

1 BY AUTHORITY

2  
3 RESOLUTION NO.: \_\_\_\_\_

4  
5 SERIES OF 2013

6 COMMITTEE OF REFERENCE:  
7 BUSINESS, WORKFORCE & SUSTAINABILITY COMMITTEE

8  
9 A RESOLUTION

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

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

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

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

36 WHEREAS, the City wishes to declare its intention to use its best efforts to issue its  
37 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 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 its best efforts to cause such housing revenue bonds or  
14 Certificates to be issued by the City in an amount not to exceed \$80,000,000, 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, 2013 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  
21 to use its best efforts to issue its housing revenue bonds in one or more series (the “Bonds”) in  
22 an aggregate principal amount not to exceed \$80,000,000, or, in lieu of issuing all or any series  
23 of Bonds, to use its best efforts to issue, or to cause to be issued, the Certificates, which shall be  
24 used in connection with financing mortgage loans for residential facilities for low–and middle–  
25 income families or persons intended for use as the sole place of residence of the owners or  
26 intended occupants thereof, which residential facilities shall be located within the boundaries of  
27 the City.

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

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

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

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

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

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

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

31  
32 COMMITTEE APPROVAL DATE: (By Consent) \_\_\_\_\_, 2013

33 MAYOR-COUNCIL DATE: \_\_\_\_\_, 2013

1 PASSED BY THE COUNCIL ON: \_\_\_\_\_, 2013

2 \_\_\_\_\_ - PRESIDENT

3

4 ATTEST: \_\_\_\_\_ -CLERK AND RECORDER, EX OFFICIO  
5 CLERK OF THE CITY AND COUNTY  
6 OF DENVER

7 PREPARED BY: KUTAK ROCK LLP

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

12

13 DOUGLAS J. FRIEDNASH, City Attorney

14 BY: \_\_\_\_\_ - \_\_\_\_\_ CITY ATTORNEY

15 DATE: \_\_\_\_\_, 2013