

HOUSING AUTHORITY OF THE COUNTY OF KING

RESOLUTION NO. 5614

A RESOLUTION of the Board of Commissioners of the Housing Authority of the County of King providing for the issuance of the Authority's Non-Revolving Line of Credit Revenue Note, 2019 (Riverstone Apartments), in the principal amount of not to exceed \$70,000,000, to finance the acquisition of a 308-unit apartment complex located in Federal Way, Washington, known as Riverstone Apartments; determining the form, terms and covenants of the note; creating a note fund; approving the sale and providing for the delivery of the note to Key Government Finance, Inc. or an affiliate thereof; 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 35.82.070(2) provides that a housing authority may acquire and provide for the construction, reconstruction, improvement, alternation or repair of housing projects; 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

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Adopted December 17, 2018

This document was prepared by:

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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 has entered into an agreement to purchase a 308-unit apartment complex located at 27314 24th Avenue South, Federal Way, Washington, known as the Riverstone Apartments, to be a housing project of the Authority (the “Project”); and

WHEREAS, the City Council of the City of Federal Way, Washington (the “City”), the governing body of the City, adopted its Resolution No. 91-84 on October 15, 1991, declaring that there is a need for the Authority to function within the City; 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 \$70,000,000 to finance all or a portion of the costs of acquiring the Project; and

WHEREAS, Key Government Finance, Inc. or an affiliate thereof (the “Lender”) has proposed to extend a non-revolving 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 that purpose; 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 of the Authority and any Deputy Executive Director of the Authority.

“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.

“County” means King County, Washington.

“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 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.

“Lender” means Key Government Finance, Inc., or an affiliate thereof, as registered owner of the Note.

“Note” means the Authority’s Non-Revolving Line of Credit Revenue Note, 2019 (Riverstone Apartments).

“Note Fund” means the Authority’s Non-Revolving Line of Credit Revenue Note Fund, 2019 (Riverstone 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 of the Authority.

“Project” means, depending on the context, (1) acquisition of the apartment complex located at 27314 24th Avenue South, Federal Way, Washington, known as the Riverstone Apartments, or (2) the Riverstone Apartments.

“Proposal Letter” means the proposal letter to the Authority from the Lender provided on September 28, 2018, as it may be amended, proposing to purchase the Note on the terms set forth therein and herein.

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

The Board approves the acquisition of the Project. The Board declares the Project to be a “housing project” of the Authority for purposes of the Act. The Authority shall issue the Note in a principal amount not to exceed \$70,000,000 for the purpose of providing funds with which to pay and/or reimburse the Authority for all or part of the costs of the Project. 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.

Section 3 Description of the Note. The Note shall be called the Authority’s Non-Revolving Line of Credit Revenue Note, 2019 (Riverstone Apartments); shall be in a principal amount of not to exceed \$70,000,000; shall be dated its date of delivery; shall be numbered R-1; and shall mature not more than one year from its date of issue. The Note shall bear interest

payable on such dates and at such rate or rates selected by the Authority as described in the Proposal Letter (which may include, without limitation, a variable rate based London interbank offered rate), shall mature at such time (subject to the limitation set forth above), 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 Note. The Authority finds that the fixing of the interest rate index described in the Proposal Letter is in the best interest of the Authority. Interest on the Note shall be computed on the basis on a 360 day year with twelve 30-day months.

The Note shall be subject to redemption, in whole, on dates set forth in the Note upon 30 days' prior notice (or such shorter period acceptable to the Lender), at a redemption price equal to par plus accrued interest.

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 then-applicable default rate of interest thereon from and after the maturity date until the Note, both principal and interest, is paid in full.

At the election of the Lender, the interest rate on the Note will increase by 400 basis points (4.00%) during the continuance of an Event of Default. Further, if an Event of Default occurs then, at the option of the Lender, the principal of and interest on the Note shall become immediately due and payable. "Event of Default" means the declaration by the Lender of an event of default as a result of a determination by the Lender that:

- (i) there has been a failure to pay principal or interest on the Note when due, as provided in the Note;
- (ii) there has been a failure by the Authority to comply with any of its obligations, or to perform any of its duties, under the Note, which failure continues, and

for the Authority or of all or a substantial part of the assets of the Authority, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Notwithstanding the foregoing, as to item (iv), if the default is not a payment default and is not associated with the Authority's material ability to pay, when due, its obligations to the Lender (or affiliate of Lender, if applicable), the Authority may have up to 180 days to cure such default by providing the Lender and the affiliate of Lender, if applicable, a written plan within 15 days after written notice of default is made to the Authority, describing the Authority's planned timeframe for the cure of the default. Item (iv) is not intended to preempt the terms set forth in any other agreement relating to borrowing money, lease financing of property, or provision of credit.

Section 4. Authorization for Extension and 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 extensions of maturity date and/or modifications of the terms of the Note with the Lender. The Authorized Officers, and each of them acting alone, are authorized, without further action of the Board of the Authority, to extend the maturity date of the Note to any date on or before December 31, 2028, and/or to modify the interest rate or interest rate formula applicable to the Note, if such Authorized Officer determines that such extension and/or modification is in the best interest of the Authority, all so long as no other material terms 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 extension of maturity and/or modification of interest rate or interest rate formula. An Authorized Officer's

is not cured, for a period of more than 60 days after the Lender has made written demand on the Authority to cure such failure;

(iii) there has been a material misrepresentation to the Lender by the Authority in the purchase of the Note, as reasonably concluded by the Lender after investigation and discussion with the Authority;

(iv) any event of default under any other debt or capital lease obligation with Lender or an affiliate of Lender under which the Authority is an obligor where there is outstanding, owing or committed an aggregate amount in excess of \$500,000 has occurred, if such default continues, and is not cured, or otherwise waived by the Lender and such affiliate within 15 days after written demand is made on the Authority to cure such default;

(v) there has been the Authority shall (a) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the Authority, or of all or a substantial part of the assets of the Authority, (b) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (c) make a general assignment for the benefit of creditors, (d) have an order for relief entered against it under applicable federal bankruptcy law, or (e) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the Authority in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

(vi) an order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator

execution of documents in connection with the modification and/or extension of the Note will constitute conclusive evidence of his or her approval of the extensions, modifications and/or other terms described therein and the approval by the Authority of such extensions, modifications and/or other terms.

Section 5. Note Registrar; Registration and Transfer of the 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 Lender, except that the Lender may assign or transfer the Note to any successor to the business and assets of the Lender.

Section 6. 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 7. 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 Non-Revolving Line of Credit Revenue Note Fund, 2019 (Riverstone 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 General Revenues into the Note Fund in amounts sufficient to pay the principal of and interest on the Note when due. This pledge of General Revenues shall be valid and binding from the time when it is made. The General Revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further action, and lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether the parties have notice thereof.

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 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) 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. 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 9. 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 Line of Credit Revenue Note, 2019 (Riverstone 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 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 Lender. The Executive Director of the Authority is authorized to execute the Note and 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, and to effect any extension of the maturity of the Note and modification of interest rate and/ or interest rate formula applicable to the Note as described in Section 4.

The Note will be prepared at the Authority's expense and will be delivered to the Lender 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 Lender 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 Lender plus the fees and expenses of the Lender's legal counsel, and any other out-of-pocket costs incurred by the Lender, each payable at closing. The Board finds that the Lender'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 Letter.

Section 13. Reporting Requirements; Covenants. The Authority covenants and agrees for so long as the Note remains outstanding, and unless otherwise waived by the Lender, the Authority shall maintain a Debt Service Coverage Ratio of not less than 1.10 to 1.0, to be calculated at the end of each fiscal year of the Authority. “Debt Service Coverage Ratio” means, as of any applicable date, the sum of (a) the change in Authority (primary government) net assets, plus (b) interest expense, plus (c) depreciation expense, plus (d) amortization expense, plus (or minus) (e) the loss (or gain) on capital assets, plus (f) any non-cash charges to the extent deducted in determining the change in net assets, plus (g) payments from reserves or prior years’ revenues for programs or facilities, including, without limitation, as examples, payments made to forestall evictions due to delayed Section 8 housing payments from the federal government, mission driven initiatives or non-capitalized payments from reserves for replacement costs related to facilities, plus (h) non-recurring, one-time costs and expenses, not to exceed \$1,000,000 in any one fiscal year, minus (i) capital grants or contributions in any form; divided by the sum of interest expense and Scheduled principal payments made or incurred by the Authority during the preceding fiscal year, all as shown on the audited financial statements delivered to the Lender. “Scheduled” means all mandatory scheduled amortization payments (including without limitation mandatory redemptions) of outstanding indebtedness for borrowed money and excludes (a) voluntary prepayments, (b) revolver pay-downs, or (c) the refinance of existing debt.

The Authority further covenants and agrees for so long as the Note remains outstanding, and unless otherwise waived by the Lender, to shall provide financial information to the Lender as follows:

(A) the Authority's internally prepared financial statements for such fiscal year within 180 days after the fiscal year end, prepared in accordance with generally accepted accounting principles applicable to housing authorities, which shall be accompanied by a certificate regarding compliance with the Debt Service Coverage Ratio covenant set forth above;

(B) the Authority's audited financial statements within 10 days after receipt of the Washington State Auditor's opinion letter, but no later than 290 days after fiscal year end;

(C) the Authority's internally prepared quarterly financial statements within 45 days after fiscal quarter end;

(D) the Authority's annual budget or any material amendments thereto within 45 days of adoption; and

(E) such other information relating to the ability of the Authority to satisfy its obligations under the Note, as may be reasonably requested by the Lender from time to time.

Section 14. Acting Officers Authorized. Any action authorized by this resolution to be taken by the Executive Director of the Authority, 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. 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. 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.

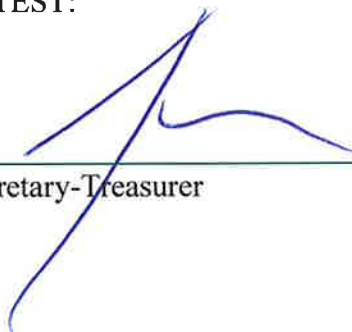
Section 17. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

ADOPTED by the Board of Commissioners of the Housing Authority of the County of King at an open public meeting this 17th day of December, 2018.

HOUSING AUTHORITY OF THE COUNTY OF
KING

By:  _____
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.5614 (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 December 17, 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 17th day of December, 2018.



Executive Director of the Authority

