

BY AUTHORITY

RESOLUTION NO.: 89

SERIES OF 2009

COMMITTEE OF REFERENCE:

NCBR

A RESOLUTION

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

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

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

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

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

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

15 WHEREAS, such housing revenue bonds or Certificates are expected to be issued by the
16 City in an amount not to exceed \$21,346,190, which amount equals the remaining 2009 private
17 activity bond volume cap allocation of the City (the "2009 Volume Cap Allocation") following the
18 issuance of the City's Variable Rate Demand Industrial Development Revenue Bonds (Brass
19 Smith/Kevry Project) Series 2009 in the aggregate principal amount of \$5,500,000 on February
20 4, 2009;

21 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY 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
24 to issue its housing revenue bonds in one or more series (the "Bonds") in an aggregate principal
25 amount not to exceed \$21,346,190, or, in lieu of issuing all or any series of Bonds, to issue, or to
26 cause to be issued, the Certificates, which shall be used in connection with financing mortgage
27 loans for residential facilities for low–and middle–income families or persons intended for use as
28 the sole place of residence of the owners or intended occupants thereof, which residential
29 facilities shall be located within the boundaries of the City.

1 **Section 2.** The City Council of the City (the "Council") hereby finds, determines, recites
2 and declares that the Bonds or the Certificates shall not constitute the debt, multiple fiscal year
3 obligation or indebtedness of the City, the State or any political subdivision of the State within the
4 meaning of any provision or limitation of the State Constitution or statutes and shall not
5 constitute nor give rise to a pecuniary liability of the City or a charge against the City's general
6 credit or taxing powers, nor shall the Bonds or the Certificates ever be deemed to be an
7 obligation or agreement of any officer, director, agent or employee of the City in such person's
8 individual capacity, and none of such persons shall be subject to any personal liability by reason
9 of the issuance of the Bonds or the Certificates.

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

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

19 **Section 5.** The appropriate officers of the City are hereby authorized to take such actions
20 as contemplated by the Internal Revenue Code of 1986, as amended (the "Code") and the
21 Allocation Act that may be necessary to carry forward and/or assign the 2009 Volume Cap
22 Allocation pursuant to the Code and the Allocation Act and to take all actions that are necessary
23 to enter into any delegation arrangements with other Colorado "issuing authorities" (as such term
24 is defined in the Allocation Act).

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

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

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

1 COMMITTEE APPROVAL DATE: (by consent) August 3, 2009

2 MAYOR-COUNCIL DATE: August 11, 2009

3 PASSED BY THE COUNCIL ON: August 17, 2009

4 Joanne Cobb PRESIDENT

5 ATTEST: Stephanie Hally -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: David R. Fine - Asst. City Attorney

16 DATE: Aug. 13, 2009

