

1 BY AUTHORITY

2  
3 RESOLUTION NO. CR10-0649

COMMITTEE OF REFERENCE:

4  
5 SERIES OF 2010

NCBR

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  
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 issue its housing revenue bonds, in  
36 one or more series, or, in lieu of issuing all or any series of such housing revenue bonds, to

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

5 WHEREAS, this Resolution is being adopted to satisfy the requirements of the City with  
6 respect to establishing its intent to issue, or to cause to be issued, housing revenue bonds or  
7 Certificates and with respect to establishing a carryforward purpose for the City’s private activity  
8 bond volume cap allocation pursuant to the Colorado Private Activity Bond Ceiling Allocation Act,  
9 constituting Article 32, Title 24, Part 17, Colorado Revised Statutes, as amended (the “Allocation  
10 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, such housing revenue bonds or Certificates are expected to be issued by the  
14 City in an amount not to exceed \$27,517,905, which amount equals the City’s 2010 private  
15 activity bond volume cap allocation (the “2010 Volume Cap Allocation”);

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

18 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent  
19 to issue its housing revenue bonds in one or more series (the “Bonds”) in an aggregate principal  
20 amount not to exceed \$27,517,905, or, in lieu of issuing all or any series of Bonds, to issue, or to  
21 cause to be issued, the Certificates, which shall be used in connection with financing mortgage  
22 loans for residential facilities for low–and middle–income families or persons intended for use as  
23 the sole place of residence of the owners or intended occupants thereof, which residential  
24 facilities shall be located within the boundaries of the City.

25 **Section 2.** The City Council of the City (the “Council”) hereby finds, determines, recites  
26 and 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  
29 constitute nor give rise to a pecuniary liability of the City or a charge against the City’s general  
30 credit or taxing powers, nor shall the Bonds or the Certificates ever be deemed to be an

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

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

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

13 **Section 5.** The appropriate officers of the City are hereby authorized to take such actions  
14 as contemplated by the Internal Revenue Code of 1986, as amended (the "Code") and the  
15 Allocation Act that may be necessary to carry forward and/or assign the 2010 Volume Cap  
16 Allocation pursuant to the Code and the Allocation Act and to take all other actions that are  
17 necessary to preserve and utilize the City's private activity bond volume cap allocation, including,  
18 but not limited to, entering into delegation arrangements with other Colorado "issuing authorities"  
19 (as such term is defined in the Allocation Act).

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

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

31

1 COMMITTEE APPROVAL DATE: (by Consent) July 29, 2010

2 MAYOR-COUNCIL DATE: August 3, 2010

3 PASSED BY THE COUNCIL ON: \_\_\_\_\_, 2010

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  
10 of the City Attorney. We find no irregularity as to form, and have no legal objection to the  
11 proposed Resolution. The proposed Resolution is not submitted to the City Council for approval  
12 pursuant to §3.2.6 of the Charter.

13

14 DAVID R. FINE, City Attorney

15 BY: \_\_\_\_\_ - \_\_\_\_\_ City Attorney

16 DATE: \_\_\_\_\_, 2010