

1 BY AUTHORITY

2
3 RESOLUTION NO.: 10-1025
4 SERIES OF 2010

COMMITTEE OF REFERENCE:
Business, Workforce & Sustainability

5
6
7 A RESOLUTION

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

14
15 WHEREAS, the City and County of Denver, Colorado (the "City"), is a legally and regularly
16 created, established, organized and existing home rule city, municipal corporation and political
17 subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the
18 "State") and the Home Rule Charter of the City (the "Charter"); and

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

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

33 WHEREAS, the City wishes to declare its intention to use due diligence to issue its housing
34 revenue bonds, in one or more series, or, in lieu of issuing all or any series of such housing

1 revenue bonds, to use due diligence to issue, or to cause to be issued, mortgage credit certificates
2 (the “Certificates”), in connection with financing mortgage loans for residential facilities for low–and
3 middle–income families or persons intended for use as the sole place of residence by the owners
4 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 due diligence 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 expected to be awarded to the City pursuant to the Colorado
9 Private Activity Bond Ceiling Allocation Act, constituting Article 32, Title 24, Part 17, Colorado
10 Revised Statutes, 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, the City will use due diligence to cause such housing revenue bonds or
14 Certificates to be issued by the City in an amount not to exceed \$30,000,000, which amount
15 equals the amount of private activity bond volume cap allocation that the City expects to receive
16 from the Colorado Department of Local Affairs prior to December 31, 2010 pursuant to the
17 Allocation Act (the “Volume Cap Allocation”);

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

20 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent to
21 use due diligence to issue its housing revenue bonds in one or more series (the “Bonds”) in an
22 aggregate principal amount not to exceed \$30,000,000, or, in lieu of issuing all or any series of
23 Bonds, to use due diligence to issue, or to cause to be issued, the Certificates, which shall be used
24 in connection with financing mortgage loans for residential facilities for low–and middle–income
25 families or persons intended for use as the sole place of residence of the owners or intended
26 occupants thereof, which residential facilities shall be located within the boundaries of the City.

27 **Section 2.** The City Council of the City (the “Council”) hereby finds, determines, recites and
28 declares that the Bonds or the Certificates shall not constitute the debt, multiple fiscal year
29 obligation or indebtedness of the City, the State or any political subdivision of the State within the
30 meaning of any provision or limitation of the State Constitution or statutes and shall not constitute

1 nor give rise to a pecuniary liability of the City or a charge against the City's general credit or taxing
2 powers, nor shall the Bonds or the Certificates ever be deemed to be an obligation or agreement of
3 any officer, director, agent or employee of the City in such person's individual capacity, and none
4 of such persons shall be subject to any personal liability by reason of the issuance of the Bonds or
5 the Certificates.

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

10 **Section 4.** The Council hereby finds, determines, recites and declares the City's intent that
11 this Resolution constitute an official indication of the present intention of the City to use due
12 diligence to issue, or to cause to be issued, the Bonds or, in lieu of any such Bonds, the
13 Certificates, as herein provided.

14 **Section 5.** The appropriate officers of the City are hereby authorized to take such actions
15 as contemplated by the Internal Revenue Code of 1986, as amended (the "Code") and the
16 Allocation Act that may be necessary to carry forward and/or assign the Volume Cap Allocation
17 pursuant to the Code and the Allocation Act and to take all other actions that are necessary to
18 preserve and utilize the City's private activity bond volume cap allocation, including, but not limited
19 to, entering into delegation arrangements with other Colorado "issuing authorities" (as such term is
20 defined in the Allocation Act).

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

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

29

1 COMMITTEE APPROVAL DATE: December 8, 2010

2 MAYOR-COUNCIL DATE: December 14, 2010

3 PASSED BY THE COUNCIL: _____, 2010

4 _____ - PRESIDENT

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

8 PREPARED BY: KUTAK ROCK LLP

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

13

14 DAVID R. FINE, City Attorney

15 BY: _____ - _____ City Attorney

16 DATE: _____, 2010