

1 BY AUTHORITY

2 **ORDINANCE NO. _____**
3 **SERIES OF 2015**

COUNCIL BILL NO. CB15-0239
COMMITTEE OF REFERENCE:
4 **Finance & Services**

5 A BILL

6 **For an ordinance concerning the approval of Facilities Lease No. 2015A (Fire**
7 **Station and Library Facilities) between the City and County of Denver, as**
8 **lessor, and the Denver Public Facilities Leasing Trust 2015A, as lessee, for**
9 **certain real property constituting existing fire station and library facilities and**
10 **an annually renewable Lease Purchase Agreement No. 2015A (Fire Station and**
11 **Library Facilities) between the Denver Public Facilities Leasing Trust 2015A, as**
12 **lessor, and the City and County of Denver, as lessee, for such property;**
13 **authorizing the execution of such documents and related other agreements;**
14 **authorizing officials of the City and County of Denver to take all action**
15 **necessary to carry out the transactions contemplated hereby; ratifying action**
16 **previously taken; making an appropriation for the Base Rentals due in 2015**
17 **under Lease Purchase Agreement No. 2015A; and providing other matters**
18 **relating thereto.**

19 WHEREAS, the City and County of Denver, Colorado (the "City"), is a municipal corporation
20 duly organized and existing as a home-rule city under Article XX of the Colorado Constitution and
21 under the Charter of the City (references to provisions therein being to the 1960 Compilation, as
22 amended), and is a political subdivision of the State of Colorado (the "State"); and

23 WHEREAS, subject to certain exceptions, all legislative powers possessed by the City,
24 conferred by Article XX of the State Constitution, or contained in the Charter, as either has from
25 time to time been amended, or otherwise existing by operation of law, are vested in the City
26 Council of the City (the "Council"); and

27 WHEREAS, the City is authorized, pursuant to Article XX of the State Constitution and the
28 Charter and its plenary grant of powers as a home rule city, to enter into lease purchase
29 agreements in order to lease and acquire land, buildings, equipment and other property for
30 governmental purposes and to purchase, receive, hold and enjoy or sell and dispose of, as lessor
31 or as lessee, real and personal property; and

32 WHEREAS, the City, owns the fire station and library facilities and related land on which
33 such fire station and library facilities are located, including all of the buildings and related parking,
34 paving, drainage and landscaping improvements located on such land, described as follows: (1)

1 Station No. 18 (located at 8701 E. Alameda Ave., Denver, CO 80230); (2) Station No. 19 (located
2 at 300 South Ivy Street, Denver, CO 80220-5855); (3) Station No. 22 (located at 3530 South
3 Monaco Parkway, Denver, CO 80207- 1440); and (4) Blair-Caldwell African American Research
4 Library (located at 2401 Welton Street, Denver, CO 80205 (collectively, such buildings, other
5 improvements and the land on which such buildings and other improvements are located, the
6 “Facilities”); and

7 WHEREAS, the City has determined to enter into the 2015A Facilities Lease described
8 below, with the Denver Public Facilities Leasing Trust 2015A (the “Trust”), a trust to be created by
9 the Trustee pursuant to the 2015A Indenture, each as described below, under which the City, as
10 lessor, will lease the Facilities to the Trust, as lessee; and

11 WHEREAS, the City has determined and intends to enter into the 2015A Lease described
12 below, with the Trust, under which the City, as lessee, agrees to lease, with an option to purchase,
13 the Facilities from the Trust, as lessor, the leasehold interest of the Trust in the Facilities created
14 under the 2015A Facilities Lease, such leasehold interest constituting the Leased Property under
15 the 2015A Lease; and

16 WHEREAS, there have been filed on April 30, 2015, in the office of the City Clerk for the
17 City and County of Denver (the “Clerk”) the substantially final forms of the following:

18 (1) Facilities Lease No. 2015A (Fire Station and Library Facilities) to be dated its date
19 of execution and delivery (the “2015A Facilities Lease”), in Clerk’s Filing No. 201521757-00,
20 between the City, as lessor, and the Trust, as lessee; and

21 (2) Lease Purchase Agreement No. 2015A (Fire Station and Library Facilities)
22 including Exhibits A through D thereto to be dated its date of execution and delivery (the
23 “2015A Lease”), in Clerk's Filing No. 201521757-00-A, between the Trust, as lessor, and the
24 City, as lessee; and

25 (3) Declaration and Indenture of Trust (Denver Public Facilities Leasing Trust 2015A)
26 to be dated its date of execution and delivery (the “2015A Indenture”), in Clerk's Filing No.
27 201521757-00-B, entered into by Zions First National Bank, Denver, Colorado, as trustee
28 (the “Trustee”), pursuant to which the Trust will be created and under which Certificates of
29 Participation, Series 2015A (Fire Station and Library Facilities) in the aggregate maximum
30 principal amount of \$24,000,000 (the “2015A Certificates”) evidencing proportionate

1 interests in the Trust's rights to receive certain revenues, including Base Rentals, under the
2 2015A Lease, are to be executed and delivered by the Trustee; and

3 (4) Preliminary Official Statement, in Clerk's Filing No. 201521757-00-C (the
4 "Preliminary Official Statement"), relating to the 2015A Lease, which shall also constitute the
5 form of a related final Official Statement (the "Official Statement"); and

6 WHEREAS, the 2015A Certificates are to be sold pursuant to the 2015A Indenture and the
7 Preliminary Official Statement; and

8 WHEREAS, new Fund numbers are required to accept and appropriate the proceeds of the
9 2015A Certificates to fund capital expenditures for the acquisition, construction, improvement and
10 equipping of a new replacement 911 Communications Center and a new replacement Fleet
11 Service Center (collectively, the "2015A Capital Projects").

12 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

13 **Section 1. Ratification of Actions.** All action heretofore taken, not inconsistent with the
14 provisions of this ordinance, by the City or its officers, directed toward the leasing by the Trust from
15 the City of the Facilities pursuant to the 2015A Facilities Lease and the leasing by the City from the
16 Trust of the leasehold interest in the Facilities pursuant to the 2015A Lease is hereby ratified,
17 approved and confirmed.

18 **Section 2. Findings; Authorizations.** This ordinance is adopted pursuant to the City's
19 powers as a home rule city organized and operating under the Charter and Article XX of the State
20 Constitution; and the City hereby determines that each and every matter and thing as to which
21 provision is made herein is necessary in order to carry out and to effect the purposes hereof.

22 The Council hereby finds and determines, pursuant to the City's home rule powers, that the
23 following actions are necessary, convenient and in furtherance of the governmental purposes of
24 the City and are in the best interests of the City and its residents:

25 (1) the leasing of the Facilities to the Trust pursuant to the 2015A Facilities Lease;
26 and

27 (2) the leasing of the Facilities from the Trust pursuant to the terms and provisions
28 of the 2015A Lease.

1 The Council hereby authorizes (1) the leasing of the Facilities to the Trust pursuant to the
2 2015A Facilities Lease and (2) the leasing of the Leased Property (the leasehold interest of the
3 Trust in the Facilities) from the Trust under and pursuant to the terms and provisions of the 2015A
4 Lease.

5 **Section 3. Approvals; Execution of Documents; Authorized Officers.** The 2015A
6 Facilities Lease and the 2015A Lease in substantially the forms as filed in Clerk's Filing No.
7 201521757-00, and Clerk's Filing No. 201521757-00-A, respectively, are in all respects approved.
8 The Mayor is hereby authorized and directed to execute and deliver, and the Clerk is hereby
9 authorized and directed to affix the seal of the City to, and attest, the 2015A Facilities Lease and
10 the 2015A Lease, in substantially the forms as filed with the Clerk in Clerk's Filing No. 201521757-
11 00 and Clerk's Filing No. 201521757-00-A, respectively.

12 **Section 4. No General Obligation or Other Indebtedness.** The obligation of the City to
13 make rental payments under the 2015A Lease is subject to annual appropriation by the Council
14 and constitutes an undertaking of the City to make current expenditures. No provision of this
15 ordinance, the 2015A Facilities Lease, the 2015A Lease, the 2015A Indenture or the Series 2015A
16 Certificates shall be construed as constituting or giving rise to a general obligation or other
17 indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation of the City
18 within the meaning of any home rule, constitutional or statutory debt limitation nor a mandatory
19 charge or requirement against the City in any ensuing fiscal year beyond the current fiscal year.
20 On an annual basis the City may choose to not renew, and thereby terminate its obligations under,
21 the 2015A Lease.

22 **Section 5. Reasonable Rentals.** The Council hereby determines and declares that the
23 Base Rentals due under the 2015A Lease do not exceed a reasonable amount so as to place the
24 City under an economic compulsion to renew and therefore not to terminate the 2015A Lease or to
25 exercise its option to purchase the leasehold interest of the Trust in the Facilities, pursuant to the
26 2015A Lease.

27 **Section 6. Consent to Sale of 2015A Certificates.** The Council hereby acknowledges
28 and consents to (1) the 2015A Indenture, (2) the execution and delivery by the Trustee of, the form
29 of, and sale of, the 2015A Certificates, all pursuant to the 2015A Indenture, in substantially the
30 form of the 2015A Indenture filed with the Clerk in Clerk's Filing No. 201521757-00-B, and (3) the
31 distribution of the Preliminary Official Statement, in substantially the form filed with the Clerk in

1 Clerk's Filing No. 201521757-00-C, and the Official Statement to prospective purchasers and the
2 purchasers of the 2015A Certificates.

3 The information with respect to the City contained in the Official Statement is approved and
4 authorized. The distribution of the information contained in the Official Statement with respect to
5 the City is hereby approved. The Chief Financial Officer of the City is authorized to execute a
6 "deemed final" certificate in respect of the Preliminary Official Statement for the purpose of Rule
7 15c2-12 under the Securities and Exchange Act of 1934 and enter into the Continuing Disclosure
8 Undertaking, the form of which is attached as Appendix E to the Preliminary Official Statement.

9 **Section 7. Additional Documents; Delegated Powers.** The Clerk is hereby authorized
10 and directed to attest all signatures and acts of any official of the City in connection with the
11 matters authorized by this ordinance. The Mayor, the Auditor, the Clerk, the Chief Financial Officer
12 and other officials and employees of the City are hereby authorized to execute and deliver for and
13 on behalf of the City any and all additional certificates, documents and other papers and to perform
14 all other acts that they may deem necessary or appropriate in order to implement and carry out the
15 transactions and other matters authorized by this ordinance. Such necessary or appropriate
16 actions include, without limitation,

17 (1) the execution and delivery by the Chief Financial Officer of a supplement to
18 the Base Rentals Schedule (Exhibit C) of the 2015A Lease prior to the recording of the
19 2015A Lease in the real estate records, such supplement to evidence the actual Base
20 Rentals due under Lease Purchase Agreement No. 2015A (Fire Station and Library
21 Facilities), within the limitations set forth on the Base Rentals Schedule in the form of the
22 2015A Lease filed with the Clerk in Clerk's Filing No. 201521757-00-A, and

23 (2) the determination by the Chief Financial Officer of the dated date (which shall
24 be the delivery date) of the 2015A Facilities Lease and the 2015A Lease, and

25 (3) the execution and delivery of such certificates and opinions as may be
26 reasonably required by the City's counsel, the Trustee or the underwriter selected for the
27 sale of the 2015A Certificates or relating to, among other things, the tenure and identity of
28 the officials of the City and the Council, the absence of pending litigation affecting the
29 validity of the 2015A Facilities Lease and the 2015A Lease, federal and state securities
30 laws, and expectations and covenants relating to the excludability from gross income for

federal income tax purposes of the portion of Base Rentals under and as defined in the 2015A Lease designated in the 2015A Lease and paid as interest under the 2015A Lease, all as contemplated by this ordinance and are not inconsistent with this ordinance.

Section 8. Appropriations of Proceeds from 2015A Facilities Lease and of 2015

Base Rentals. In order to provide for the receipt by the City of the rentals to be paid in advance and in full under the 2015A Facilities Lease on its date of execution and delivery, after the Trustee for the Trust has provided for the payment of the costs of execution and delivery of the 2015A Certificates as set forth in the 2015A Indenture, and use such proceeds to fund capital expenditures for the acquisition, construction, improvement and equipping of the 2015A Capital Projects, it is necessary that a new Fund, with new Fund numbers, be established for the acceptance and appropriation of such 2015A Facilities Lease proceeds. A new Fund is hereby established in the Grant/Other Money Project Fund, Accounting No. 38000, for the 2015A Capital Projects and the “not to exceed” amount of money following each such designation to such new Fund is hereby appropriated, all as follows:

<u>Accounting Number</u>	<u>Appropriation Account</u>	<u>Expending Authority</u>	<u>Not to Exceed Amount</u>
38508-3501000	2015A Capital Projects For: SD101, 911 Communications Center	Executive Director of Safety	\$18,661,180
38509-2570100	2015A Capital Projects For: SD102, Fleet Service Center	Chief Financial Officer/ Manager of Finance	\$5,338,820

From the Special Trust Fund, Accounting No. 56000 and from the Capital Improvements and Capital Maintenance Fund, Accounting No. 31000, out of moneys not otherwise appropriated and in addition to any supplemental appropriations or rescissions, there is hereby appropriated to the appropriation accounts hereinafter designated the “not to exceed” amount of money following each such designation, to be expended for the purposes and upon the authorizations in this ordinance set forth:

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<u>Accounting Number</u>	<u>Appropriation Account</u>	<u>Expending Authority</u>	<u>Not to Exceed Amount</u>
56540-3501000	2015A Capital Projects For: SD100, 2015A Capital Projects	Executive Director of Safety	\$330,000
33069-2540100	2015A Capital Projects For: SD100, 2015A Capital Projects	Chief Financial Officer/ Manager of Finance	\$195,000

The Chief Financial Officer/Manager of Finance is hereby authorized and directed to make such book and record entries and to do such other things as may be necessary to accomplish the purposes of this Ordinance.

Section 9. Severability. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 10. Effective Date. This ordinance shall take effect as provided in the Charter of the City.

Section 11. Publications. The bill for this ordinance and this ordinance are hereby authorized and directed to be published as required by the Charter.

Section 12. Recordation and Authentication. The ordinance shall be recorded after its passage in the ordinance record of the City, kept for that purpose, and authenticated by the signature of the Mayor and attested and countersigned by the Clerk.

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1 COMMITTEE APPROVAL DATE: April 21, 2015
2 MAYOR-COUNCIL DATE: April 28, 2015
3 PASSED BY THE COUNCIL: _____, 2015
4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2015
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2015; _____, 2015

10 PREPARED BY: BECKER STOWE PARTNERS LLC and KLINE ALVARADO VEIO, PC
11 DATE: April 30, 2015

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.

16 D. Scott Martinez, City Attorney for the City and County of Denver

17 BY: _____, _____ City Attorney DATE: _____, 2015

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