

1 **BY AUTHORITY**

2 RESOLUTION NO. 24-0985
3 SERIES 2024

COMMITTEE OF REFERENCE:
Finance & Governance

4 **A RESOLUTION**

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

11
12 **WHEREAS**, the City and County of Denver, Colorado (the “City”), is a legally and regularly
13 created, established, organized and existing home rule city, municipal corporation and political
14 subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the “State”)
15 and the Home Rule Charter of the City (the “Charter”); and

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

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

30 **WHEREAS**, the City has received (a) 2024 private activity bond volume cap allocation from
31 the Colorado Department of Local Affairs in the amount of \$44,836,357 (“Direct Allocation”); and (b)
32 \$6,720,575 of private activity bond volume cap allocation assigned by the City of Centennial,
33 Colorado (“Centennial”) to Denver from Centennial’s direct private activity bond cap allocation for
34 2024 (“Centennial Allocation”). Further, the City of Englewood, Colorado (“Englewood”) has received
35 a 2024 private activity bond volume cap allocation from the Colorado Department of Local Affairs in

1 the amount of \$2,118,260, which may be assigned to the City (“Englewood Allocation,” and together
2 with the Direct Allocation and the Centennial Allocation, the “2024 Allocation”); and

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

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

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

17 **WHEREAS**, the City will use its best efforts to cause such housing revenue bonds or
18 Certificates to be issued by the City in an amount not to exceed \$53,675,192 (plus any additional
19 amounts that the City may be awarded from the statewide balance pursuant to the Allocation Act),
20 which amount equals not to exceed \$53,675,192 of its 2024 Allocation (the “Volume Cap Allocation”);

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

23 **Section 1.** In order to benefit the residents of the City, the City hereby declares its intent to
24 use its best efforts to issue its housing revenue bonds in one or more series (the “Bonds”) in an
25 aggregate principal amount not to exceed \$53,675,192 (plus any additional amounts that the City
26 may be awarded from the statewide balance pursuant to the Allocation Act), or, in lieu of issuing all
27 or any series of Bonds, to use its best efforts to issue, or to cause to be issued, the Certificates,
28 which shall be used in connection with financing mortgage loans for residential facilities for low–and
29 middle–income families or persons intended for use as the sole place of residence of the owners or
30 intended occupants thereof, which residential facilities shall be located within the boundaries of the
31 City.

32 **Section 2.** Denver is hereby authorized to execute an Assignment (the “Centennial
33 Assignment”), by and between Denver and Centennial, accept the assignment of \$6,720,575 of

1 Centennial’s direct private activity bond volume cap allocation for 2024 and execute any additional
2 documents in connection with the Centennial Assignment. If Englewood agrees to assign Denver
3 its Englewood Allocation, Denver is hereby authorized to execute an Assignment (the “Englewood
4 Assignment”), by and between Denver and Englewood, to accept the assignment of \$2,118,260 of
5 Englewood’s direct private activity bond volume cap allocation for 2024 and execute any additional
6 documents in connection with the Englewood Assignment.

7 **Section 3.** The Council hereby finds, determines, recites and declares that the Bonds or the
8 Certificates shall not constitute the debt, multiple fiscal year obligation or indebtedness of the City,
9 the State or any political subdivision of the State within the meaning of any provision or limitation of
10 the State Constitution or statutes and shall not constitute nor give rise to a pecuniary liability of the
11 City or a charge against the City’s general credit or taxing powers, nor shall the Bonds or the
12 Certificates ever be deemed to be an obligation or agreement of any officer, director, agent or
13 employee of the City in such person’s individual capacity, and none of such persons shall be subject
14 to any personal liability by reason of the issuance of the Bonds or the Certificates.

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

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

23 **Section 6.** The appropriate officers of the City are hereby authorized to take such actions as
24 contemplated by the Internal Revenue Code of 1986, as amended (the “Code”) and the Allocation
25 Act that may be necessary to carry forward and/or assign the Volume Cap Allocation pursuant to the
26 Code and the Allocation Act and to take all other actions that are necessary to preserve and utilize
27 the City’s private activity bond volume cap allocation, including, but not limited to, entering into the
28 Assignments or delegation or assignment arrangements with other Colorado “issuing authorities” (as
29 such term is defined in the Allocation Act). It is the specific intent of the Council that this Resolution
30 shall also apply to any amounts that are awarded to the City from the statewide balance pursuant to
31 the Allocation Act. The appropriate officers of the City are hereby authorized to apply for an award
32 from the statewide balance pursuant to the Allocation Act.

1 **Section 7.** All actions not inconsistent with the provisions of this Resolution heretofore taken
2 by the Council or any officer or employee of the City relating to the Volume Cap Allocation or in
3 furtherance of the issuance of the Bonds or the Certificates are hereby ratified, approved and
4 confirmed.

5 **Section 8.** If any section, paragraph, clause or provision of this Resolution shall be adjudged
6 to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause
7 or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this
8 Resolution.

9 COMMITTEE APPROVAL DATE: July 30, 2024

10 MAYOR-COUNCIL DATE: August 6, 2024

11 PASSED BY THE COUNCIL: _____

12 _____ - PRESIDENT

13 ATTEST: _____ - CLERK AND RECORDER,
14 EX-OFFICIO CLERK OF THE
15 CITY AND COUNTY OF DENVER

16 PREPARED BY: KUTAK ROCK LLP

17 REVIEWED BY: Bradley T. Neiman, Assistant City Attorney DATE: August 8, 2024

18 Pursuant to section 13-9, D.R.M.C., this proposed resolution has been reviewed by the Office of the
19 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
20 resolution. The proposed resolution is not submitted to the City Council for approval pursuant to
21 § 3.2.6 of the Charter.

22
23 Kerry C. Tipper, Denver City Attorney

24 BY: *Jonathan Griffin* _____, Assistant City Attorney DATE: Aug 8, 2024
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