

1 BY AUTHORITY

2  
3 RESOLUTION NO.: CR11-0614  
4  
5 SERIES OF 2011

COMMITTEE OF REFERENCE:  
Business, Workforce & Sustainability

6  
7  
8  
9 A RESOLUTION

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

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

21 WHEREAS, the City is authorized by its Charter, the County and Municipality Development  
22 Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the  
23 "Act") and the Supplemental Public Securities Act, Article 57, Title 11, Section 201, *et seq.*,  
24 Colorado Revised Statutes, as amended (the "Supplemental Public Securities Act"), to finance one  
25 or more projects (which includes any land, building or other improvement and real and personal  
26 properties) to the end that residential facilities for low- and middle-income families or persons  
27 intended for use as the sole place of residence by the owners or intended occupants may be  
28 provided, which promotes the public health, welfare, safety, convenience and prosperity; and

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

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

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

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

14 WHEREAS, such housing revenue bonds or Certificates are expected to be issued by the  
15 City in an amount not to exceed \$29,385,875, which amount equals the City’s 2011 private activity  
16 bond volume cap allocation (the “2011 Volume Cap Allocation”);

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

19 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent to  
20 issue its housing revenue bonds in one or more series (the “Bonds”) in an aggregate principal  
21 amount not to exceed \$29,385,875, or, in lieu of issuing all or any series of Bonds, to issue, or to  
22 cause to be issued, the Certificates, which shall be used in connection with financing mortgage  
23 loans for residential facilities for low–and middle–income families or persons intended for use as  
24 the sole place of residence of the owners or intended occupants thereof, which residential facilities  
25 shall be located within the boundaries of the City.

26 **Section 2.** The City Council of the City (the “Council”) hereby finds, determines, recites and  
27 declares that the Bonds or the Certificates shall not constitute the debt, multiple fiscal year  
28 obligation or indebtedness of the City, the State or any political subdivision of the State within the  
29 meaning of any provision or limitation of the State Constitution or statutes and shall not constitute  
30 nor give rise to a pecuniary liability of the City or a charge against the City’s general credit or taxing  
31 powers, nor shall the Bonds or the Certificates ever be deemed to be an obligation or agreement of

1 any officer, director, agent or employee of the City in such person's individual capacity, and none  
2 of such persons shall be subject to any personal liability by reason of the issuance of the Bonds or  
3 the Certificates.

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

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

11 **Section 5.** The appropriate officers of the City are hereby authorized to take such actions  
12 as contemplated by the Internal Revenue Code of 1986, as amended (the "Code") and the  
13 Allocation Act that may be necessary to carry forward and/or assign the 2011 Volume Cap  
14 Allocation pursuant to the Code and the Allocation Act and to take all other actions that are  
15 necessary to preserve and utilize the City's private activity bond volume cap allocation, including,  
16 but not limited to, entering into assignment or delegation arrangements with other Colorado  
17 "issuing authorities" (as such term is defined in the Allocation Act).

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

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

25 **Section 8.** All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent  
26 herewith are hereby repealed to the extent only of such inconsistency, and if so repealed, no other  
27 bylaw, order, resolution, ordinance, or part thereof, shall be revived. This repealer shall not be  
28 construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

29

1 COMMITTEE APPROVAL DATE: (by Consent) August 25, 2011

2 MAYOR-COUNCIL DATE: August 30, 2011

3 PASSED BY THE COUNCIL ON: \_\_\_\_\_, 2011

4 \_\_\_\_\_ - PRESIDENT

5 ATTEST: \_\_\_\_\_ -CLERK AND RECORDER, EX OFFICIO  
6 CLERK OF THE CITY AND COUNTY  
7 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 DOUGLAS J. FRIEDNASH, CITY ATTORNEY

15 BY: \_\_\_\_\_ - \_\_\_\_\_ CITY ATTORNEY

16 DATE: \_\_\_\_\_, 2011