

1 **BY AUTHORITY**

2 **ORDINANCE NO. _____**

COUNCIL BILL NO. _____

3 **SERIES OF 2015**

COMMITTEE OF REFERENCE:

4 **BUSINESS DEVELOPMENT**

5 **A BILL**

6 **For an ordinance concerning the Airport Facilities of the City and**
7 **County of Denver; authorizing certain amendments to the Series**
8 **2014A Airport System Supplemental Bond Ordinance, Ordinance No.**
9 **745, Series of 2014; ratifying action previously taken; providing for**
10 **other related matters; and providing the effective date of the**
11 **ordinance.**

12 (1) WHEREAS, the City and County of Denver, in the State of Colorado (the
13 "City" and the "State," respectively), is a municipal corporation duly organized and
14 existing as a home rule city under Article XX, State Constitution, and under the Charter
15 of the City, and is a political subdivision of the State; and

16 (2) WHEREAS, subject to certain exceptions, all legislative powers
17 possessed by the City, conferred by Article XX, State Constitution, or contained in the
18 charter of the City, as either has from time to time been amended, or otherwise existing
19 by operation of law, are vested in the city council of the City; and

20 (3) WHEREAS, pursuant to Article XX, State Constitution, the Charter of the
21 City, and the plenary grant of powers as a home-rule city, the City has acquired certain
22 airport facilities constituting its Airport System, the management, operation, and control
23 of which is vested by the Charter of the City in the Department of Aviation of the City
24 (the "Department"); and

25 (4) WHEREAS, by Ordinance No. 755, Series of 1993 (the "Enterprise
26 Ordinance") the City designated the Department as an "enterprise" within the meaning
27 of Section 20, Article X, State Constitution; and

1 (5) WHEREAS, the Enterprise Ordinance provides that, the City owns the
2 Department; the Manager of the Department of Aviation (the "Manager") is the
3 governing body of the Department; and the Department has the authority to issue its
4 own bonds or other financial obligations in the name of the City, payable solely from
5 revenues derived or to be derived from the functions, services, benefits or facilities of
6 the Department or from any other available funds, as authorized by ordinance after
7 approval and authorization by the Manager; and

8 (6) WHEREAS, pursuant to Ordinance No. 626, Series of 1984 (as amended
9 and supplemented from time to time, the "General Bond Ordinance") there have
10 heretofore been issued, and will in the future be issued, multiple series of Bonds and
11 other obligations in respect of the Airport System; and

12 (7) WHEREAS, pursuant to the provisions of the Series 2014A Airport System
13 Supplemental Bond, Ordinance No. 745, Series of 2014 (the "Series 2014A
14 Supplemental Ordinance"), the City has previously issued its City and County of
15 Denver, Colorado, for and on behalf of its Department of Aviation, Airport System
16 Revenue Bonds, Series 2014A (the "Series 2014A Bonds") in the original principal
17 amount of \$116,000,000, for the purpose of refunding certain outstanding obligations;
18 and

19 (8) WHEREAS, as contemplated by the Enterprise Ordinance, the Manager
20 has requested that the Series 2014A Supplemental Ordinance be amended and
21 supplemented in the manner set forth in this Supplemental Ordinance for the purpose of
22 extending the Initial Term Rate Period, as defined therein, adjusting the interest rate
23 borne by the Series 2014A Bonds and making certain related amendments; and

24 (9) WHEREAS, Sections 1303 and 1308 of the General Bond Ordinance
25 provide that certain amendments and supplements may be made to any existing
26 Supplemental Ordinance with the consent of the owners of all Outstanding Bonds
27 affected by such amendments and supplements; and

1 (10) WHEREAS, prior to the adoption of a Supplemental Ordinance amending
2 or supplementing an existing Supplemental Ordinance, there shall be filed in the office
3 of the Clerk an instrument or instruments executed by the required number of owners,
4 which instrument or instruments shall refer to the proposed Supplemental Ordinance
5 providing for such amendments or supplements and shall specifically consent to and
6 approve the adoption of such Supplemental Ordinance, whereupon, the Council may
7 adopt such Supplemental Ordinance and such Supplemental Ordinance shall become
8 effective; and

9 (11) WHEREAS, the Council has determined and does hereby declare that it is
10 necessary, appropriate and in the best financial interest of the City that the Series
11 2014A Supplemental Ordinance be amended and supplemented as provided in this
12 Supplemental Ordinance and that there has been filed in the office of the Clerk as City
13 Clerk File No. 15-___ instruments executed by the owners of 100% in principal amount
14 of the Outstanding Series 2014A Bonds referring to this Supplemental Ordinance and
15 specifically consenting to and approving the adoption hereof, all as provided in Sections
16 1303 and 1308 of the General Bond Ordinance.

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

18 **ARTICLE I**
19 **DEFINITIONS, RATIFICATION, EFFECTIVE DATE,**
20 **PUBLICATION AND AUTHENTICATION**

21 Section 101. Supplemental Ordinance. This ordinance (referred to herein as
22 "this Supplemental Ordinance") is supplemental to, and is adopted for and on behalf of
23 the Department of Aviation in accordance with the provisions of, the General Bond
24 Ordinance.

25 Section 102. Meanings and Construction. All defined terms in this Supplemental
26 Ordinance have the meanings set forth in the General Bond Ordinance or the Series
27 2014A Supplemental Ordinance, as applicable, except as otherwise expressly provided
28 herein.

1 Section 103. Ratification. All action heretofore taken (not inconsistent with the
2 provisions of this Supplemental Ordinance) by the Council, the Manager and the officers
3 of the City relating to the amendments and supplements to the Series 2014A
4 Supplemental Ordinance as provided herein be, and the same hereby is, authorized,
5 ratified, approved and confirmed.

6 Section 104. Ordinance an Irrepealable Contract. This Supplemental Ordinance
7 and the Series 2014A Supplemental Ordinance as supplemented and amended shall
8 constitute an irrevocable contract between the City, for and on behalf of the Department
9 of Aviation, and the owners of the Series 2014A Bonds, except as otherwise provided in
10 the General Bond Ordinance or the Series 2014A Supplemental Ordinance, as
11 applicable.

12 Section 105. Repealer. All ordinances, resolutions, bylaws, orders and other
13 instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent
14 only of such inconsistency. This repealer shall not be construed to revive any
15 ordinance, resolution, bylaw, order or other instrument, or part thereof, heretofore
16 repealed.

17 Section 106. Severability. If any section, subsection, paragraph, clause or other
18 provision of this Supplemental Ordinance shall for any reason be held to be invalid or
19 unenforceable, the invalidity or unenforceability of such section, subsection, paragraph,
20 clause or other provision shall not affect any of the remaining provisions of this
21 Supplemental Ordinance.

22 Section 107. Effective Date. This Supplemental Ordinance shall take effect
23 immediately upon its final passage and publication and the amendments set forth herein
24 shall take effect upon the effectiveness of this Supplemental Ordinance.

25 Section 108. Publication. The bill for this Supplemental Ordinance and this
26 Supplemental Ordinance are hereby authorized and directed to be published as
27 required by the Charter.

1 Section 109. Recordation and Authentication. This Supplemental Ordinance
2 shall be recorded after its passage in the office of the Clerk, and authenticated by the
3 signature of the Mayor and attested and countersigned by the Clerk.

4 Section 110. Delegated Powers. The Mayor, Auditor, Clerk, Treasurer,
5 Manager, and other officers and employees of the City are hereby authorized and
6 directed to take all action necessary or appropriate to effect the provisions of this
7 Supplemental Ordinance.

8 Section 111. Authority for this Ordinance. This Supplemental Ordinance is
9 executed pursuant to the City's powers as a home-rule city organized and operating
10 under the Charter and Article XX of the State Constitution and pursuant to the
11 Supplemental Public Securities Act, title 11, article 57, part 2, Colorado Revised
12 Statutes, as amended (the provisions of which are hereby elected, to the extent not
13 inconsistent herewith), and the General Bond Ordinance; and the City hereby
14 determines that each and every matter and thing as to which provision is made herein is
15 necessary in order to carry out and to effect the purposes hereof.

16 **ARTICLE II**
17 **AMENDMENTS TO SERIES 2014A SUPPLEMENTAL ORDINANCE**

18 Section 201. Amendments to the Ordinance. Pursuant to Sections 1303 and
19 1308 of the General Bond Ordinance, the below amendments are hereby made to the
20 Series 2014A Supplemental Ordinance.

21 A. Subparagraph B(3) of Section 102 of the Series 2014A Supplemental
22 Ordinance is hereby amended and restated in its entirety to read as follows:

23 (3) "Applicable Spread" means the number of basis points set forth in
24 the Pricing Certificate, as may be supplemented from time to time, executed in
25 connection with the initial issuance of the Series 2014A Bonds, and thereafter
26 such amount as may be set forth in the applicable Pricing Certificate.

27 B. Section 401 of the Series 2014A Supplemental Ordinance is hereby
28 amended and restated in its entirety to read as follows:

1 Section 401. Initial Interest Rates and Interest Payment Dates, Subsequent
2 Rates.

3 A. The Series 2014A Bonds issued pursuant hereto initially shall bear
4 interest at a Term Rate, as provided in paragraph B hereof, for a Term Rate
5 Period Without Liquidity commencing on the Issue Date and ending on
6 December 9, 2016, as such ending date may be extended from time to time in
7 accordance with Section 1013 hereof (the "Initial Term Rate Period").

8 B. The Term Rate for the Initial Term Rate Period shall accrue from
9 the Issue Date to, but not including, the next succeeding Interest Payment Date
10 and thereafter from and including each Interest Payment Date to but not
11 including the next succeeding Interest Payment Date at a per annum rate equal
12 to the sum of (i) the Applicable Spread and (ii) the product of (A) the LIBOR
13 Index and (B) the Applicable Factor (the "LIBOR Index Rate"). For purposes of
14 the preceding sentence, except for the initial LIBOR Index Rate which shall be
15 set forth in the related Pricing Certificate, the interest rate equal to the LIBOR
16 Index Rate shall be determined by the Calculation Agent on the second (2nd)
17 Business Day prior to the Rate Adjustment Date, and such rate shall be in effect
18 for purposes of computing interest from and including the Rate Adjustment Date
19 until the day immediately preceding the next Rate Adjustment Date. The first
20 Interest Payment Date with respect to the Series 2014A Bonds shall be
21 January 2, 2015. Interest is payable thereafter on the first Business Day of each
22 calendar month and will be due on December 9, 2016.

23 C. Subparagraph A of Section 505 of the Series 2014A Supplemental
24 Ordinance is hereby amended and restated in its entirety to read as follows:

25 A. Purchase Dates. At the end of each Term Rate Period and at the
26 time of any conversion from a Term Rate to a different Interest Rate, each Series
27 2014A Bond bearing interest at a Term Rate shall be subject to mandatory
28 tender for purchase on the last Interest Payment Date of the Term Rate Period
29 (except in the case of the Initial Term Rate Period for which the Series 2014A

1 Bonds are subject to mandatory tender for purchase on December 9, 2016, as
2 such date may be extended from time to time in accordance with Section 1013)
3 applicable to the Series 2014A Bonds at a purchase price equal to 100% of the
4 principal amount thereof plus accrued interest thereon to the purchase date (in
5 this Section 505A, the "Purchase Price"). If the Series 2014A Bonds are not held
6 in book-entry form, the owner of any Series 2014A Bond of a Subseries bearing
7 interest at a Term Rate and tendered for purchase as provided in this Section
8 shall provide the Paying Agent with payment instructions for the Purchase Price
9 of its Series 2014A Bond on or before tender thereof to the Paying Agent.

10 D. The last sentence of subparagraph A of Section 601 of the Series 2014A
11 Supplemental Ordinance is hereby amended and restated in its entirety to read as
12 follows:

13 The Series 2014A Bonds are subject to redemption at the option of the
14 City on and after December 9, 2016 (as such date may be extended from time to
15 time in accordance with Section 1013 hereof) as provided in subparagraphs B, C,
16 D and E of this Section 601.

17 E. The Series 2014A Supplemental Ordinance is hereby amended by the
18 addition of a new Section 1013 to read as follows:

19 Section 1013. Authorization to Extend Initial Term Rate Period. The
20 Treasurer is hereby authorized, without further approval of the Council, to extend,
21 from time to time, the Initial Term Rate Period by executing a supplemental
22 Pricing Certificate, with the applicable pricing information contained therein, if the
23 Treasurer finds that such an extension is in the best financial interest of the City.
24 The effectiveness of any execution, extension, modification or replacement of
25 any agreement or instrument as contemplated in this Section 1013 shall be
26 contingent upon the receipt by the Treasurer and Paying Agent of a Favorable
27 Opinion of Counsel with respect to such proposed action.

1 Section 202. Bond Certificates. In accordance with Section 1309 of the General
2 Bond Ordinance, the Council hereby determines that new Series 2014A Bond
3 certificates, modified to conform to the Series 2014A Supplemental Ordinance as
4 amended and supplemented by this Supplemental Ordinance, are authorized to be
5 prepared, authenticated and delivered as provided in Section 306 of the Series 2014A
6 Supplemental Ordinance and exchanged without cost to the owners of the Series
7 2014A Bonds upon surrender of the bonds currently Outstanding.

1 COMMITTEE APPROVAL DATE: _____, 2015
2 MAYOR-COUNCIL DATE: _____, 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 AND _____ 2015
10 PREPARED BY: Hogan Lovells US LLP and Bookhardt & O'Toole; Date: October __, 2015
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the
12 office of the City Attorney. We find no irregularity as to form, and have no legal
13 objection to the proposed ordinance. The proposed ordinance is submitted to the City
14 Council for approval pursuant to § 3.2.6 of the Charter.
15 Scott Martinez, City Attorney
16 BY: _____, _____ City Attorney
17 DATE: _____, 2015