

1 BY AUTHORITY

2
3 RESOLUTION NO. CR15-

4
5 SERIES OF 2015

COMMITTEE OF REFERENCE:

6
7
8 A RESOLUTION

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

16
17 WHEREAS, the City and County of Denver, Colorado (the "City"), is a legally and
18 regularly created, established, organized and existing home rule city, municipal corporation and
19 political subdivision under the provisions of Article XX of the Constitution of the State of Colorado
20 (the "State") and the Home Rule Charter of the City (the "Charter"); and

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

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

35 WHEREAS, the City wishes to declare its intention to use its best efforts to issue its
36 housing revenue bonds, in one or more series, or, in lieu of issuing all or any series of such

1 housing revenue bonds, to use its best efforts to issue, or to cause to be issued, mortgage credit
2 certificates (the “Certificates”), in connection with financing mortgage loans for residential
3 facilities for low–and middle–income families or persons intended for use as the sole place of
4 residence by the owners or intended occupants thereof; and

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

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

13 WHEREAS, pursuant to the Allocation Act, the City received \$32,446,850 of 2015 private
14 activity bond volume cap allocation from the Colorado Department of Local Affairs and has
15 assigned \$7,500,000 of such private activity bond volume cap allocation to the Denver Housing
16 Authority and the City currently has \$24,946,850 of 2015 private activity bond volume cap
17 allocation available (the “Volume Cap Allocation”);

18 WHEREAS, the City will use its best efforts to cause such housing revenue bonds or
19 Certificates to be issued by the City in an amount not to exceed \$24,946,850 (plus any additional
20 amounts that the City may be awarded from the statewide balance pursuant to the Allocation
21 Act);

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

24 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent
25 to use its best efforts to issue its housing revenue bonds in one or more series (the “Bonds”) in
26 an aggregate principal amount not to exceed \$24,946,850 (plus any additional amounts that the
27 City may be awarded from the statewide balance pursuant to the Allocation Act), or, in lieu of
28 issuing all or any series of Bonds, to use its best efforts to issue, or to cause to be issued, the
29 Certificates, which shall be used in connection with financing mortgage loans for residential
30 facilities for low–and middle–income families or persons intended for use as the sole place of

1 residence of the owners or intended occupants thereof, which residential facilities shall be
2 located within the boundaries of the City.

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

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

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

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

31 **Section 6.** All actions not inconsistent with the provisions of this Resolution heretofore
32 taken by the Council or any officer or employee of the City relating to the Volume Cap Allocation

1 or in furtherance of the issuance of the Bonds or the Certificates are hereby ratified, approved
2 and confirmed.

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

7
8 COMMITTEE APPROVAL DATE: _____, 2015

9 MAYOR-COUNCIL DATE: _____, 2015

10 PASSED BY THE COUNCIL ON: _____, 2015

11 _____ - PRESIDENT

12
13 ATTEST: _____ -CLERK AND RECORDER, EX OFFICIO
14 CLERK OF THE CITY AND COUNTY
15 OF DENVER

16 PREPARED BY: KUTAK ROCK LLP

17 Pursuant to section 13-12, D.R.M.C., this proposed Resolution has been reviewed by the office
18 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
19 proposed Resolution. The proposed Resolution is not submitted to the City Council for approval
20 pursuant to §3.2.6 of the Charter.

21
22 D. SCOTT MARTINEZ, City Attorney for the City and County of Denver

23 BY: _____ - Assistant City Attorney DATE: _____, 2015