



RESOLUTION NO. 2024-14

RESOLUTION GIVING PRELIMINARY APPROVAL TO ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF AN AFFORDABLE HOUSING DEVELOPMENT – ROCKY RIVER APARTMENTS

WHEREAS, Rocky River Apartments NC LLC, a North Carolina limited liability company, or another affiliated or related entity of Fitch Irick Corporation (the “Borrower”), has requested that the Housing Authority of the City of Asheville (the “Authority”) assist it in financing the acquisition, construction and equipping of a 120-unit affordable housing development to be known as Rocky River Apartments and located in Woodfin, Buncombe County, North Carolina (the “Development”); and

WHEREAS, pursuant to Section 157-39.1 of the General Statutes of North Carolina, the jurisdiction of the Authority extends to up to ten miles outside the city limits of the City of Asheville and the proposed Development will be located within ten miles of the city limits of the City of Asheville; and

WHEREAS, the Borrower has described to the Authority the benefits of the Development to the State of North Carolina and has requested the Authority agree to issue its multifamily housing revenue bonds in such amounts as may be necessary to finance the costs of acquiring, constructing and equipping the Development; and

WHEREAS, the Authority is of the opinion that the Development is a facility which can be financed under the Housing Authorities Law, Article 1 of Chapter 157 of the North Carolina General Statutes (the “Act”) and that the financing of the same will be in furtherance of the purposes of the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE:

1. It is hereby found and determined that the Development will involve the acquisition, construction and equipping of an affordable residential rental facility to serve persons of low and moderate income, and that therefore, pursuant to the terms and subject to the conditions hereinafter stated and the Act, the Authority agrees to assist the Borrower by undertaking the issuance of the Authority’s multifamily housing revenue bonds (the “Bonds”) in one or more series in an aggregate amount now estimated not to exceed Twenty-Four Million Dollars (\$24,000,000) to provide all or part of the cost of the Development.

2. The Authority intends that the adoption of this resolution be considered as “official action” toward the issuance of the Bonds within the meaning of the regulations issued by the Internal Revenue Service pursuant to Section 150 of the Internal Revenue Code of 1986, as amended (the “Code”), which will permit the Borrower to incur costs and to reimburse those costs with the proceeds of the Bonds.

3. The Bonds shall be issued in such series and amounts and upon such terms and conditions as are mutually agreed upon between the Authority and the Borrower. The Authority and the Borrower shall enter into a “financing agreement” pursuant to the Act for a term and providing payments sufficient to pay the principal of, premium, if any, and interest on the Bonds and to pay all of the expenses of the

Authority in connection with the Bonds and the Development. The Bonds will be issued pursuant to an indenture or other agreement between the Authority and a trustee (the "Trustee") or the bondholder which will set forth the form and terms of the Bonds and will assign to the Trustee for the benefit of the holders of the Bonds, or directly to the bondholder, the Authority's rights to payments under the financing agreement. The Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the State of North Carolina or any political subdivision or agency thereof, including the Authority and the City of Asheville, but shall be payable solely from the revenues and other funds provided under the proposed agreements with the Borrower. It is understood and agreed by the Authority and the Borrower that nothing contained in this resolution shall be construed or interpreted to create any personal liability of the officers or commissioners from time to time of the Authority.

4. The Authority and the Borrower will proceed, upon the prior advice, consent and approval of the Borrower, bond counsel and the Authority's counsel, to obtain approvals in connection with the issuance and sale of the Bonds, including, without limitation, from the City Council of the City of Asheville, the Town Council of the Town of Woodfin, and the North Carolina Local Government Commission, if applicable.

5. It having been represented to the Authority that it is desirable to proceed with the acquisition, construction and equipping of the Development, the Authority agrees that the Borrower may proceed with plans for such acquisition, construction and equipping, enter into contracts for the same, obtain interim construction financing therefor, and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Borrower to obligate the Authority without its written consent in each instance to the payment of any monies or the performance of any act in connection with the Development and no such consent shall be implied from the Authority's adoption of this resolution. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all qualifying costs so incurred by it as permitted by Internal Revenue Service Regulations Section 1.150-2.

6. All obligations hereunder of the Authority are subject to the further agreement of the Authority and the Borrower, receipt of necessary approvals (including allocation of volume cap), satisfactory underwriting of the Development, and mutual agreement to the terms for the Bonds, including the execution of a financing agreement, indenture, or security agreement and other documents and agreements necessary or desirable for the issuance, sale and delivery of the Bonds.

7. The officers and employees of the Authority are hereby authorized and directed to take all actions in furtherance of the issuance of the Bonds, including holding a public hearing with respect to the financing of the Development through the issuance of the Bonds.

8. The Authority hereby approves McGuireWoods LLP, Raleigh, North Carolina, to act as bond counsel for the Bonds.

9. This resolution shall take effect immediately upon its passage.

RECORDING OFFICER'S CERTIFICATION

I, Monique Pierre, the duly appointed Secretary of the Housing Authority of the City of Asheville, do hereby certify that Resolution **No. 2024-14** was properly adopted at a regular meeting held April 24, 2024.

By: _____
Secretary