-term note in the aggregate principal amount of not to exceed \$500,000 (the “Note”) for the benefit of First Bank (the “Bank”); and

**WHEREAS**, the Borrower has contracted with Housing Catalyst (the “Manager”) to manage its operations; and

**WHEREAS**, the Borrower desires to use proceeds of the Note to pay primarily for pre-development costs on upcoming projects; and

**WHEREAS**, the Note will only be utilized for project-related advances specific to the renovation and/or repositioning of the real estate portfolio; and

**WHEREAS**, in connection with the delivery of the Note the Borrower desires to authorize the execution of the Note, and all other documents which are reasonably necessary to carry out the intentions hereof (collectively, the “Loan Documents”); and

**WHEREAS**, the Loan Documents will be executed and delivered in connection with the Loan on the terms specified in the term sheet issued by the Bank.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE WELLINGTON COMMUNITY HOUSING THAT:**

1. The Borrower hereby approves the execution and delivery of the Note for the benefit of the Bank together with such revisions thereto as may be approved by the Chief Executive Officer of the Manager and the Secretary, and the execution and delivery by the Manager of the Loan Documents and any other documents and certificates required by the Bank in connection with the Loan.

2. The Borrower hereby authorizes and directs Tonya Frammolino, Chief Financial Officer of Housing Catalyst, and authorized agent of the Borrower, or in her absence, any available member of the Board of Directors or officer of Housing Catalyst, to execute the Loan Documents and all other agreements as are necessary to complete the Loan to the Borrower and to take such other action as may be necessary or appropriate to carry out the purposes and intents of this resolution.

**RESOLVED AND PASSED**, this 5<sup>th</sup> day of July 2023, at a regular meeting of the Board of Directors of Wellington Community Housing.

BY: \_\_\_\_\_  
Amy Comstock, Chairperson

ATTEST: \_\_\_\_\_  
Julie Brewen, Secretary

## PROPERTY MANAGEMENT AGREEMENT

THIS PROPERTY MANAGEMENT AGREEMENT (the “Agreement”) is made and entered on June 26<sup>th</sup>, 2023 and between Wellington Community Housing (“Owner”), and Housing Catalyst (“Manager”).

### WITNESSETH:

WHEREAS, the Owner is a Colorado nonprofit organization organized and existing for the primary purpose of fostering low and moderate income housing.

WHEREAS, in furtherance of its purpose, the Owner has acquired and currently owns the real property located in the Town of Wellington, Larimer County, Colorado, as more particularly described on Exhibit “A” attached hereto, known as Wellington Community Housing (the “Portfolio”); and

WHEREAS, the Manager is a governmental entity organized and existing as a housing authority pursuant to the Colorado Housing Authorities Law (C.R.S. Section 29-4-201, et seq.); and

WHEREAS, the Manager has as one of its purposes, as well, the providing of low income and moderate income housing to residents of the Town of Wellington; and

WHEREAS, the parties therefore are entering into this Agreement to set forth the terms and conditions pursuant to which the Manager will provide management services, for compensation, to operate the Portfolio as low and moderate income housing.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Appointment as Agent.** The Owner hereby appoints the Manager, and the Manager hereby accepts appointment, on the terms and conditions hereinafter provided, as the Owner’s exclusive agent to manage, rent, lease and operate the Portfolio.

2. **Term of Agreement.** The obligations of the parties under this Agreement shall commence upon the beginning of lease-up of rental units for an initial term of one year from the date thereof, and shall be automatically renewed for successive one year terms unless terminated as provided in Section 6 or 7 below or upon written notice by either party at least 90 days prior to the expiration of the then-current term.

3. **Responsibilities of the Manager.** The Manager is authorized to and shall exercise the following responsibilities on behalf and in the name of the Owner and the Owner agrees to assume and pay and/or reimburse the Manager for all expenses in connection therewith, and the Manager agrees to accept such authority and power in performing these responsibilities:

- A. to prepare monthly reports on the properties including budget variance, on-site staffing and market analysis along with recommendations.
- B. to cause to be hired, paid and supervised all persons necessary to be employed in order to properly maintain and operate the Portfolio; who, in each instance, shall be the Manager's and not the Owner's employee and assure all responsibilities and perform all acts required of the Manager as an employer with respect to such persons;
- C. to cause the Portfolio to be maintained in such conditions as may be deemed advisable by the Owner, normal wear and tear excepted, and cause routine repairs and incidental alterations to the Portfolio to be made, including, but not limited to electrical, plumbing, carpentry, masonry and any other routine repairs and incidental alterations as may be required in the course of ordinary maintenance and care of the Portfolio; provided, however, any repair or alteration involving an expenditure in excess of Ten Thousand Dollars (\$10,000.00) for any one item shall be made only with the prior written approval of the Owner, except that emergency repairs (i.e., those immediately necessary for the preservation or safety of the Portfolio or for the safety of the tenants of the Portfolio or other persons, or required to avoid the suspension of any necessary service in or to the Portfolio) may be made by the Manager regardless of the cost thereof, without the prior approval of the Owner, if the Manager makes an attempt to communicate with the Owner in order to obtain such approval if to do so would be reasonable under the circumstances;
- D. to recommend and, with the approval of the Owner, cause all such acts and things to be done in or about the Portfolio as shall be necessary or desirable to comply with any and all orders or notice of violations affecting the Portfolio placed thereon by any federal, state, county or municipal authority having jurisdiction, except that if failure to promptly comply with any such order or violation would or might expose the Portfolio, Owner or Manager to a material risk of forfeiture of money or property, the Manager may cause such order or notice of violation to be complied with without the prior approval of the Owner if the Manager makes an attempt to communicate with the Owner to obtain such approval if to do so would be reasonable under the circumstances, it being understood that the Manager shall notify the Owner promptly after receipt of any order or notice of violation;
- E. to enter into all necessary or desirable service contracts in respect to the repair and operation of the Properties, including, without limitation, contracts for electricity, gas, air conditioning, equipment maintenance, water treatment, telephone, janitorial, landscaping, window cleaning, rubbish removal, snow removal, fuel oil, security, vermin extermination, and architects and engineers' services required for the planning and supervision of alterations and/or improvements made or proposed to be made to the Properties; provided, however, that any such contract having a term longer than one (1) year or requiring an annual payment in excess of Fifteen Thousand Dollars (\$15,000.00) must first be approved in writing by the Owner;
- F. to purchase all equipment and supplies which may be necessary to properly maintain and operate the properties;

- G. to review all bills received for services, labor, equipment and supplies ordered in connection with maintaining and operating the Portfolio and to pay or cause to be paid all such bills from funds furnished by the Owner;
- H. to determine the proper insurance coverage for the Portfolio as well as for the Owner and the Manager in regard to the Portfolio and the operation thereof, and cause such insurance to be obtained and/or maintained (if obtainable), at the Owner's expense, in such amounts and through such carriers as the Owner shall designate and approve;
- I. to list, offer for lease, lease and renew existing leases for space in the Portfolio on terms to be determined by the Owner, and cooperate with any other brokers with whom the Manager, in its discretion, may list space in the Portfolio for rent; provided, however, that the commission payable to any such broker shall not exceed the commission rate then generally prevailing in the community;
- J. to supervise the moving in and out of tenants and subtenants and arrange the dates thereof so that there shall be a minimum of disturbance to the operation of the Portfolio and of inconvenience to other tenants;
- K. to bill, or cause to be billed, tenants for rent and other charges;
- L. to use its best efforts to collect or cause to be collected rent and other charges and, if directed by the Owner, to serve notices upon tenants to quit and surrender space occupied by them;
- M. to sue on behalf of the Owner, for rent and other charges which may at any time be or become due from any tenant, and institute summary and/or judicial proceedings to recover possession of space in the Portfolio; and, when expedient, to settle, compromise and release such actions or suits;
- N. to handle tenants' security deposits and to comply with applicable state and local laws concerning the Owner's responsibility for security deposits and interest thereon, if any;
- O. to maintain in a manner customary and consistent with generally accepted accounting principles or with any accounting methods approved by the United States Department of Housing and Urban Development, a system of accounts to which shall be entered fully and accurately each and every financial transaction with respect to the operation of the Portfolio and to prepare and render to the Owner monthly statements of operation and such other reports as may be reasonably requested by the Owner;
- P. to keep the Owner informed of the financial status and physical condition of the Portfolio and other items that the Owner should reasonably be made aware of;
- Q. to consider, and when reasonable and consistent with the Owner's lease obligations, attend to complaints of tenants;

R. to cause to be prepared and filed all necessary forms relating to the maintenance and operation of the Portfolio required by any federal, state, county or municipal authority having jurisdiction;

S. to set up and maintain orderly files containing rent records, insurance policies, leases and subleases, correspondence, receipted bills and vouchers, and all other documents and papers pertaining to the Portfolio and its operation and maintenance, such records to be held at all times to remain the property of the Owner, and the Manager shall upon request of the Owner make the records available to the Owner, and the Owner's accounts and attorneys;

T. to manage the preparation and filing on behalf of the Owner of federal, state, city and any other income tax and other filings required by any governmental authority;

U. to, when the books of assessed valuations of the taxing authority having jurisdiction over the Portfolio are opened for public inspection in each year, ascertain the assessment of the Portfolio, report such assessments to the Owner and, if requested by the Owner, cooperate with the Owner's attorneys and other designated representatives in the preparation of applications for any needed correction of the assessed valuation;

V. to generally do all things reasonably deemed necessary or desirable for the proper management of the Portfolio; and

W. to perform, on the Owner's behalf, any lawful act and everything lawful and necessary or desirable in order to carry out the Manager's obligations contained in this Agreement, it being expressly understood and agreed that everything done by the Manager under the provisions of this Agreement shall be done as the agent of the Owner, and any and all obligations, costs and expenses incurred by the Manager in performance of its obligations under this Agreement shall be borne by the Owner and not by the Manager; provided, however, that it is expressly understood and agreed that any payments made by the Manager hereunder shall be made out of such funds as the Manager may from time to time hold for account of the Owner or as may be provided by the Owner, and the Manager shall not be obligated to make any advance to, or for the account of, the Owner or to pay any amount except out of the funds held or provided as aforesaid, nor shall the Manager be obligated to incur any extraordinary liability or obligation unless the Owner shall furnish the Manager with the necessary funds for the payment thereof.

4. **Banking.** All funds of the Owner in the possession of the Manager shall be held by the Manager for the Owner, in trust, and shall be deposited by the Manager in such bank as the Manager shall designate and Owner shall approve, in one or more special accounts maintained by the Manager in the name of the Owner. Such funds shall not be commingled with the Manager's own funds and shall remain on deposit until disbursed in accordance with the terms of this Agreement. The Manager shall

regularly furnish the Owner with true and complete copies of all statements issued by the bank with respect to all such bank accounts after their receipt by the Manager and upon request by the Owner.

5. **Compensation.** In consideration for the services rendered under this Agreement, the Owner shall pay to the Manager the following compensation:

- A. a Management Fee in the amount of seven percent (8%) of gross rental income paid monthly for management services;
- B. an Accounting Fee in the amount of six percent (8%) of net rental income, paid monthly for accounting and administrative costs;
- C. actual costs incurred by Manager for the employment of Manager's personnel described in Section 3.B. of this Agreement;
- D. all other actual costs incurred by Manager directly allocable to the Portfolio and (i) included in the operating budget approved by Owner in accordance with its Amended and Restated Agreement of Limited Liability Limited Partnership, as may be amended from time to time, or (ii) attributable to extraordinary repairs or maintenance; and
- E. if specifically engaged by the Owner to oversee any capital improvements, a fee equal to 15% of capital improvements from reserves or capital improvement grants or loans in order to compensate the Manager for general contracting and administration of capital improvement grant functions including interim reporting, contract solicitation, contract preparation and award, contractor monitoring, Portfoliodraw-downs and reporting, and close-out reports.

With respect to those costs and expenses to be paid by the Owner under subparagraphs C., D., and E. above, the Manager shall bill the Owner monthly for such costs and expenses, and the Owner shall pay such bill within thirty (30) days of receipt of the bill.

6. **Termination for Breach.** The Owner or the Manager may terminate this Agreement upon a material breach by the other party of any term or condition of this Agreement if such breach continues for an unreasonable period of time, but in any event if the breach is continued for a period of sixty (60) days after receipt by the breaching party from the non-breaching party of a written notice of such breach. Notwithstanding any provision contained herein to the contrary, in no event shall the Owner or the Manager terminate this Agreement if the party at fault proceeds, after receiving said notice, with due diligence to correct or rectify the material breach regardless of the duration of such breach. Termination of this Agreement shall not, however be the sole remedy of either party and any exercise of this right to terminate shall not preclude the pursuit of any other remedy available in law or equity to the non-breaching party.

7. **Early Termination.** At any time and for any reason, the Owner or the Manager may terminate this Agreement upon giving the other party at least one hundred eighty (180) days' prior written notice of such termination. Written notice shall state the specific date upon which such termination shall be effective.

8. **Force Majeure.** Notwithstanding anything contained herein to the contrary, it is agreed that in the event and to the extent that fire, flood, earthquake, natural catastrophe, explosion, accident, war, illegality, act of God, or any other cause beyond the control of either party hereto, or strikes or labor troubles (whether or not within the power of the party affected to settle the same) prevents or delays performance by either party to this Agreement, such party shall be relieved of the consequences thereof without liability, so long as and to the extent that performance is prevented by such cause; provided, however, that such party shall exercise due diligence in its efforts to resume performance within a reasonable period of time.

9. **Cooperation of the Parties.** To facilitate the Manager's performance under this Agreement, the Owner agrees to provide to the Manager its full cooperation and assistance and that of its officers, agents and employees.

10. **Controlling Law and Enforceability.** This Agreement shall be construed in accordance with the laws of the State of Colorado. In addition, the parties hereto recognize that there are legal constraints imposed upon the Manager by the constitutions, statutes, rules and regulations of the State of Colorado and the United States and imposed upon it by the Wellington Township Charter and Code, and that, subject to such constraints, the parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, in no event shall either party hereto exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

11. **Indemnity.** The Owner agrees to indemnify and hold harmless the Manager, and its officers and employees, for and against all liabilities, claims and demands which arise from any negligent act or omission of the Owner, or of its officers and employees. In addition, the Owner agrees to indemnify the Manager and its officers and employees, from all costs and expenses related to defending such liabilities, claims and demands, including but not limited to, litigation costs and reasonable attorney's fees whether or not such liabilities, claims and demands are groundless, frivolous, false or fraudulent.

The Manager agrees, to the extent permitted by law, to indemnify and hold harmless the Owner, and its officers and employees, for and against all liabilities, claims and demands which arise from any negligent act or omission of the Manager, or of its officers and employees, provided that such acts or omissions of the Manager's officers and employees occur during the performance of their duties, within the scope of their employment, and were not willful and wanton. In addition, the Manager agrees to indemnify the Owner and its officers and employees, from all costs and expenses related to defending such liabilities, claims and demands including, but not limited to, litigation costs and reasonable attorney's fees whether or not such liabilities, claims and demands are groundless, frivolous, false or fraudulent. However, the Manager and the Owner acknowledge and agree that all such liabilities, claims and demands shall be subject to any notice requirements, defenses, immunities, and limitations to liability the Manager and its officers and employees may have under the Colorado Governmental Immunity Act (C.R.S. Section 24-10-101, et seq.) and to any other defenses, immunities and limitations to liability available to the Manager, and its officers and employees, under the law.

12. **Assignment.** This Agreement shall not be assigned by either of the parties hereto without written consent of the other party.

13. **Default.** Each and every term of this Agreement shall be deemed to be a material element of the Agreement. In the event that either party shall fail to perform according to any term of this Agreement, such party may be declared in default. In the event that a party has been declared in default hereof, such defaulting party shall be given written notice specifying such default and shall be allowed a period of thirty (30) days in which to cure said default. In the event the default remains uncorrected within such notice period, the party declaring the default may elect to: (a) terminate this Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law, in equity or that is permitted under this Agreement.

14. **Notices.** Other than invoice billings which may be sent by first class mail, whenever written notice is required or permitted to be given hereunder by one party to the other, it shall be the party to whom given. Notices shall be addressed as follows:

If to the Owner:

Wellington Community Housing  
c/o Housing Catalyst  
1715 West Mountain Avenue  
Fort Collins, Colorado 80521  
Attn: Amy Comstock, President

If to the Manager:

Housing Catalyst  
1715 West Mountain Avenue  
Fort Collins, Colorado 80521  
Attn: Julie J. Brewen, Chief Executive Officer

with a copy to:

Belford & Martell, LLC  
145 N. College Avenue, Unit E  
Fort Collins, CO 80524  
Attn: Mr. James A. Martell, Attorney at Law

Either party hereto may at any time designate a different person or address for the purpose of receiving notice by so informing the other party in writing. Notice by certified mail shall be deemed effective upon actual receipt thereof or three (3) days after being deposited in the United States mail, whichever first occurs.

15. **Waiver.** No waiver by either of the parties hereto of any of the terms and conditions of this Agreement shall be deemed to be or shall be construed as a waiver of any other term or condition of this Agreement, nor shall a waiver of any breach of this Agreement be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.

16. **Construction.** This Agreement shall be construed according to its fair meaning and as if it was prepared by both of the parties hereto and shall be deemed to be and contain the entire agreement between the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements or representations, expressed or implied, concerning this Agreement, unless set forth in writing and signed by both of the parties. Paragraph heading of this Agreement are for convenience of reference only and shall in no way define, limit or prescribe the scope of intent of any provision of this Agreement.

17. **Severability.** If any provision of this Agreement, or the application of such provision to any person, entity or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those in which it was held invalid, shall not be affected.

18. **Relationship of Parties.** The parties hereto enter into this Agreement as separate and independent entities and each shall maintain such status throughout the term of this Agreement.

19. **Attorneys' Fees.** In the event that either of the parties hereto shall default in any of their covenants or obligations contained herein so as to require the other party to this Agreement not in default to commence legal or equitable action against the defaulting party, the defaulting party expressly agrees to pay all of the non-defaulting party's reasonable expenses in said litigation, including a reasonable sum for attorney's fees.

20. **No Third Party Beneficiaries.** This Agreement is made for the sole and exclusive benefit of the Owner and the Manager and is not made for the benefit of any third party.

21. **Binding Effect.** This Agreement shall be bind upon and inure to the benefit of the parties hereto and their respective successors and assigns.

22. **Addendum.** The Addendum to Property Management Agreements is attached hereto and incorporated by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

**OWNER:**

**Wellington Community Housing**

By: \_\_\_\_\_  
Amy Comstock, President

**MANAGER:**

**Housing Catalyst**

By: \_\_\_\_\_  
Julie J. Brewen, CEO

DRAFT

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**Parcel One:**

Lot 4,  
Block 1,  
Summit Addition to Wellington,  
County of Larimer, State of Colorado.

**Parcel Two:**

Lot 1,  
Block 4,  
Summit Addition to Wellington,  
County of Larimer, State of Colorado.

**Parcel Three:**

Lot 16,  
Block 2,  
Miller's Addition to Wellington,  
County of Larimer, State of Colorado.

**Parcel Four:**

The South 90 feet of Lot 13,  
Block 7,  
Town of Wellington,  
County of Larimer, State of Colorado.

**Parcel Five:**

The South ½ of Lot 6 and all of Lots 7, 8, 9, 12, 13, 14, and 15, and a strip of land 12 feet in width lying along the West line of said Lot 12 and the South ½ of Lot 13, being a portion of vacated Fifth Street as described in the Vacation Deed recorded August 3, 1966 in Book 1336 at Page 576.

EXCEPT the West 58 feet of Lots 14 and 15 and the West 58 feet of the North ½ of Lot 13, all in Block 1, and

The West 58 feet of Lots 14 and 15, and the West 58 feet of the North ½ of Lot 13, and a strip of land 12 feet in width lying along the West line of said Lots 14, 15 and the North ½ of Lot 13, being a portion of vacated Fifth Street as described in the Vacation Deed recorded August 3, 1966 in Book 1336 at Page 576, all in Block 1,

All in Piatt and Breniman Addition to Wellington,  
County of Larimer, State of Colorado.

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**EXHIBIT A**  
{Continued}

**Parcel Six:**

Lot 3,  
Block 1,  
Coddington Addition to Wellington,  
County of Larimer, State of Colorado.

**Parcel Seven:**

Lot 15 and the East½ of Lot 14,  
Block 8,  
Town of Wellington,  
County of Larimer, State of Colorado.

**Parcel Eight:**

Lot 17,  
Block 7,  
Town of Wellington,  
County of Larimer, State of Colorado.

**Parcel Nine:**

A part of Tracts 32 and 33 of Wellington Place, more particularly described as follows:

Begin at a point on the West line of Fifth Street and the North line of Roosevelt Avenue which bears South 670.00 feet and again S88°44'00"W 491.53 feet and again N00°02'00"W 30.00 feet from the East¼ corner of Section 33, Township 8 North, Range 68 West of the 6<sup>th</sup> Principal Meridian;  
Thence run N00°02'00"W 300.00 feet along the West line of Fifth Street;  
Thence S88°44'50"W 308.65 feet;  
Thence S01°18'30"E 300.00 feet along the East line of Fourth Street;  
Thence N88°44'00"E 301.97 feet along the North line of Roosevelt Avenue to the Point of Beginning,  
County of Larimer, State of Colorado.

Note: For informational purposes only, the above described land is covered by the following tax parcel numbers:

Parcel One:	8933116904
Parcel Two:	8933120901
Parcel Three:	8933134916

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**EXHIBIT A**  
(Continued)

Parcel Four: 8933408919  
Parcel Five: 8933405907  
Parcel Six: 8933125903  
Parcel Seven: 8933409919 and 8933409915  
Parcel Eight: 8933408917  
Parcel Nine: 8933406902

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