

1 BY AUTHORITY

2
3 RESOLUTION NO.: CR12-0788

4
5 SERIES OF 2012

COMMITTEE OF REFERENCE:

6
7 Business, Workforce & Sustainability

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 bonds;**
15 **and containing other provisions relating to the proposed issuance of such**
16 **bonds.**

17
18 WHEREAS, the City and County of Denver, Colorado (the "City"), is a legally and regularly
19 created, established, organized and existing home rule city, municipal corporation and political
20 subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the
21 "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 bonds
30 for the purpose of defraying the cost of financing any project, including the payment of principal
31 and interest on such revenue bonds for not exceeding three years, the funding of any reserve
32 funds which the governing body of the City may deem advisable to establish in connection with the
33 retirement of such revenue bonds or the maintenance of the project and all incidental expenses
34 incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as
35 provided in the Act; and

36 WHEREAS, the City wishes to declare its intention to use its best efforts to issue its housing
37 revenue bonds, in one or more series, or, in lieu of issuing all or any series of such housing
38 revenue bonds, to use its best efforts to issue, or to cause to be issued, mortgage credit
39 certificates (the "Certificates"), in connection with financing mortgage loans for residential facilities

1 for low–and middle–income families or persons intended for use as the sole place of residence by
2 the owners or intended occupants thereof; and

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

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

11 WHEREAS, the City will use its best efforts to cause such housing revenue bonds or
12 Certificates to be issued by the City in an amount not to exceed \$50,000,000, which amount
13 equals the amount of private activity bond volume cap allocation that the City expects to receive
14 from the Colorado Department of Local Affairs prior to December 31, 2012 pursuant to the
15 Allocation Act (the “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 to
19 use its best efforts to issue its housing revenue bonds in one or more series (the “Bonds”) in an
20 aggregate principal amount not to exceed \$50,000,000, or, in lieu of issuing all or any series of
21 Bonds, to use its best efforts to issue, or to cause to be issued, the Certificates, which shall be
22 used in connection with financing mortgage loans for residential facilities for low–and middle–
23 income families or persons intended for use as the sole place of residence of the owners or
24 intended occupants thereof, which residential facilities shall be located within the boundaries of the
25 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
32 any officer, director, agent or employee of the City in such person’s individual capacity, and none
33 of such persons shall be subject to any personal liability by reason of the issuance of the Bonds or
34 the Certificates.

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

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

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

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

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

24

1 COMMITTEE APPROVAL DATE: October 24, 2012

2 MAYOR-COUNCIL DATE: October 30, 2012

3 PASSED BY THE COUNCIL ON: _____, 2012

4 _____ - PRESIDENT

5

6 ATTEST: _____ -CLERK AND RECORDER, EX OFFICIO

7

CLERK OF THE CITY AND COUNTY

8

OF DENVER

9 PREPARED BY: KUTAK ROCK LLP

10 Pursuant to section 13-12, D.R.M.C., this proposed Resolution has been reviewed by the office of

11 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed

12 Resolution. The proposed Resolution is not submitted to the City Council for approval pursuant to

13 §3.2.6 of the Charter.

14 Douglas J. Friednash, City Attorney for the City and County of Denver

15 BY: _____, Assistant City Attorney DATE: _____, 2012