

HOUSING AUTHORITY OF THE COUNTY OF KING

RESOLUTION NO. 5260

A RESOLUTION providing for the issuance of the Authority's Non-Revolving Line of Credit Revenue Note, 2009 (Zephyr Apartments Project), in the principal amount of not to exceed \$4,500,000, to provide interim financing for the development of housing and related facilities in connection with the Zephyr Apartments portion of the Park Lake Homes II HOPE VI redevelopment project, to be leased to Zephyr Apartments Limited Partnership, a Washington limited partnership of which the Authority will be the sole general partner (the "Partnership"), to provide housing for low-income persons in King County, Washington; providing for the loan of proceeds of draws on the note to the Partnership; determining the form, terms and covenants of the note; creating a note redemption fund; approving the forms of the lease agreement, a financing agreement providing for repayment of the loan and a regulatory agreement governing the use of the facilities to be financed; authorizing the execution and delivery of the lease agreement, the financing agreement, the regulatory agreement, the note and other agreements, documents and certificates; and approving the sale and providing for the delivery of the note to Bank of America, N.A.

Adopted December 16, 2009

This document was prepared by:

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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 intends to construct 25 rental dwelling units as part of the Zephyr Apartments rental housing component of the Park Lake Homes II HOPE VI redevelopment project, all of which will be leased by the Authority to Zephyr Apartments Limited Partnership, a Washington limited partnership of which the Authority will be the sole general partner (the "Partnership"), to provide housing for low-income persons within the County (the "Project"); and

WHEREAS, the Project will be used by the Partnership to provide housing for low-income persons, and no more than an insubstantial portion of the proceeds of the Note (defined below) will be used in connection with the financing or refinancing of any portion of the Project to be used by the Partnership for any other purpose; and

WHEREAS, RCW 35.82.020 defines “housing project” to include, among other things, “any work or undertaking . . . to provide decent, safe and sanitary urban or rural dwellings, apartments, mobile home parks or other living accommodations for persons of low income”; 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, the Board of Commissioners of the Authority has determined that it is necessary and advisable that the Authority (1) borrow money to provide interim financing for the development of housing and related facilities, including the Zephyr Apartments portion of the Park Lake Homes II HOPE VI redevelopment project and (2) to use the proceeds of such borrowing to make a loan to the Partnership for such purposes; and

WHEREAS, the County has agreed to provide credit enhancement for the Note in the form of a Contingent Loan Agreement with the Authority; and

WHEREAS, Bank of America, N.A. (the “Bank”) has proposed to extend a line of credit evidenced by a line of credit note of the Authority on the terms set forth in this resolution to provide money for those purposes; 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.

“Bank” means Bank of America, N.A., as registered owner of the Note.

“BBA LIBOR Daily Floating Rate” means the rate of interest per annum calculated in accordance with the formula set forth for such interest rate option in the Proposal Letter.

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

“Code” means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

“Contingent Loan Agreement” means the Contingent Loan Agreement between the Authority and the County executed on October 30, 2009, by the Authority and on November 2, 2009, by the County, providing credit enhancement for the Note and other obligations of the Authority relating to the Park Lake Homes II (Seola Gardens) HOPE VI

redevelopment project, together with any amendments or supplements thereto made in accordance with the terms thereof.

“County” means King County, Washington.

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

“Draws” means incremental draws upon the Note.

“General Revenues” means all revenues of the Authority from any source, but only to the extent that those revenues are available to pay debt service on the Note or to repay loans from the County pursuant to the Contingent Loan Agreement and are not now or hereafter pledged, 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.

“Lease” means the lease by and between the Authority and the Partnership relating to the lease of the Project to the Partnership, and including any supplements or amendments thereto made in conformity herewith and therewith.

“LIBOR Fixed Rate” means the rate of interest per annum calculated in accordance with the formula set forth for such interest rate option in the Proposal Letter.

“Loan” means the loan to the Partnership of proceeds of Draws on the Note.

“Loan Agreement” means the Financing Agreement by and between the Authority and the Partnership, relating to the Loan, and, if the Authority so determines, certain other loans

made by the Authority to the Partnership with respect to the Project, and including any supplements or amendments thereto made in conformity herewith and therewith.

“Note” means the Authority’s Non-Revolving Line of Credit Revenue Note, 2009 (Zephyr Apartments Project).

“Note Fund” means the Authority’s Non-Revolving Line of Credit Revenue Note Fund, 2009 (Zephyr Apartments Project), created by this resolution for the purpose of paying principal of and interest on the Note.

“Note Register” means the books or records maintained by the Note Registrar containing the name and mailing address of the registered owner of the Notes.

“Note Registrar” means the Executive Director of the Authority.

“Partnership” means the Zephyr Apartments Limited Partnership, a Washington limited partnership of which the Authority will be the sole general partner to be formed in connection with the Project.

“Project” means, depending on the context, (1) the development of housing and related facilities with respect to the Zephyr Apartments portion of the Park Lake Homes II HOPE VI redevelopment project, which will be leased by the Partnership from the Authority, or (2) the Zephyr Apartments.

“Proposal Letter” means the proposal letter to the Authority from the Bank dated November 17, 2009, as it may be amended, proposing to purchase the Note on the terms set forth therein and herein.

“Regulatory Agreement” means the Regulatory Agreement executed by the Partnership for the benefit of the Authority governing the use of the Project, and including any supplements or amendments thereto made in conformity herewith and therewith.

Section 2. Authorization and Description of Note. For the purpose of providing funds with which to finance all or part of the costs of the Project and pay costs of issuing and interest on the Note, including making a loan to the Partnership for such purposes, the Authority may borrow money from time to time pursuant to a line of credit extended by the Bank under the terms of this resolution and the Proposal Letter, and shall issue the Note in a principal amount of not to exceed \$4,500,000. Such financing is declared and determined to be important for feasibility of the Project. All proceeds of Draws on the Note shall be lent to the Partnership and shall be disbursed pursuant to and subject to the conditions of the Loan Documents for the purposes set forth in this resolution. The Board finds that it is in the best interest of the Authority to issue the Note for those purposes.

The Note shall be designated the Non-Revolving Line of Credit Revenue Note, 2009 (Zephyr Apartments Project), of the Authority; shall be issued in registered form; shall be dated as of its date of delivery to the Bank; and shall mature on December 1, 2012 (the "Maturity Date"). The Executive Director is authorized, without further action of the Board but with the consent and approval of the Bank, to extend the maturity date of the Note beyond the Maturity Date specified herein for up to three additional years, as long as no other terms of the Note or this resolution are revised, and to do everything necessary for the execution and delivery of such documents as are useful or necessary to such extension of maturity.

The Authority or the Partnership may make Draws upon the Note in any amount on any business day during the term of the Note for the Note purposes identified above, subject to the terms of the Proposal Letter. No Draw may exceed the total amount of the costs to be paid from such Draw, and the proceeds of each Draw shall be used immediately to pay those costs or to reimburse the Authority or the Partnership for such costs paid by the Authority or the

Partnership, as applicable. No Draw may be used to reimburse the Partnership for costs paid by the Partnership prior to December 20, 2008, except as and to the extent permitted by the Code. Draws shall be recorded in such form as the Authority, the Partnership and the Bank may agree. Draws shall be limited to an aggregate principal amount of \$4,500,000.

Each Draw on the Note shall initially bear interest at either the BBA LIBOR Daily Floating Rate or the LIBOR Fixed Rate, with such interest rate option chosen by the Executive Director or his or her designee at the time of each Draw. Interest on each Draw shall accrue from the date of that Draw and shall be computed on the principal amount of the Draw outstanding on the basis of a 360-day year and actual days elapsed for the actual number of days the principal amount of the Draw is outstanding. Both the BBA LIBOR Daily Floating Rate and the LIBOR Fixed Rate shall be subject to a floor of 1.38% per annum. Draws bearing interest at the BBA LIBOR Daily Floating Rate may be converted to bear interest at the LIBOR Fixed Rate at any time, in minimum amounts of \$100,000, upon three business days' notice to the Bank. Draws bearing interest at the LIBOR Fixed Rate may be converted to bear interest at the BBA LIBOR Daily Floating Rate on the last day of the applicable interest period (as described in the Proposal Letter), and such conversion shall occur unless the Authority notifies the Bank at least three business days prior to the end of the interest period that the Authority wishes to begin another LIBOR Fixed Rate period, and designates the new interest period and principal amount to bear interest at such LIBOR Fixed Rate. The interest period applicable to principal bearing interest at the LIBOR Fixed Rate may also be changed on the last day of an interest period to a different permitted interest period (one to twelve months), upon notice to the Bank given at least three business days prior to the end of the current interest period.

Interest on the Note shall be payable quarterly in arrears, on the first day of each March, June, September and December, to the maturity or earlier redemption of the Note. Draws may be used for the purpose of making interest payments. Principal of the Note, together with all accrued and unpaid interest thereon, is payable on the Maturity Date.

If the Note is not paid when properly presented at its Maturity Date, the Authority shall be obligated to pay interest on the Note at the rate of interest thereon from and after the Maturity Date until the Note, both principal and interest, is paid in full. If an event of default occurs in the payment to the Bank of any amounts when due, or if interest on the Note becomes includable in gross income of the recipient thereof for federal income tax purposes, the Bank may increase the applicable interest rate spread identified in the Proposal Letter by 3.0% per annum.

The Authority finds that the fixing of the interest rate indices described in the Proposal Letter is in the best interest of the Authority and the Partnership.

Section 3. Designation of Officers to Make Draws. The Board authorizes the Executive Director or his designee to make Draws against the Note in such amounts, at such times and with such interest rate option as he or she may determine hereafter, those Draws to be made in accordance with the terms and provisions set forth herein and in the Proposal Letter.

Section 4. Note Registrar; Registration and Transfer of Note. The Executive Director of the Authority shall serve as Note Registrar for the Note. The Note Registrar shall keep, or cause to be kept, at his or her office in Tukwila, Washington, sufficient books for the registration of the Note (the "Note Register"), which shall contain the name and mailing address of the registered owner of the Note. The Note Registrar is authorized, on behalf of the Authority, to authenticate and deliver the Note in accordance with the provisions of the Note and this resolution, to serve as

the Authority's paying agent for the Note and to carry out all of the Note Registrar's powers and duties under this resolution

The Note shall be issued only in registered form as to both principal and interest and recorded on the Note Register. The Note may not be assigned or transferred by the Bank, except that the Bank may assign or transfer the Note to any successor to the business and assets of the Bank.

Section 5. Place, Manner and Medium of Payment. Both principal of and interest on the Note shall be payable in lawful money of the United States of America solely out of the Note Fund. Payment of interest on each interest payment date, and of principal at maturity or prepayments of principal, shall be paid by check or draft of the Authority mailed or by immediately available funds delivered on or before each interest payment date or the maturity or prepayment date to the registered owner at the address appearing on the Note Register on the last day of the month preceding the payment date. The Authority may instruct the Bank to transfer and apply all or a designated portion of a Draw to the payment of interest on the Note. Upon the final payment of principal of and interest on the Note, the registered owner shall surrender the Note at the principal office of the Note Registrar in Tukwila, Washington, for destruction or cancellation in accordance with law.

Section 6. Prepayment of Note. The Authority reserves the right to prepay all or a portion of the principal of the Note at any time. Draws bearing interest at a BBA LIBOR Daily Floating Rate may be prepaid without premium or penalty. Draws bearing interest at a LIBOR Fixed Rate are subject to the payment of a potential prepayment fee as described in the Proposal Letter. In addition, the Authority shall repay, or shall cause the Partnership to repay, the Note to the extent of any proceeds received from (i) the sale of low-income housing tax credits with

respect to the Project or (ii) a HOPE VI grant payment with respect to the Project received from the U.S. Department of Housing and Urban Development and not intended to be expended for other costs of the Project, such prepayment to be made within five days of receipt of such funds, except that such prepayment may be deferred to the end of the then-current interest period for principal bearing interest at the LIBOR Fixed Rate to avoid payment of the prepayment fee. The Bank may in its sole discretion waive any prepayment fee. Written notice to the Bank of any intended prepayment or redemption of the Note shall not be required. Interest on the Note or the portion thereof so prepaid shall cease to accrue on the date of such prepayment.

Section 7. Note Fund; Security for the Note. The Note Fund is created as a special fund of the Authority and is to be known as the Non-Revolving Line of Credit Revenue Note Fund, 2009 (Zephyr Apartments Project). The Note Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Note. The Authority pledges to deposit into the Note Fund, from General Revenues, from amounts received from the Partnership from the sale of low-income housing tax credits in connection with the Project, and from funds received from the County pursuant to the Contingent Loan Agreement, amounts sufficient to pay the principal of and interest on the Note when due. The Authority covenants that it will cause the Partnership to execute any documents reasonably required by the Bank to effect the pledge of such sale proceeds as security for the Note.

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 on the Note. At its option, the Authority may pledge any portion of the General Revenues to the payment of other obligations of the Authority, such payments to have priority

over the payments to be made on the Note with respect to that portion of the General Revenues so pledged.

The Note shall not be a debt of King County, the State of Washington or any political subdivision thereof, and the Note shall so state on its face. Neither King County, the State of Washington nor any political subdivision thereof (except the Authority from the sources specified herein) shall be liable for payment of the Note nor in any event shall principal of and interest on the Note be payable out of any funds other than the Note Fund of the Authority established herein. The owner of the Note shall not have recourse to any other fund of the Authority other than the Note Fund, or to any other receipts, revenues or properties of the Authority other than as described herein and in the Note. The Authority has no taxing power.

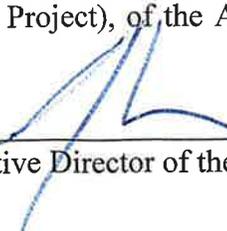
Neither the Authority (except to the extent of the pledge of its General Revenues) nor any of the Commissioners, officers or employees of the Authority shall be personally liable for the payment of the Note.

Section 8. Form and Execution of Note. The Note shall be prepared in a form consistent with the provisions of this resolution 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.

To be valid or obligatory for any purpose or entitled to the benefits of this resolution, the Note shall bear a Certificate of Authentication in the following form:

CERTIFICATE OF AUTHENTICATION

This Note is the fully registered Non-Revolving Line of Credit Revenue Note, 2009 (Zephyr Apartments Project), of the Authority described in the Note Resolution.



Executive Director of the Authority and Note Registrar

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this resolution.

If any officer whose facsimile signature appears on the Note ceases to be an officer of the Authority authorized to sign notes before the Note is authenticated or delivered by the Note Registrar or issued by the Authority, the Note nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the Authority as though that person had continued to be an officer of the Authority authorized to sign the Note. The Note also may be signed on behalf of the Authority by any person who, on the actual date of signing of the Note, is an officer of the Authority authorized to sign notes, although he or she did not hold the required office on the date of issuance of the Note.

Section 9. Preservation of Tax Exemption for Interest. The Authority covenants that it will take all actions necessary to prevent interest on the Note 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 Note or other funds of the Authority treated as proceeds of the Note at any time during the term of the Note which would cause interest on the Note to be included in gross income for federal income tax purposes. The Authority also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to the Note, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Note, 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 Note from being included in gross income for federal income tax purposes.

Section 10. Proposal Letter Reporting Requirements; Covenants. The Authority covenants and agrees for so long as the Note remains outstanding to deliver to the Bank the following financial information and statements:

- Within 180 days of each fiscal year end, the Authority's internally prepared annual financial statements;
- Within 60 days of each quarter end, the Authority's internally prepared quarterly financial statements (except the fiscal year-end quarter);
- Within 45 days of adoption, the Authority's annual budget;
- Within 180 days of each fiscal year end, the Authority's internally prepared annual report on the operating results of the Project; and
- Within 10 days of receipt, the Authority's annual state Audit Report.

The Authority further covenants and agrees to provide other financial information as the Bank may from time to time reasonably request.

Section 11. Authorization of Documents and Execution Thereof. The Board approves the Loan Agreement, the Lease and the Regulatory Agreement 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. The Authority authorizes and approves the execution and delivery of, and the performance by the Authority of its obligations contained in, the Note, the Loan Agreement, the Lease and this resolution and the consummation by the Authority of all other transactions contemplated by this resolution in connection with the issuance of the Note and the documentation of the Loan from the Authority to the Partnership. The appropriate Authority officials are authorized and directed to do everything necessary for the issuance, execution and delivery of the Note. The Executive Director of the Authority is

authorized to execute and deliver, on behalf of the Authority, the Loan Agreement, the Lease, the Regulatory Agreement, the Note and any other documents reasonably required to be executed in connection with the issuance of the Note and the making of the Loan to the Partnership, to ensure the proper use and application of the proceeds of the Note, and to effect any extension of the maturity of the Note as described in Section 2 of this resolution.

The Note will be prepared at the Authority's expense and will be delivered to the Bank together with the approving legal opinion of Foster Pepper PLLC, municipal bond counsel of Seattle, Washington, regarding the Note.

Section 12. Authorization of Partnership 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 Partnership the Lease, the Deed of Trust, the Loan Agreement and the Regulatory Agreement, and such financing statements and other documents, instruments and agreements as may be necessary or desirable in connection with the issuance of the Note.

Section 13. Approval of Transaction. The Bank has offered to purchase the Note at a price of par, under the terms and conditions contained in this resolution and the Proposal Letter, including the payment of a fee to the Bank in the amount of \$4,500 plus the fees and expenses of the Bank's legal counsel, not to exceed \$1,200, and any other out-of-pocket costs incurred by the Bank, each payable at closing, and payment of an unused commitment fee in the amount of 0.30% per annum of the average difference for the preceding semi-annual period between \$4,500,000 and the aggregate amount of all Draws, calculated on the basis of the actual number of days elapsed in a 360-day year, payable in arrears on each June 1 and December, commencing

June 1, 2010, and at maturity. The requirement that the Authority pay an unused commitment fee shall terminate effective as of the date that the aggregate Draws total \$2,250,000. The Board finds that the Bank's proposal is in the best interest of the Authority and the Partnership, and therefore authorizes the Executive Director to accept an offer on the same terms and conditions as set forth in the Proposal Letter. The Authority covenants that it will comply with all terms and conditions of the Proposal Letter.

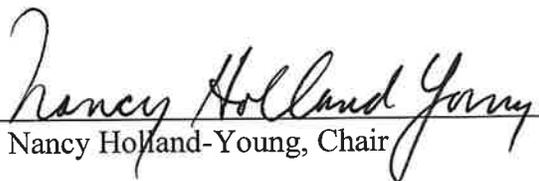
Section 14. Acting Officers Authorized. Any action required by this resolution to be taken by the Chair of the Board or Executive Director of the Authority may in the absence of such person be taken by the duly authorized acting Chair of the Board or a Deputy Executive Director of the Authority, respectively.

Section 15. 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.

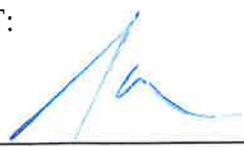
Section 16. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

ADOPTED by the Board of Commissioners of the Housing Authority of the County of King at an open public meeting this 16th day of December, 2009.

HOUSING AUTHORITY OF THE COUNTY OF
KING

By: 
Nancy Holland-Young, Chair

ATTEST:


Secretary-Treasurer

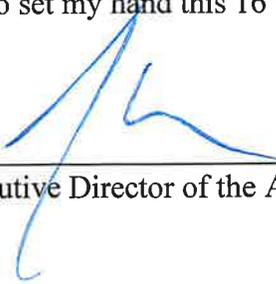
CERTIFICATE

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. 5260 (the "Resolution") is a true and correct copy of the resolution of the Board of Commissioners (the "Board") of the Authority, as adopted at a meeting of the Authority held on December 16, 2009, 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, and, to the extent required by law, due and proper notice of such meeting was given; 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 16th day of December, 2009.



Executive Director of the Authority