

HOUSING AUTHORITY OF THE COUNTY OF KING

RESOLUTION NO. 5610

A RESOLUTION of the Board of Commissioners of the Housing Authority of the County of King providing for the issuance of a tax-exempt revenue note in a principal amount of not to exceed \$32,500,000, for the purpose of refinancing three existing multifamily housing projects; determining the form and terms of the note; creating a note fund; approving the sale and providing for the delivery of the note to Columbia State Bank; authorizing and directing appropriate officers of the Authority to negotiate, execute and deliver such other documents as are useful or necessary to the purposes of this resolution; and determining related matters.

Adopted November 19, 2018

This document was prepared by:

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HOUSING AUTHORITY OF THE COUNTY OF KING

RESOLUTION NO. 5610

PROVIDING FOR THE ISSUANCE OF A TAX-EXEMPT REVENUE NOTE IN A PRINCIPAL AMOUNT OF NOT TO EXCEED \$32,500,000, FOR THE PURPOSE OF REFINANCING THREE EXISTING MULTIFAMILY HOUSING PROJECTS; DETERMINING THE FORM AND TERMS OF THE NOTE; CREATING A NOTE FUND; APPROVING THE SALE AND PROVIDING FOR THE DELIVERY OF THE NOTE TO COLUMBIA STATE BANK; AUTHORIZING AND DIRECTING APPROPRIATE OFFICERS OF THE AUTHORITY TO NEGOTIATE, EXECUTE AND DELIVER SUCH OTHER DOCUMENTS AS ARE USEFUL OR NECESSARY TO THE PURPOSES OF THIS RESOLUTION; AND DETERMINING RELATED MATTERS.

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, RCW 35.82.070(5) provides that a housing authority may, among other things and if certain conditions are met, “own, hold, and improve real or personal property . . .,” “purchase, lease, obtain options upon . . . any real or personal property or any interest therein” and “lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project”; 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 “to provide decent, safe, and sanitary urban and rural dwellings, apartments, mobile home parks, or other living accommodations for senior citizens”; 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, RCW 35.82.070(1) permits a housing authority to “make and execute contracts and other instruments . . . necessary or convenient to the exercise of the powers of the authority”; and

WHEREAS, RCW 35.82.040 authorizes the Authority to “delegate to one or more of its agents or employees such powers or duties as it may deem proper”; and

WHEREAS, the Authority intends to refinance the multifamily housing project located at 14300 S.E. 171st Way, Renton, Washington, and commonly known as the Fairwood Apartments, the multifamily housing project located at 26224 106th Place S.E., Kent, Washington, and commonly known as Southwood Square, and the multifamily housing project located at 3724 154th Lane, Tukwila, Washington, and commonly known as Villages at South Station (collectively, the “Project”); and

WHEREAS, Columbia State Bank has proposed to extend financing to the Authority, in one or more advances, to refinance the Project, subject to certain conditions stated in the Proposal (as hereinafter defined); and

WHEREAS, the Board of Commissioners of the Authority has determined that it is necessary and advisable that the Authority issue the Note (as hereinafter defined), in a principal amount not to exceed \$32,500,000 for the purpose of refinancing the Project and paying costs if issuing the Note; and

WHEREAS, the County and the Authority have entered into a Contingent Loan Agreement dated September 6, 2016, under which the County has agreed to make a loan or loans to the Authority to pay debt service on obligations incurred to finance or refinance Villages at South Station and Pooled Bonds (as defined therein); 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 terms have the following meanings:

“Act” means chapter 35.82 of the Revised Code of Washington.

“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.

“Authorized Officers” means the Executive Director and any Deputy Executive Director of the Authority.

“Bank” means Columbia State Bank, as Registered Owner of the Note.

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

“Business Day” means any day, other than a Saturday or Sunday, on which banking institutions are open in the State of Washington.

“CMT Rate” means the 10-year United States Treasury Constant Maturity Index Rate as published on the website of the Federal Reserve (accessible on the date of this resolution at <http://www.federalreserve.gov/releases/H15/update>) as of the Reset Date.

“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 (Villages at South Station) between the County and the Authority dated September 6, 2016, as it may be amended from time to time in accordance with the terms thereof.

“County” means King County, Washington.

“Draws” means incremental draws on the Note.

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

“Fixed Rate” means 3.40% per annum.

“General Revenues” means all revenues of the Authority (other than Project Revenues) from any source, but only to the extent that those revenues are available to pay debt service on the Note 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.

“Initial Term” means the period from the date of issuance of the Note to, but not including, the Reset Date.

“Maturity Date” means December 1, 2038.

“Maximum Federal Corporate Tax Rate” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time.

“Note” means the Authority’s Non-Revolving Revenue Note, 2018 (Villages at South Station, Southwood Square and Fairwood Apartments).

“Note Fund” means the Authority’s Non-Revolving Revenue Note Fund, 2018 (Villages at South Station, Southwood Square and Fairwood Apartments), 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 Note.

“Note Registrar” means the Executive Director.

“Payment Date” means each March 1, June 1, September 1, and December 1, commencing March 1, 2019.

“Project” means, depending on the context, (1) the refinancing of multifamily housing projects located at 14300 S.E. 171st Way, Renton, Washington, 26224 106th Place S.E., Kent, Washington, and 3724 154th Lane, Tukwila, Washington, and commonly known as the Fairwood Apartments, Southwood Square, and Villages at South Station, respectively, or (2) the Fairwood Apartments, Southwood Square, and Villages at South Station multifamily housing projects. A multifamily housing project shall be considered a portion of the Project only after, and so long as, it is financed and/or refinanced with proceeds of a Draw or Draws.

“Project Revenues” means all amounts due to or received by the Authority pursuant or with respect to the Project, including without limitation, all lease payments, all payments on contractors’ bonds, insurance proceeds and condemnation awards, and all investment earnings thereon.

“Proposal” means the proposal letter to the Authority from the Bank provided on October 9, 2018, as it may be amended, proposing to purchase the Note on the terms set forth therein and herein.

“Registered Owner” the registered owner of the Note, registered as such on the registration books maintained by the Note Registrar.

“Reset Date” means December 1, 2028.

“Reset Rate” means the product of the Tax Adjustment Factor multiplied by the sum of (a) the CMT Rate plus (b) 1.25%.

“Tax Adjustment Factor” means 1.00 minus the Maximum Federal Corporate Tax Rate. For purposes of clarity, the Maximum Federal Corporate Tax Rate as of the date of this resolution is 0.21, such that the current Tax Adjustment Factor equals 0.79.

Section 2. Authorization of the Project; Authorization and Description of the Note.

For the purpose of providing all or part of the money to refinance the Project and to pay costs of issuing the Note, the Authority shall issue its Non-Revolving Revenue Note, 2018 (Villages at South Station, Southwood Square and Fairwood Apartments) in the maximum principal amount of \$32,500,000. Such Note financing is declared and determined to be important for the feasibility of the Project. The Board finds that it is in the best interest of the Authority to issue the Note for the purpose set forth in this resolution. The Board declares each of the multifamily housing projects constituting a portion of the Project to be a “housing project” of the Authority for purposes of the Act. Each of the multifamily housing projects constituting a portion of the Project shall continue to be rented to residents in accordance with the provisions of the Act including, without limitation, 35.82.070(5).

The Note shall be in a principal amount of not to exceed \$32,500,000; shall be dated its date of delivery; shall be numbered R-1; and shall mature on the Maturity Date. The Note shall bear interest during the Initial Term at the Fixed Rate, and thereafter at the Reset Rate as determined on the Reset Date, in each case calculated on the basis of a 360-day year of twelve 30-day months. Principal and interest shall be payable quarterly, commencing March 1, 2019, and thereafter on each Payment Date until the Maturity Date or prepayment of the Note in full. If any principal or interest payment comes due on a day that is not a Business Day, the Authority may make the payment on the first Business Day following the payment date, with accrual of interest to be extended to the actual payment date. Principal and interest on the Note shall be

payable in approximately equal quarterly installments in the amount necessary to amortize the principal of the Note over a period of 30 years at the Fixed Rate; provided that the amounts of the monthly payments on the Note shall be adjusted to reflect reamortization upon change in interest rate, an additional Draw and/or any prepayment of the Note. On the Maturity Date, all remaining outstanding principal balance of and accrued interest on the Note shall be due and payable in full.

The Authority reserves the right to prepay the Note, in whole or in part in amounts of no less than \$1,500,000 and no more than twice in any calendar year, at any time, upon provision of notice and prepayment of a prepayment fee, if any, each as set forth in the Note. The Bank may in its sole discretion waive any prepayment fee. Interest on the Note shall cease to accrue on the date such prepayment is received by the Registered Owner. Unless waived by the Bank, the Note shall be subject to mandatory prepayment in whole, on the Rcsct Date. The Bank shall provide written notice to the Authority regarding the Bank's election to waive, or not waive, mandatory prepayment on the Reset Date not more than 270 days and not less than 180 days prior to the Reset Date (provided, however, that the Authority may accept greater or fewer days' notice in its sole discretion). If the Bank does not waive such right in writing, the Bank and the Authority may mutually agree to amend the terms of the Note. If the Bank does not waive the mandatory prepayment of the Note on the Reset Date and the parties do not reach an alternative mutual agreement to amend the terms of the Note, all remaining outstanding principal balance and accrued interest on the Note shall be due and payable in full on the Reset Date. If the Bank waives mandatory prepayment of the Note, in writing, the monthly level principal and interest installment payment shall adjust, beginning on the Reset Date to the amount sufficient to fully

amortize the outstanding principal balance of the Note (as determined on the Reset Date) over a period of 20 years at the Reset Rate.

If the Note is not paid when properly presented on the Maturity Date, if the Authority fails to pay any installment of principal and interest on the Note when due, or if interest on the Note is no longer exempt from federal income taxation, at the option of the Bank, the interest rate on the Note will be increased to a rate equal to the Fixed Rate or the Reset Rate, as then applicable, divided by the Tax Adjustment Factor (the "Grossed-Up Rate"), until the Note, both principal and interest, is paid in full. Interest on the Note will be deemed to be no longer exempt from federal income taxation if the Bank receives an opinion to that effect from a nationally-recognized bond counsel firm. If interest on the Note is (or is so deemed to be) no longer exempt from federal income taxation, the adjustment to the interest rate on the Note may, at the election of the Bank, be retroactive to the date interest became so taxable. In the event that interest on the Note is (or is deemed to be) no longer exempt from federal income taxation, the Authority shall make a payment to the Bank equal to (a) the amount of interest that would have accrued at the Grossed-Up Rate from the date that interest on the Note became includable (or deemed includable) in the gross income of the holder of the Note for federal income tax purposes until the date that the Grossed-Up Rate became effective; minus (b) the amount of interest that actually accrued at the Fixed Rate or Reset Rate, as applicable, from the date that interest on the Note became includable (or deemed includable) in the gross income of the holder of the Note for federal income tax purposes until the date that the Grossed-Up Rate became effective. The Note shall have such other provisions consistent with the purposes of this resolution as are set forth in the Proposal or as otherwise determined by the Authorized Officers, or each of them acting

alone. The authentication of the Note by the Note Registrar shall be conclusive evidence of approval by the Authority of the terms set forth therein.

Section 3. 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 and shall be paid by check mailed to arrive on or before each payment date, or in immediately available funds delivered on or before each payment date, to the Registered Owner at the address appearing on the Note Register on the date payment is mailed or delivered. 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, for destruction or cancellation in accordance with law.

Section 4. Note Fund; Security for the Note. The Note Fund is hereby established as a special fund of the Authority and is to be known as the Authority's Non-Revolving Revenue Note Fund, 2018 (Villages at South Station, Southwood Square and Fairwood Apartments). 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 Project Revenues, General Revenues, and proceeds of any loans made by the County pursuant to the Contingent Loan Agreement, into the Note Fund in amounts sufficient to pay the principal of and interest on the Note when due. The Authority pledges and assigns to the Bank, to secure payment of the principal of and interest on the Note, all rights of the Authority to receive loan funds from 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 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 Authority may not pledge the Project Revenues or the real property constituting the Project other than to the Bank without the prior written consent of the Bank, which may be withheld in the Bank's sole discretion, subject to the Authority's rights to grant deeds of trust or otherwise encumber any portion of the Project in connection with loans or grants from local, state and federal governmental funding sources.

The Note shall not be a debt of the County, the State of Washington or any political subdivision thereof (except the Authority from the sources specified herein), and the Note shall so state on its face. Neither the County, the State of Washington nor any political subdivision thereof (except the Authority from the source specified herein and the County to extent provided under the terms of the Contingent Loan Agreement) 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.

None of the Commissioners, officers or employees of the Authority shall be personally liable for the payment of the Note.

Section 5. Draws on the Note. The Board authorizes the Authorized Officers, and each of them acting alone, to make Draws on the Note in such amounts and at such times as any Authorized Officer may determine, those Draws to be made in accordance with the terms and provisions set forth herein and in the Note. Draws shall be recorded in such form as the Authority and the Bank may agree. Draws shall be limited to a total aggregate principal amount of \$32,500,000. Further, unless waived by the Bank, Draws shall be limited to a principal amount of \$29,600,000 until such time as the Authority and the County have executed and delivered an

amendment to the Contingent Loan Agreement together with an opinion from the County or its counsel in form satisfactory to the Bank. Proceeds of Draws on the Note shall be used to refinance the Project and pay costs of issuing the Note.

Section 6. Lost, Stolen or Destroyed Note. In case the Note shall be lost, stolen or destroyed after delivery to the Registered Owner, the Note Registrar may execute and deliver a new Note of like date and tenor to the Registered owner upon the Registered Owner paying the expenses and charges of the Authority and upon filing with the Note Registrar evidence satisfactory to the Note Registrar that such Note was actually lost, stolen or destroyed and of the Registered Owner's ownership thereof, and upon furnishing the Authority with indemnity reasonably satisfactory to the Authority.

Section 7. Note Registrar; Registration and Transfer of the Note. The Executive Director shall serve as Note Registrar for the Note. The Note Registrar shall keep, or cause to be kept, at the office of the Executive Director, 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 8. Form and Execution of Note. The Note shall 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 the Executive Director and shall be impressed with the seal of the Authority or shall bear a manual or facsimile thereof. The Note shall not be valid or obligatory for any purpose, or entitled to the benefits of this resolution, unless the Note bears a Certificate of Authentication manually signed by the Note Registrar stating “This Note is the fully registered Non-Revolving Revenue Note, 2018 (Villages at South Station, Southwood Square and Fairwood Apartments), of the Authority described in the Note Resolution.” A minor deviation in the language of such certificate shall not void a Certificate of Authentication that otherwise is substantially in the form of the foregoing. 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 bearing his or her facsimile signature is authenticated or delivered by the Note Registrar or issued by the Authority, the Note nevertheless may be authenticated, issued and delivered 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 notes. 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. Authorization for Modification of the Note. The Authorized Officers, and each of them acting alone, are authorized on behalf of the Authority to negotiate the terms of one

or more modification of the terms of the Note with the Bank including, without limitation, modifications of the terms of the Note to become effective as of the Reset Date. The Authorized Officers, and each of them acting alone, are authorized, without further action of the Board of the Authority, to modify the interest rate and/or the interest rate formula applicable to the Note, or the amortization schedule applicable to the Note if such Authorized Officer determines that such modification is in the best interest of the Authority, all so long as no other material term of the Note is revised (unless otherwise authorized by the Board of the Authority). The Authorized Officers, and each of them acting alone, are authorized to do everything necessary for the execution and delivery of such documents as are useful or necessary to such modification of the terms of the Note. An Authorized Officer's execution of documents in connection with the modification of the Note will constitute conclusive evidence of his or her approval of the modifications and/or other terms described therein and the approval by the Authority of such modifications and/or other terms.

Section 10. Preservation of Tax Exemption for Interest on Note. 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 11. Authorization of Documents and Execution Thereof. The Authority authorizes and approves the execution and delivery of, and the performance by the Authority of its obligations contained in, the Note 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. The Board further authorizes the Authorized Officers, and each of them acting alone, to negotiate, approve, execute and deliver any credit agreement, loan agreement, and or such other instruments and agreements as may be necessary or desirable in connection with the sale of the Note to the Bank. The Authorized Officers, and each of them acting alone, are authorized to negotiate, execute and deliver documents reasonably required to be executed in connection with the issuance of the Note and to ensure the proper use and application of the proceeds of the Note.

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. 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, including the payment of a fee to the Bank plus the fees and expenses of the Bank's legal counsel, and any other out-of-pocket costs incurred by the Bank, each payable at closing. The Board finds that the Bank's offer is in the best interest of the Authority and accepts such offer, and covenants that it will comply with all terms and conditions of the Proposal.

Section 13. Reporting Requirements. The Authority covenants and agrees for so long as the Note remains outstanding, and unless otherwise waived by the Bank, to provide financial information to the Bank as follows:

(A) the Authority's audited financial statements within 10 days after receipt of the Washington State Auditor's opinion letter;

(C) an internally prepared annual operating statement for the Project, no later than 10 days after receipt of the Washington State Auditor's opinion letter with respect to the Authority's audited financial statements; and

(D) the Authority's annual budget within 45 days of adoption.

Section 14. Acting Officers Authorized. Any action authorized by this resolution to be taken by the Executive Director, may in his absence be taken by a duly authorized Deputy Executive Director of the Authority. Any action authorized by this resolution to be taken by a Deputy Executive Director of the Authority, may in his or her absence be taken by a duly authorized acting Deputy Executive Director of the Authority.

Section 15. Contingent Loan Agreement. The Authorized Officers, and each of them acting alone, are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to amend the Contingent Loan Agreement, and to provide all deliverables and certificates required by the Contingent Loan Agreement in connection with the Note.

Section 16. Ratification and Confirmation. Any actions of the Authority or its officers prior to the date hereof and consistent with the terms of this resolution including, without limitation, the negotiation, execution, and delivery of the Contingent Loan Agreement, are ratified and confirmed.

Section 17. Severability. If any provision in this resolution is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provision of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Note.

Section 18. 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 19TH DAY OF NOVEMBER, 2018.

HOUSING AUTHORITY OF THE COUNTY OF KING



DOUGLAS J. BARNES, CHAIR

ATTEST:



STEPHEN J. NORMAN, 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. 5610 (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 November 19, 2018, 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 19th day of November, 2018.



Executive Director of the Authority