

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2024

COUNCIL BILL NO. CB24-0250
COMMITTEE OF REFERENCE:
Finance & Governance

5
6 **A BILL**

7 **For an ordinance concerning the approval of a proposed Facilities Lease No.**
8 **2024B (East Hampden Campus Facilities) between Denver Public Facilities**
9 **Leasing Trust 2024B (East Hampden), as lessee, and the City and County of**
10 **Denver, as lessor, and a proposed Lease Purchase Agreement No. 2024B (East**
11 **Hampden Campus Facilities) between Denver Public Facilities Leasing Trust**
12 **2024B (East Hampden), as lessor, and the City and County of Denver, as lessee,**
13 **in conjunction with the issuance of Certificates of Participation, Series 2024B**
14 **and documents related thereto authorizing officials of the City and County of**
15 **Denver to take all actions necessary to carry out the transactions contemplated**
16 **hereby; ratifying actions previously taken; providing other matters relating**
17 **thereto; and providing the effective date thereof.**

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

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

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

31 **WHEREAS**, the City has entered into a Purchase and Sale Agreement previously approved
32 by City Council and intends to enter into a proposed Lease Purchase Agreement No. 2024B (the
33 “2024B Lease”) and a proposed Facilities Lease No. 2024B (East Hampden Campus Facilities) (the
34 “2024B Facilities Lease”) each with the Denver Public Facilities Leasing Trust 2024B (East

1 Hampden) (the “2024B Trust”) relating to leased property as described therein (the “2024B Leased
2 Property”) for use as a new shelter facility; and

3 **WHEREAS**, in connection with the proposed lease financing, there have been filed on March
4 8, 2024 in the office of the Clerk the following in substantially final forms:

5 (1) the 2024B Lease; and

6 (2) the 2024B Facilities Lease; and

7 (3) the Declaration and Indenture of Trust Denver Public Facilities Leasing
8 Trust 2024B (East Hampden) (the “2024B Indenture”) by Zions Bancorporation,
9 National Association, as trustee (the “Trustee”) under which Certificates of
10 Participation, Series 2024 (the “2024B Certificates”) in the maximum aggregate
11 principal amount not to exceed \$23 million evidencing proportionate interests in the
12 Trustee’s rights to receive certain revenues, including Base Rentals, under the 2024B
13 Lease may be executed and delivered by the Trustee; and

14 **WHEREAS**, the 2024B Certificates are anticipated to be issued on or about April [30], 2024,
15 pursuant to the 2024B Indenture.

16 **WHEREAS**, new Fund numbers are required to accept and appropriate the proceeds of the
17 2024B Certificates to fund capital expenditures for the acquisition under the terms of the previously
18 approved Purchase and Sale Agreement, and for construction, improvement and equipping of a new
19 shelter facility.

20 **NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
21 **DENVER:**

22 **Section 1. Ratification of Actions.** All action heretofore taken, not inconsistent with the
23 provisions of this ordinance, by the City or its officers, directed toward the purchase and leasing of
24 the 2024B Leased Property are hereby ratified, approved and confirmed.

25 **Section 2. Findings; Authorizations.** This ordinance is adopted pursuant to the City’s
26 powers as a home rule city organized and operating under the Charter and Article XX of the State

1 Constitution; and the City hereby determines that each and every matter and thing as to which
2 provision is made herein is necessary in order to carry out and to effect the purposes hereof.

3 The Council hereby finds and determines, pursuant to the City’s home rule powers, that the
4 leasing of the 2024B Leased Property to the 2024B Trust by the City under the terms and provisions
5 set forth in the 2024B Facilities Lease and the leasing back of the 2024B Leased Property to the City
6 from the 2024B Trust under the terms and provisions set forth in the 2024B Lease, respectively, is
7 necessary, convenient, and in furtherance of the governmental purposes of the City and are in the
8 best interests of the City and its residents.

9 The Council hereby authorizes the leasing of the 2024B Leased Property to the 2024B Trust
10 under and pursuant to the terms and provisions of the 2024B Facilities Lease and the leasing back
11 to the City of the 2024B Leased Property from the 2024B Trust under and pursuant to the terms and
12 provisions of the 2024B Lease.

13 **Section 3. Approvals; Execution of Documents; Authorized Officers.** The 2024B
14 Facilities Lease and the 2024B Lease in the forms substantially as filed in Clerk’s Filing No.
15 20240025-A, and Clerk’s Filing No. 20240025-B, respectively, are in all respects approved. The
16 Mayor is hereby authorized and directed to execute and deliver, and the Clerk is hereby authorized
17 and directed to affix the seal of the City to, and attest, the 2024B Facilities Lease and the 2024B
18 Lease in the form substantially as filed with the Clerk in Clerk’s Filing No. 20240025-A and Clerk’s
19 Filing No. 20240025-B.

20 **Section 4. No General Obligation or Other Indebtedness.** The obligation of the City to
21 make rental payments under the 2024B Lease is subject to annual appropriation by the Council and
22 constitutes an undertaking of the City to make current expenditures. No provision of this ordinance,
23 the 2024B Lease, the 2024B Facilities Lease, the 2024B Indenture or the 2024B Certificates shall
24 be construed as constituting or giving rise to a general obligation or other indebtedness or a multiple
25 fiscal year direct or indirect debt or other financial obligation of the City within the meaning of any
26 home rule, constitutional or statutory debt limitation nor a mandatory charge or requirement against
27 the City in any ensuing fiscal year beyond the current fiscal year. On an annual basis, the City may
28 choose to not renew, and thereby terminate its obligations under the 2024B Lease and, if applicable
29 under its terms, the 2024B Facilities Lease.

1 **Section 5. Reasonable Base Rentals.** The Council hereby determines and declares that
2 the Base Rentals due under the 2024B Lease do not exceed a reasonable amount so as to place
3 the City under an economic compulsion to renew and therefore not to terminate either the 2024B
4 Lease or to exercise its option to purchase the 2024B Leased Property, pursuant to the 2024B
5 Lease.

6 **Section 6. Sale of 2024B Certificates.** The Council hereby acknowledges (1) the 2024B
7 Indenture (2) the execution and delivery by the Trustee of, the form of, and private placement sale
8 of the 2024B Certificates, all pursuant to the 2024B Indenture, in substantially the form of the 2024B
9 Indenture filed with the Clerk in Clerk's Filing No. 20240025-C, and (3) that the proceeds of the sale
10 of the 2024B Certificates are to be used for the City to acquire the 2024B Leased Property and for
11 construction, improvement and equipping and to reimburse the City for funds used to secure the
12 Purchase and Sale Agreement.

13 **Section 7. Fund Creation.** A new Special Revenue Fund is hereby established in the
14 Grant and Other Money Projects Fund Series, Accounting No. 38512, the "East Hampden Campus
15 Facilities" Fund, Accounting No. 38512, for the purpose of accounting for the receipt and expenditure
16 of the proceeds of the 2024B Certificates of Participation. Monies received from the 2024B Trustee
17 funded with proceeds of the 2024B Certificates of Participation, shall be deposited into the Treasury
18 of the City and credited to the "East Hampden Campus Facilities" Fund, Accounting No. 38512, as
19 described in Section 20-18 of the Revised Municipal Code of the City and County of Denver.
20 Expenditures are hereby authorized for the "East Hampden Campus Facilities" Fund, Accounting
21 No. 38512 to be expended by the Manager of Finance for the purposes of purchasing and
22 construction of improvements to the 2024B Leased Property located at 7525 East Hampden Road.
23 This is a revenue-based, non-lapsing fund.

24 **Section 8. Appropriation of 2024B Base Rentals for Fiscal Year 2024.** From the
25 Homelessness Resolution Fund, Accounting No. 16813, out of moneys not otherwise appropriated
26 and in addition to any supplemental appropriations or rescissions, there is hereby appropriated to
27 the appropriation accounts hereinafter designated the amount of money following each such
28 designation, to be expended for the purposes and upon the authorizations in this Ordinance set forth:

| <u>Accounting Number</u> | <u>Appropriation Account</u> | <u>Expending Authority</u> | <u>Amount</u> |
|------------------------------|----------------------------------|--------------------------------|---------------|
|------------------------------|----------------------------------|--------------------------------|---------------|

Executive Director of Not to Exceed
Department of Housing \$1,033,083.33
and Stability

1 The Manager of Finance of the City is hereby authorized and directed to make such book and
2 record entries and to do such other things as may be necessary to accomplish the purposes of 8.

3 **Section 9. Delegated Powers; Additional Documents.** The Manager of Finance, the
4 Manager of the Department of Housing Stability and the Manager of General Services are authorized
5 to perform all of the duties and undertake all of the responsibilities set forth as the duties and
6 responsibilities of such officials in the 2024B Lease, the 2024B Facilities Lease, and any other
7 document related to the 2024B Lease. The Clerk is hereby authorized and directed to attest all
8 signatures and acts of any official of the City in connection with the matters authorized by this
9 ordinance. The Mayor, the Auditor, the Clerk, the Manager of Department of Housing Stability, the
10 Manager of General Services and the Manager of Finance and other officials and employees of the
11 City are hereby authorized to execute and deliver for and on behalf of the City any and all additional
12 certificates, documents, easements, agreements and other papers and to perform all other acts that
13 they may deem necessary or appropriate in order to implement and carry out the transactions and
14 other matters authorized by this ordinance. Such necessary or appropriate actions include, without
15 limitation, activities necessary for the Trustee’s execution and delivery of such certificates and
16 opinions as may be reasonably required by the Trustee, the 2024B Trust, or the City’s counsel
17 relating to, among other things, the tenure and identity of the officials of the City and the Council, the
18 absence of pending litigation affecting the validity of the 2024B Lease and the 2024B Facilities
19 Lease, and federal and state securities laws, all as contemplated by this ordinance and are not
20 inconsistent with this ordinance.

21 **Section 10. Severability.** If any section, paragraph, clause or provision of this ordinance
22 shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such
23 section, paragraph, clause or provision shall not affect any of the remaining provisions of this
24 ordinance.

25 **Section 11. Effective Date.** This ordinance shall take effect as provided in the Charter of
26 the City.

