

HOUSING AUTHORITY OF THE COUNTY OF KING

RESOLUTION NO. 5182
(Birch Creek Apartments Project)

A RESOLUTION providing for the issuance of revenue bonds of the Authority in the aggregate principal amount of not to exceed \$43,000,000, the proceeds of which will be used to make a loan to Soosette Creek LLC, a Washington limited liability company of which the Authority is the managing member, to finance or refinance a portion of the cost of rehabilitating the Birch Creek Apartments located in Kent, Washington, to provide housing for low-income persons in King County, Washington; determining the form, terms and covenants of the bonds; approving the forms of a trust indenture relating to the bonds, a loan agreement providing for repayment of the loan, a deed of trust relating to the Project and a contingent loan agreement with King County, Washington; authorizing the execution and delivery of the trust indenture, the loan agreement, the deed of trust, the contingent loan agreement, the bonds and other agreements, documents and certificates; appointing a trustee and bond registrar for the bonds and authorizing the Executive Director of the Authority to accept an offer from Banc of America Securities LLC to purchase the bonds.

ADOPTED August 18, 2008

This document was prepared by:

*FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
(206) 447-4400*

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WHEREAS, the Housing Authority of the County of King (the "Authority") seeks to encourage the provision of housing for low-income persons residing in King County, Washington (the "County"); and

WHEREAS, the Authority has formed Soosette Creek LLC, a Washington limited liability company of which the Authority is the managing member (the "LLC"), to accomplish the restructuring of the underlying ownership of the Birch Creek Apartments (formerly known as the Springwood Apartments) located in Kent, Washington (the "Project"), in order to recapitalize the Project and finance necessary renovations, upgrades and physical improvements, which Project will be leased by the LLC from the Authority to provide housing for low-income persons; and

WHEREAS, the Project will be used by the LLC to provide housing for low-income persons, and no more than an insubstantial portion of the proceeds of the Bonds (defined below)

will be used in connection with the financing or refinancing of any portion of the Project to be used by the LLC for any other purpose; and

WHEREAS, RCW 35.82.070(5) provides that a housing authority may, among other things, “lease any . . . lands . . . embraced in any housing project and . . . establish and revise the rents or charges therefor”; and “sell, lease, exchange, transfer . . . or dispose of any real or personal property or any interest therein . . .”; and

WHEREAS, RCW 35.82.070(18) provides that a housing authority may, among other things and if certain conditions are met, “make . . . loans for the . . . acquisition, construction . . . rehabilitation, improvement . . . or refinancing of land, buildings, or developments for housing for persons of low-income”; and

WHEREAS, RCW 35.82.020(11) and 35.82.130 together provide that a housing authority may issue bonds, notes or other obligations for any of its corporate purposes; and

WHEREAS, pursuant to Resolutions Nos. 5160 and 5161 of the Authority, each adopted on April 21, 2008, the Authority authorized the issuance of two series of bonds in the aggregate principal amounts of not to exceed \$30,000,000 and \$13,000,000, respectively, for the purpose of making loans to the LLC; and

WHEREAS, the Board of Commissioners of the Authority deems it necessary and advisable and in the best interest of the Authority to change certain terms of the bonds authorized by Resolutions Nos. 5160 and 5161 and to rescind and replace Resolution Nos. 5160 and 5161 in connection therewith; and

WHEREAS, the Board of Commissioners of the Authority deems it necessary and advisable and in the best interest of the Authority to issue the Bonds, in an aggregate principal

amount not to exceed \$43,000,000, the proceeds of which will be used to make a loan to the LLC for the purposes described herein; and

WHEREAS, it is anticipated that King County, Washington, will agree to provide credit enhancement for the Bonds in the form of a Contingent Loan Agreement with the Authority;

WHEREAS, it is anticipated that Banc of America Securities LLC will offer to purchase the Bonds under the terms and conditions set forth herein;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the County of King as follows:

Section 1. Definitions. As used in this resolution, the following words have the following meanings:

“Authority” means the Housing Authority of the County of King, a public body corporate and politic duly organized and existing under and by virtue of the laws of the State of Washington.

“Board” means the Board of Commissioners of the Authority.

“Bond Registrar” means the entity serving as registrar, authenticating agent and paying agent under the Indenture, initially the Trustee.

“Bond” or “Bonds” means one or more of the revenue bonds of the Authority issued pursuant to, under the authority of and for the purposes provided in this resolution and the Indenture.

“Code” means the Internal Revenue Code of 1986, as amended.

“Contingent Loan Agreement” means the Contingent Loan Agreement between the Authority and the County providing credit enhancement for the Bonds.

“County” means King County, Washington.

“Deed of Trust” means the leasehold deed of trust under which the LLC will be the grantor and the Authority will be the beneficiary, encumbering the LLC’s leasehold interest in the Project and securing repayment of the Loan, including any supplements or amendments thereto made in conformity herewith and therewith.

“General Revenues” means all revenues of the Authority from any source, but only to the extent that those revenues are available to pay principal of and interest on the Bonds or to repay loans from the County pursuant to the Contingent Loan Agreement and are not now or hereafter pledged or restricted, by law, regulation, contract, covenant, resolution, deed of trust or otherwise (including restrictions relating to funds made available to the Authority under the U.S. Housing Act of 1937), solely to another particular purpose.

“Indenture” means the Trust Indenture between the Authority and the Trustee relating to the Bonds, including any supplements or amendments thereto made in conformity herewith and therewith.

“LLC” means Soosette Creek LLC, a Washington limited liability company of which the Authority is the sole managing member.

“Loan” means the loan from the Authority to the LLC of the proceeds of the Bonds.

“Loan Agreement” means the Loan Agreement by and between the Authority and the LLC, relating to the Loan, including any supplements or amendments thereto made in conformity herewith and therewith.

“Project” means, depending on the context (1) the rehabilitation of the Birch Creek Apartments located 27360 129th Place SE, Kent, Washington, to be leased, together with the underlying property, by the LLC from the Authority, or (2) the Birch Creek Apartments.

“Trustee” means the entity serving as trustee under the Indenture, initially The Bank of New York Mellon Trust Company, N.A.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

Section 2. Authorization of Bonds and Loan and Application of Proceeds. The Authority shall issue the Bonds in one or more series to provide a portion of the funds required to accomplish the Project and to pay costs of issuing the Bonds. Such Bond financing is declared and determined to be important for feasibility of the Project. All proceeds of the Bonds shall be used for those purposes, and shall be deposited with the Trustee, all as provided in the Indenture. The Board finds that it is in the best interest of the Authority to issue the Bonds for the purposes set forth in this resolution.

Section 3. Description of Bonds. The Bonds shall be issued in registered form in an aggregate principal amount not to exceed \$43,000,000. The Bonds shall be dated such date, shall be in such denominations, shall bear interest (at a weighted average rate not to exceed 8.0% per annum) payable on such dates and at such rates, shall mature at such times (but in no event later than the earlier of 30 years from the issue date of the Bonds or December 31, 2038) and in such amount, shall have such prepayment or redemption provisions and shall have such other provisions consistent with the purposes of this resolution as are set forth in the Indenture, which document is incorporated herein by this reference.

Section 4. Security for the Bonds. The Bonds shall be special, nonrecourse obligations of the Authority payable solely from sources described in the Indenture, including the Authority's General Revenues and the proceeds of any loans made by the County pursuant to the Contingent Loan Agreement, all as set forth in the Indenture.

The Authority pledges its General Revenues as security for the repayment of the loans made by the County under the Contingent Loan Agreement. The Authority reserves without

limitation the right to issue other obligations, the principal of and interest on which are to be paid from the General Revenues on a parity with payments under the Contingent Loan Agreement and on the Bonds. At its option, the Authority may pledge any revenues that comprise a portion of the General Revenues to the payment of other obligations, such payments to have priority over the payments to be made under the Contingent Loan Agreement and on the Bonds with respect to that portion of the General Revenues.

The Bonds shall not be a debt of the County, the State of Washington or any political subdivision thereof, and the Bonds shall so state on their face. Neither the County, the State of Washington nor any political subdivision thereof (except the Authority, solely from the sources identified herein and in the Indenture) shall be liable for payment of the Bonds nor in any event shall principal of, premium, if any, on and interest on the Bonds be payable out of any funds or assets other than those pledged to that purpose by the Authority herein and in the Indenture. The Authority has no taxing power.

Section 5. Form and Execution of Bonds. The Bonds shall be in a form consistent with the provisions of this resolution, the Indenture and state law, shall bear the manual or facsimile signatures of the Chair of the Board and Executive Director of the Authority and shall be impressed with the seal of the Authority or shall bear a facsimile thereof.

The Bonds shall be authenticated by the Bond Registrar as set forth in the Indenture. No Bonds shall be valid for any purpose until so authenticated. The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this resolution.

Section 6. Preservation of Tax Exemption for Interest on Bonds. The Authority covenants that it will take all actions necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or

permit any use of proceeds of the Bonds or other funds of the Authority treated as proceeds of the Bonds at any time during the term of the Bonds which would cause interest on the Bonds to be included in gross income for federal income tax purposes. The Authority also covenants that, to the extent arbitrage rebate requirement of Section 148 of the Code is applicable to the Bonds, it will take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Bonds, including the calculation and payment of any penalties that the Authority has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Bonds from being included in gross income for federal income tax purposes.

Section 7. Authorization of Bond Documents and Execution Thereof. The Board approves the Indenture, the Loan Agreement, the Contingent Loan Agreement and the Deed of Trust substantially in the forms on file with the Executive Director of the Authority, with such changes as the Executive Director of the Authority shall deem necessary or appropriate, and appoints The Bank of New York Mellon Trust Company, N.A., as Trustee and Bond Registrar for the Bonds. The Authority authorizes and approves the execution and delivery of, and the performance by the Authority of its obligations contained in, the Bonds, the Loan Agreement, the Indenture, the Contingent Loan Agreement and this resolution and the consummation by the Authority of all other transactions contemplated by this resolution in connection with the issuance of the Bonds and the documentation of the loan from the Authority to the LLC. The Executive Director of the Authority is authorized and directed to do everything necessary for the issuance, execution and delivery of the Bonds, including the “deeming final” of the preliminary official statement for the Bonds for the sole purpose of the Bond purchaser’s compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), and to execute and deliver, on behalf of the Authority, the Indenture, the Loan Agreement, the Contingent Loan

Agreement, and any other documents that may be useful or necessary in connection with the issuance of the Bonds and the making of the Loan to the LLC or by the County as a condition to delivery of the Contingent Loan Agreement, and the perfection of the security interests in the funds and assets pledged to payment of the Bonds and to ensure the proper use and application of the proceeds from the sale of the Bonds.

Section 8. Authorization of LLC Documents and Execution Thereof. The Board approves the Deed of Trust substantially in the form on file with the Executive Director of the Authority, with such changes as the Executive Director of the Authority shall deem necessary or appropriate, and authorizes and directs the Executive Director of the Authority to execute and deliver on behalf of the LLC the Deed of Trust and the Loan Agreement, and such financing statements and other documents, instruments and agreements as may be necessary or desirable in connection with the issuance of the Bonds.

Section 9. Authorization of Purchase Contract. It is anticipated that Banc of America Securities LLC will present a purchase contract (the "Bond Purchase Contract") to the Authority offering to purchase the Bonds under the terms and conditions provided herein and therein. The Board finds that entering into such a Bond Purchase Contract is in the best interest of the Authority and the LLC, and therefore authorizes the Executive Director of the Authority to accept the offer contained in the Bond Purchase Contract and to execute the Bond Purchase Contract on behalf of the Authority and, if applicable, the LLC.

Section 10. Rescission and Replacement of Resolutions Nos. 5160 and 5161. Resolutions Nos. 5160 and 5161 of the Authority, each adopted on April 21, 2008, are hereby rescinded and replaced by this Resolution.

Section 11. Acting Officers Authorized. Any action required by this resolution to be taken by the Chair of the Board or Executive Director of the Authority may in the absence of such person be taken by the duly authorized acting Chair of the Board or the Deputy Executive Director or Assistant Executive Director for Administrative Affairs of the Authority, respectively.

Section 12. Ratification and Confirmation. Any actions of the Authority or its officers prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

Section 13. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

ADOPTED by the Board of Commissioners of the Housing Authority of the County of King at a regular open public meeting thereof this 18th day of August, 2008.

HOUSING AUTHORITY OF THE COUNTY OF
KING

By: *Nancy Holland-Young*
Nancy Holland- Young, Chair

ATTEST:



Executive Director

CERTIFICATE

I, the undersigned, the duly chosen, qualified and acting Executive Director of the Housing Authority of the County of King (the "Authority"), and keeper of the records of the Authority, CERTIFY:

1. That the attached Resolution No. 5182 (the "Resolution") is a true and correct copy of the resolution of the Board of Commissioners of the Authority as adopted at a meeting of the Authority held on August 18, 2008, and duly recorded in the minute books of the Authority.

2. That such meeting was duly convened and held in all respects in accordance with law; that a quorum was present throughout the meeting and a majority of the members of the Board of Commissioners of the Authority present at the meeting voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of August, 2008.



Executive Director of the Authority