

1 **BY AUTHORITY**

2 RESOLUTION NO. CR21-0792
3 SERIES 2021

COMMITTEE OF REFERENCE:
Finance & Governance

4 **A RESOLUTION**

5 **Declaring the intent of the City and County of Denver, Colorado to use its best**
6 **efforts to issue housing revenue bonds or mortgage credit certificates to**
7 **provide financing of residential facilities for low- and middle-income families or**
8 **persons; prescribing certain terms and conditions of such bonds and**
9 **certificates; and containing other provisions relating to the proposed issuance**
10 **of such bonds and certificates.**

11
12 **WHEREAS**, the City and County of Denver, Colorado (the “City”), is a legally and regularly
13 created, established, organized and existing home rule city, municipal corporation and political
14 subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the
15 “State”) and the Home Rule Charter of the City (the “Charter”); and

16 **WHEREAS**, the City is authorized by its Charter and the County and Municipality
17 Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as
18 amended (the “Act”), to finance one or more projects (which includes any land, building or other
19 improvement and real and personal properties) to the end that residential facilities for low- and
20 middle-income families or persons intended for use as the sole place of residence by the owners
21 or intended occupants may be provided, which promotes the public health, welfare, safety,
22 convenience and prosperity; and

23 **WHEREAS**, the City is further authorized by its Charter and the Act to issue revenue bonds
24 for the purpose of defraying the cost of financing any project, including the payment of principal
25 and interest on such revenue bonds for not exceeding three years, the funding of any reserve
26 funds which the governing body of the City may deem advisable to establish in connection with the
27 retirement of such revenue bonds or the maintenance of the project and all incidental expenses
28 incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as
29 provided in the Act; and

30 **WHEREAS**, the City wishes to declare its intention to use its best efforts to issue its housing
31 revenue bonds, in one or more series, or, in lieu of issuing all or any series of such housing
32 revenue bonds, to use its best efforts to issue, or to cause to be issued, mortgage credit
33 certificates (the “Certificates”), in connection with financing mortgage loans for residential facilities
34 for low–and middle–income families or persons intended for use as the sole place of residence by
35 the owners or intended occupants thereof; and

1 **WHEREAS**, this Resolution is being adopted to satisfy the requirements of the City with
2 respect to establishing its intent to use its best efforts to issue, or to cause to be issued, housing
3 revenue bonds or Certificates and with respect to establishing a carryforward purpose for private
4 activity bond volume cap allocation awarded to the City pursuant to the Colorado Private Activity
5 Bond Ceiling Allocation Act, constituting Article 32, Title 24, Part 17, Colorado Revised Statutes, as
6 amended (the “Allocation Act”); and

7 **WHEREAS**, the issuance of housing revenue bonds or Certificates for such purposes
8 constitutes a project under the Act; and

9 **WHEREAS**, the City will use its best efforts to cause such housing revenue bonds or
10 Certificates to be issued by the City in an amount not to exceed \$40,412,528 (plus any additional
11 amounts that the City may be awarded from the statewide balance pursuant to the Allocation Act),
12 which amount equals the amount of 2021 private activity bond volume cap allocation that the City
13 has received from the Colorado Department of Local Affairs (the “Volume Cap Allocation”);

14 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY AND COUNTY**
15 **OF DENVER, COLORADO:**

16 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent to
17 use its best efforts to issue its housing revenue bonds in one or more series (the “Bonds”) in an
18 aggregate principal amount not to exceed \$40,412,528 (plus any additional amounts that the City
19 may be awarded from the statewide balance pursuant to the Allocation Act), or, in lieu of issuing all
20 or any series of Bonds, to use its best efforts to issue, or to cause to be issued, the Certificates,
21 which shall be used in connection with financing mortgage loans for residential facilities for low–
22 and middle–income families or persons intended for use as the sole place of residence of the
23 owners or intended occupants thereof, which residential facilities shall be located within the
24 boundaries of the City.

25 **Section 2.** The City Council of the City (the “Council”) hereby finds, determines, recites and
26 declares that the Bonds or the Certificates shall not constitute the debt, multiple fiscal year
27 obligation or indebtedness of the City, the State or any political subdivision of the State within the
28 meaning of any provision or limitation of the State Constitution or statutes and shall not constitute
29 nor give rise to a pecuniary liability of the City or a charge against the City’s general credit or taxing
30 powers, nor shall the Bonds or the Certificates ever be deemed to be an obligation or agreement of
31 any officer, director, agent or employee of the City in such person’s individual capacity, and none
32 of such persons shall be subject to any personal liability by reason of the issuance of the Bonds or
33 the Certificates.

1 **Section 3.** The Council hereby finds, determines, recites and declares that the issuance of
2 the Bonds, or in lieu of such Bonds, the Certificates, in connection with financing such residential
3 facilities will promote the public purposes set forth in the Act, including, without limitation, assisting
4 families or persons of low- and middle-income in obtaining adequate, safe and sanitary housing.

5 **Section 4.** The Council hereby finds, determines, recites and declares the City’s intent that
6 this Resolution constitutes an official indication of the present intention of the City to use its best
7 efforts to issue, or to cause to be issued, the Bonds or, in lieu of any such Bonds, the Certificates,
8 as herein provided.

9 **Section 5.** The appropriate officers of the City are hereby authorized to take such actions
10 as contemplated by the Internal Revenue Code of 1986, as amended (the “Code”) and the
11 Allocation Act that may be necessary to carry forward and/or assign the Volume Cap Allocation
12 pursuant to the Code and the Allocation Act and to take all other actions that are necessary to
13 preserve and utilize the City’s private activity bond volume cap allocation, including, but not limited
14 to, entering into delegation or assignment arrangements with other Colorado “issuing authorities”
15 (as such term is defined in the Allocation Act). It is the specific intent of the Council that this
16 Resolution shall also apply to any amounts that are awarded to the City from the statewide balance
17 pursuant to the Allocation Act. The appropriate officers of the City are hereby authorized to apply
18 for an award from the statewide balance pursuant to the Allocation Act.

19 **Section 6.** All actions not inconsistent with the provisions of this Resolution heretofore
20 taken by the Council or any officer or employee of the City relating to the Volume Cap Allocation or
21 in furtherance of the issuance of the Bonds or the Certificates are hereby ratified, approved and
22 confirmed.

23 **Section 7.** If any section, paragraph, clause or provision of this Resolution shall be
24 adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section,
25 paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses
26 or provisions of this Resolution.

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1 COMMITTEE APPROVAL DATE: July 20, 2021 by Consent

2 MAYOR-COUNCIL DATE: July 27, 2021

3 PASSED BY THE COUNCIL: August 2, 2021

4 *Steve Filmore* - PRESIDENT

5 ATTEST: _____ - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER

8 PREPARED BY: KUTAK ROCK LLP DATE: July 29, 2021

9 REVIEWED BY: Bradley T. Neiman, Assistant City Attorney DATE: July 29, 2021

10 Pursuant to section 13-9, D.R.M.C., this proposed resolution has been reviewed by the Office of
11 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
12 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to
13 § 3.2.6 of the Charter.

14
15 Kristin M. Bronson, Denver City Attorney

16 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Jul 29, 2021