

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2012  
4

COUNCIL BILL NO. BR12-0281  
COMMITTEE OF REFERENCE:  
GOVERNMENT AND FINANCE

5 **A BILL**

6 **For an ordinance concerning the sale of certain City owned property, the**  
7 **approval of an annually renewable Lease Purchase Agreement No. 2012C**  
8 **(Denver Properties) between the Denver Properties Leasing Trust 2012C, as**  
9 **lessor, and the City and County of Denver, as lessee, for such properties;**  
10 **authorizing the execution of such documents and other agreements;**  
11 **authorizing officials of the City and County of Denver to take all action**  
12 **necessary to carry out the transactions contemplated hereby; ratifying**  
13 **action previously taken; and other matters relating thereto.**

14 **WHEREAS**, the City and County of Denver, Colorado (the “City”), is a municipal  
15 corporation duly organized and existing as a home-rule city under Article XX of the Colorado  
16 Constitution, and under the Charter of the City (references to provisions therein being to the  
17 1960 Compilation, as amended), and is a political subdivision of the State of Colorado (the  
18 “State”); and

19 **WHEREAS**, subject to certain exceptions, all legislative powers possessed by the City,  
20 conferred by Article XX of the State Constitution, or contained in the Charter, as either has  
21 from time to time been amended, or otherwise existing by operation of law, are vested in the  
22 City Council of the City (the “Council”); and

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

28 **WHEREAS**, the City owns (1) certain land, buildings and improvements generally  
29 described as Denver District 1, District 2 and District 3 Police Stations, the Arie P. Taylor  
30 Building and Denver District 5 Police Station, Denver Fire Station No. 10 and the City office  
31 building at 200 W. 14<sup>th</sup> Avenue, such land, buildings and improvements collectively referred to  
32 herein as the “Denver Properties”; and

1           **WHEREAS**, pursuant to the 2012C Indenture, as hereinafter defined, a Trust (the  
2 “Trust”) is to be created which is to be denominated as the “Denver Properties Leasing Trust  
3 2012C”; and

4           **WHEREAS**, there have been filed on April 18, 2012, in the office of the City Clerk for  
5 the City and County of Denver (the “Clerk”) the substantially final forms of the following:

6                   (1) Quitclaim Deed to be dated its date of execution and delivery (the “City  
7 Deed”), from the City to the Trust conveying the Denver Properties from the City to the Trust,  
8 in Clerk’s Filing No. 12-0283-A; and

9                   (2) Lease Purchase Agreement No. 2012C (Denver Properties), including  
10 Exhibits thereto, to be dated its date of execution and delivery (the “2012C Lease”), in Clerk’s  
11 Filing No. 12-0283, between the Trust, as lessor, and the City, as lessee; and

12                   (3) Declaration and Indenture of Trust (Denver Properties Leasing Trust  
13 2012C), including Exhibits thereto, to be dated its date of execution and delivery (the “2012C  
14 Indenture”), in Clerk’s Filing No. 12-0283-B, entered into by Zions First National Bank, Denver,  
15 Colorado, as trustee (the “Trustee”), pursuant to which the Trust will be created and under  
16 which Certificates of Participation, Series 2012C-1, Series C-2 and Series C-3, in the  
17 aggregate maximum principal amount of \$45,000,000 (the “2012C Certificates”) evidencing  
18 proportionate interests in the Trust’s rights to receive certain revenues, including Base Rentals,  
19 under the 2012C Lease are to be executed and delivered by the Trustee; and

20           **WHEREAS**, the 2012C Certificates are to be sold by the Trust pursuant to the 2012C  
21 Indenture contingent upon approval of the Council of the City Deed and the 2012C Lease by  
22 this ordinance.

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

24           **Section 1. *Ratification of Actions.*** All action heretofore taken, not inconsistent with  
25 the provisions of this ordinance, by the City or its officers, directed toward the sale by the City  
26 to the Trust of the Denver Properties and the leasing by the City from the Trust of the Denver  
27 Properties pursuant to the 2012C Lease are hereby ratified, approved and confirmed.

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

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

4 (1) the sale by the City of the Denver Properties pursuant to the City Deed;

5 and

6 (2) the leasing of the Denver Properties pursuant to the terms and provision  
7 of the 2012C Lease.

8 The Council hereby authorizes (1) the sale of the Denver Properties to the Trust  
9 pursuant to the City Deed and (2) the leasing of the Denver Properties, constituting the Leased  
10 Property under the 2012C Lease, from the Trust under and pursuant to the terms and  
11 provisions of the 2012C Lease.

12 **Section 3. *Approvals; Execution of Documents; Authorized Officers.*** The City  
13 Deed and the 2012C Lease as filed in Clerk's Filing No. 12-0283-A and Clerk's Filing No. 12-  
14 0283, respectively, are in all respects approved in substantially the forms filed with the Clerk,  
15 provided that such documents may be completed, corrected or revised as necessary and  
16 appropriate in order to carry out the transactions and other matters authorized by this  
17 ordinance as set forth in Section 7 of this ordinance. The Mayor is hereby authorized and  
18 directed to execute and deliver, and the Clerk is hereby authorized and directed to affix the  
19 seal of the City to, and attest, the City Deed in substantially the form filed with the Clerk in  
20 Clerk's Filing No. 12-0283-A and the Mayor and other appropriate City officials are authorized  
21 and directed to execute and deliver the 2012C Lease, in substantially the form filed with the  
22 Clerk in Clerk's Filing No. 12-0283, except that such documents may be completed, corrected  
23 or revised as necessary and appropriate as set forth in this Section and in Section 7 of this  
24 ordinance.

25 **Section 4. *No General Obligation or Other Indebtedness.*** The obligation of the  
26 City to make rental payments under the 2012C Lease is subject to annual appropriation by the  
27 Council and constitutes an undertaking of the City to make current expenditures. No provision  
28 of this ordinance, the City Deed, the 2012C Lease, the 2012C Indenture or the Series 2012C  
29 Certificates shall be construed as constituting or giving rise to a general obligation or other  
30 indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation of the  
31 City within the meaning of any home rule, constitutional or statutory debt limitation nor a  
32 mandatory charge or requirement against the City in any ensuing fiscal year beyond the

1 current fiscal year. The City may choose to not renew, and thereby terminate its obligations  
2 under the 2012C Lease on an annual basis.

3 **Section 5. Reasonable Rentals.** The Council hereby determines and declares that  
4 the Base Rentals due under the 2012C Lease do not exceed a reasonable amount so as to  
5 place the City under an economic compulsion to renew and therefore not to terminate the  
6 2012C Lease or to exercise its option to purchase the Leased Property, all pursuant to the  
7 2012C Lease.

8 **Section 6. Consent to Sale of 2012C Certificates.** The Council hereby  
9 acknowledges and consents to (1) the 2012C Indenture and (2) the execution and delivery by  
10 the Trustee of, the forms of, and the private placement sale of, the 2012C Certificates, all  
11 pursuant to the 2012C Indenture, in substantially the form of the 2012C Indenture filed with the  
12 Clerk in Clerk's Filing No. 12-0283-B.

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

22 (1) the execution and delivery by the Manager of Finance of supplements to  
23 the Base Rentals Schedules (Exhibits C-1, C-2 and C-3) of the 2012C Lease prior to the  
24 recording of the 2012C Lease in the Denver County real estate records, such supplement to  
25 evidence the actual Base Rentals due under Lease Purchase Agreement No. 2012C, all within  
26 the limitations set forth on the Base Rentals Schedules (Exhibits C-1, C-2 and C-3) in the form  
27 of the 2012C Lease filed with the Clerk in Clerk's Filing No. 12-0283, and

28 (2) the execution and delivery by the City Surveyor of a written instrument (a)  
29 verifying that the legal descriptions of the Sites of each of the Denver Properties attached to  
30 such written instrument are the same legal descriptions set forth on the related surveys of such  
31 Sites to be delivered to the Trustee by not later than the business day prior to the closing of the  
32 transactions authorized by this ordinance and (b) directing that such legal descriptions be

1 attached as Exhibit A to each of the City Deed and the 2012C Lease prior to the recording of  
2 the City Deed and the 2012C Lease in the Denver County real estate records; and

3 (3) the completion, correction or revision of the City Deed, the 2012C Lease  
4 and the 2012C Indenture, provided that any such corrections or revisions are consistent with  
5 the forms thereof filed with the Clerk and within the limitations set forth on the Base Rentals  
6 Schedules (Exhibits C-1, C-2 and C-3) in the form of the 2012C Lease and the execution and  
7 delivery of such certificates and opinions as may be reasonably required by the Trustee, the  
8 private placement purchaser of the 2012C Certificates or the City's counsel relating to, among  
9 other things, the tenure and identity of the officials of the City and the Council, the absence of  
10 pending litigation affecting the validity of the City Deed and the 2012C Lease, federal and state  
11 securities laws, and expectations and covenants relating to the excludability from gross income  
12 for federal income tax purposes of the portion of Tax-Exempt Base Rentals under and as  
13 defined in the 2012C Lease and paid as interest under the 2012C Lease, all as contemplated  
14 by this ordinance and are not inconsistent with this ordinance.

15 **Section 8. Severability.** If any section, paragraph, clause or provision of this  
16 ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or  
17 unenforceability of such section, paragraph, clause or provision shall not affect any of the  
18 remaining provisions of this ordinance.

19 **Section 9. Effective Date.** This ordinance shall take effect as provided in the  
20 Charter of the City.

21 **Section 10. Publications.** The bill for this ordinance and this ordinance are hereby  
22 authorized and directed to be published as required by the Charter.

23 **Section 11. Recordation and Authentication.** The ordinance shall be recorded, after  
24 its passage, in the ordinance record of the City, kept for that purpose, and authenticated by the  
25 signature of the Mayor and attested and countersigned by the Clerk.

26 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**  
27  
28  
29  
30  
31  
32  
33  
34

1 COMMITTEE APPROVAL DATE: April 11, 2012  
2 MAYOR-COUNCIL DATE: April 17, 2012  
3 PASSED BY THE COUNCIL \_\_\_\_\_, 2012  
4 \_\_\_\_\_ - PRESIDENT  
5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2012  
6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 *EX-OFFICIO* CLERK OF THE  
8 CITY AND COUNTY OF DENVER  
9  
10 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_, 2012 \_\_\_\_\_, 2012  
11 PREPARED BY: PECK, SHAFFER & WILLIAMS LLP and KLINE ALVARADO VEIO, PC;  
12 DATE: April 19, 2012  
13 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office  
14 of the City Attorney. We find no irregularity as to form, and have no legal objection to the  
15 proposed ordinance. The proposed ordinance is submitted to the City Council for approval  
16 pursuant to §3.2.6 of the Charter.  
17 Douglas J. Friednash, City Attorney  
18 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_