

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2015

COUNCIL BILL NUMBER: CB15-0309  
COMMITTEE OF REFERENCE:  
Business Development

5 A BILL

6 **For an Ordinance concerning the organization and creation of the RiNo Denver**  
7 **General Improvement District in the City and County of Denver, creating the**  
8 **District Advisory Board and appointing the initial members thereof, and**  
9 **approving the initial Operating Plan therefore.**

10  
11 **WHEREAS**, pursuant to Part 6 of Article 25 of Title 31, C.R.S., a Petition For The  
12 Organization of the RiNo Denver General Improvement District (the "Petition") has been filed on  
13 May 11, 2015 in the office of the Clerk and Recorder, ex officio Clerk, of the City and County of  
14 Denver (the "City") as City Clerk File No. 2015-0201; and

15 **WHEREAS**, such Petition has been reviewed by the City; and

16 **WHEREAS**, such Petition has been signed by not less than thirty percent or two hundred of  
17 the electors of the proposed district, whichever is less; and

18 **WHEREAS**, Section 31-25-609, C.R.S., provides that the governing body of the municipality  
19 in which the District is located shall constitute ex officio the Board of Directors of the District and  
20 shall be authorized to exercise certain powers under the laws of Colorado concerning  
21 Improvement Districts in Municipalities, § 31-25-601 *et seq.*, C.R.S.; and

22 **WHEREAS**, the City Council desires to create the District Advisory Board of the District and  
23 to delegate the authority to exercise certain powers granted to the Board of Directors of the District  
24 under § 31-25-601 *et seq.*, C.R.S., to the District Advisory Board as set forth herein; and

25 **WHEREAS**, the Petitioners are in compliance with the requirement for a bond or other  
26 security as specified in Section 31-25-605, C.R.S., and as further described herein.

27 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY AND**  
28 **COUNTY OF DENVER, COLORADO:**

29 **Section 1. Findings.** The City Council of the City and County of Denver, acting as City  
30 Council (the "Council"), hereby accepts the Petition which requests the formation of a general  
31 improvement district to be known as the "RiNo Denver General Improvement District" (the  
32 "District"). The Council hereby finds that (a) the signatures on the Petition are genuine; (b) the

1 Petition is signed by not less than thirty percent or two hundred of the electors, whichever is less,  
2 of the proposed district; (c) all requirements for notice, mailing, publication and a hearing set forth  
3 in Sections 31-25-606 and 31-25-607, C.R.S. have been performed; (d) the boundaries of the  
4 District include at least one elector for each five acres of land included in the proposed district; (e)  
5 Petitioners have provided a bond with security approved by Council sufficient to comply with the  
6 provisions of Section 31-25-605, C.R.S. and that the same shall be sufficient to pay all expenses  
7 connected with these proceedings, including necessary services rendered by the City in  
8 connection with its review of the Petition; (f) the proposed improvements and services do not  
9 duplicate or interfere with any municipal improvement or service already constructed or planned to  
10 be constructed or furnished within the limits of the proposed District; (g) the creation of the District  
11 and proposed improvements and services therein will confer a general benefit on the District; (h)  
12 the costs of the proposed improvements and services will not be excessive as compared with the  
13 value of the property in the District; (i) the organization of the District will serve a public use and will  
14 promote the health, prosperity, security and general welfare of the inhabitants of the City and the  
15 District; and (j) the allegations of the Petition are true and that the District should be established.

16 **Section 2. Additional Finding.** It appearing that the Petition has been duly signed and  
17 presented in conformity with Colorado law, specifically including Part 6, Article 25, Title 31, C.R.S.  
18 and that the allegations of the Petition are true, the Council, by this ordinance, hereby finds that it  
19 has full jurisdiction under the law to adopt this ordinance (the "Creation Ordinance").

20 **Section 3. District Name.** The Council hereby determines that the District shall be known  
21 by its corporate name specified in the Petition as the "RiNo Denver General Improvement District",  
22 by which, in all proceedings, it shall be known.

23 **Section 4. Public Purpose.** The District, having the purposes and powers provided in Part  
24 6 of Article 25, Title 31, C.R.S., as limited by this Creation Ordinance, will serve a public use and  
25 will promote the health, safety, prosperity, security, and general welfare of the inhabitants of said  
26 District.

27 **Section 5. Creation.** The District is hereby declared organized. The District is a public or  
28 quasi-municipal subdivision of the State of Colorado and a body corporate with the limited  
29 proprietary powers set forth in Part 6, Article 25, Title 31, C.R.S., except as set forth herein.

30 **Section 6. Election.** At an election to be held on November 3, 2015 as provided in Part 6  
31 of Article 25 of Title 31, C.R.S. (the "Election"), the electors of the District shall vote for or against  
32 the imposition of property tax, rates, tolls, charges, special assessments, and the issuance of debt

1 and other matters for which approval is required under Section 20 of Article X of the Colorado  
2 Constitution. The District’s designated election official for the Election shall be Dawn J. Fredette.  
3 Dawn J. Fredette is authorized to act on behalf of the District in Election matters.

4 **Section 7. District Boundaries**. The District is located entirely within the boundaries of  
5 the City and a description of the District boundaries is as follows:

6 A parcel of land lying in Sections 22, 23, 26, and 27, Township 3 South, Range 68 West of  
7 the 6<sup>th</sup> Principal Meridian, City and County of Denver, State of Colorado, being more particularly  
8 described as follows:

9 Beginning at a point on the southerly right-of-way of I-70 at its intersection with the  
10 southeasterly property line of the Burlington Northern railroad, said point lying  
11 approximately 600 feet east of the South Platte River;

12 Thence easterly, with the southerly right-of-way of I-70, to its intersection with the  
13 northwesterly property line of the Union Pacific railroad;

14 Thence southwesterly, with the northwesterly property line of the Union Pacific  
15 railroad, to the southerly corner of the property conveyed to Oxman Holdings, LLP  
16 by deed recorded October 11<sup>th</sup>, 2013 at Reception number 2013150105 also known  
17 by address as 2900 Brighton Blvd;

18 Thence northwesterly, with the southwesterly line of said property and its extension,  
19 to its intersection with the centerline of Brighton Blvd.;

20 Thence southwesterly, with the centerline of Brighton Blvd., to its intersection with  
21 the centerline of 29<sup>th</sup> Street;

22 Thence northwesterly, with the centerline of 29<sup>th</sup> Street and its extension, to the  
23 centerline of the South Platte River;

24 Thence southwesterly, with the centerline of the South Platte River, to its  
25 intersection with the southeasterly property line of the Burlington Northern railroad;

26 Thence northeasterly, with the southeasterly property lines of the Burlington  
27 Northern railroad, to the point of beginning.

28 A description of the proposed district is attached as **Exhibit A** and a map of the proposed District  
29 boundary is attached as **Exhibit B** hereto for reference. Copies thereof may also be found in City  
30 Clerk File Nos. 2015-0201-A and No. 2015-0201-B, respectively.

31 **Section 8. District Board of Directors and District Advisory Board**.

32 (a) The Council shall act as the ex officio Board of Directors of the District (“Board of  
33 Directors”). The Board of Directors of the District shall retain the management and control of the  
34 business and the affairs of the District, specifically including:

1 (i) Approval of the District’s annual work plan and budget and amendments  
2 thereto (the “Work Plan and Budget”) submitted by the District Advisory Board pursuant to Section  
3 14 below.

4 (ii) Approval of the issuance of debt and other Obligations subject to the prior  
5 review and approval of the Manager of Finance pursuant to Section 9 below.

6 (iii) Approval of property taxes, rates, tolls, charges, special assessments, if any,  
7 based on recommendations of the District Advisory Board pursuant to Sections 12 and 13 below.

8 (iv) Approval of inclusions or exclusions of parcels of the District pursuant to  
9 Section 17 below.

10 (v) Approval of contracts exceeding \$100,000 except such \$100,000 may be  
11 increased if specifically approved in the Work Plan and Budget pursuant to Section 21 below.

12 (v) Approval of changes to the boundaries of the Brighton Boulevard Zone  
13 pursuant to Section 11 below.

14 (b) The RiNo Denver GID District Advisory Board (“District Advisory Board”) is hereby  
15 created. The Council hereby delegates certain authority of the District to the District Advisory  
16 Board as set forth herein.

17 (c) The initial members of the District Advisory Board are hereby appointed and  
18 confirmed and consist of the following:

- 19 (i) Anne Hayes
- 20 Tom Gordon
- 21 Chris Woldum
- 22 Jonathan Kaplan
- 23 Jason Winkler
- 24 Larry Burgess
- 25 Tracy Weil

26 (ii) The District Advisory Board shall designate two (2) of its members to an initial  
27 term of one (1) year and two (2) members to an initial term of (2) years and three (3) of its  
28 members to an initial term of three (3) years.

29 (iii) Following the initial terms, the length of the term is three (3) years and the  
30 consecutive term limit shall be two (2) terms. After a member has fulfilled two consecutive terms,  
31 that person may not be a member of the District Advisory Board for three (3) years before being  
32 reappointed.

1 (iv) The District Advisory Board shall inform the Mayor of any District Advisory  
2 Board vacancy that comes to its attention. Appointment to the District Advisory Board in future  
3 years shall occur as follows:

4 (1) The District Advisory Board shall accept submissions of interest for the  
5 vacancy.

6 (2) The District Advisory Board shall provide posted notice of a public hearing,  
7 hold a public hearing, and thereafter provide the Mayor with one or more  
8 recommended nominees to fill the vacancy, taking into account the  
9 qualifications thereof, the desired diversity of the District Advisory Board,  
10 and the nominee's willingness to serve.

11 (3) The Mayor shall review the recommendation and may require additional  
12 information from the District Advisory Board or the nominee. The Mayor  
13 with confirmation by City Council resolution will approve all District  
14 Advisory Board appointments.

15 (v) Subject to appointment, reasonable efforts will be made to include a mix of  
16 board members with the following interests:

17 (1) At least four (4) owners of commercial property

18 (2) At least two (2) artist/creative enterprise property owners

19 (3) At least two (2) residential representatives

20 (vi) In addition, the following shall be ex officio non-voting members of the District  
21 Advisory Board;

22 (1) The City's Manager of Public Works, or the Manager's designated  
23 representative; and

24 (2) The City Council District member whose district overlaps a majority of the  
25 District as an ex officio non-voting member.

26 (vii) The members of the District Advisory Board shall serve at the pleasure of  
27 the Mayor. Vacancies on the District Advisory Board shall be filled for the remainder of the  
28 unexpired term by appointment by the Mayor and confirmed by City Council resolution.

29 (d) The District Advisory Board, subject to approval of the Board of Directors, shall  
30 conduct and manage all affairs of the District as the authorized agent of the Board of Directors,  
31 including but not limited to its financial and legal affairs, the engineering, contracting, constructing  
32 and monitoring of the public improvements and other affairs of the District in accordance with the

1 laws of the State of Colorado. Notwithstanding the foregoing, overall control and supervision of the  
2 affairs of the District shall remain vested in the Board of Directors, specifically including (i) approval  
3 of the annual work plan and budget, and (ii) approval of property taxes, fees, charges, special  
4 assessments and mill levies. Nothing herein shall be construed to permit the District Advisory  
5 Board to act except by authority of the Board of Directors.

6 (e) The District Advisory Board is hereby authorized to exercise the powers and conduct  
7 the duties specified below as the authorized agent of the Board of Directors in accordance with the  
8 provisions of § 31-25-601 *et seq.*, C.R.S., and the Creation Ordinance.

9 (i) To elect officers and conduct meetings. Officers shall include a  
10 President, Treasurer, and Secretary and such other officers as the District Advisory Board deems  
11 necessary or convenient.

12 (ii) To keep, maintain and store, at an appropriate location, all records of the  
13 District.

14 (iii) To receive and disburse funds and to deposit or invest any legally available  
15 revenues of the District subject to § 11-10.5-101 *et seq.*, C.R.S. (Public Deposit Protection Act,  
16 "PDPA") and § 24-75-601 *et seq.*, C.R.S. (Legal Investments). There shall be two (2) signatures  
17 upon any warrants or checks issued by the District.

18 (iv) To obtain a federal and sales tax identification number and Public Deposit  
19 Protection Act (PDPA) number.

20 (v) To obtain errors and omissions insurance for the members of the District  
21 Advisory Board, general liability insurance and such other insurance, if any, as deemed reasonable  
22 and necessary by the District Advisory Board.

23 (vi) To prepare and recommend a work plan and budget for the District to the  
24 Board of Directors; provided, however, that the Board of Directors shall adopt the budget for the  
25 District.

26 (vii) To give public notice and hold public hearings and recommend Property taxes,  
27 fees, charges or special assessments for capital and maintenance purposes to the Board of  
28 Directors for adoption.

29 (viii) To comply with the Colorado Local Government Audit Law, Part 6 of Article  
30 1 of Title 29, C.R.S. A copy of each audit and each audit exemption prepared pursuant to the  
31 Colorado Local Government Audit Law shall be filed with the City's Manager of Finance no later  
32 than the date such audit or audit exemption is required to be filed with the State Auditor pursuant

1 to Section 29-1-606, C.R.S. or Section 29-1-604, C.R.S, respectively. Notwithstanding the  
2 foregoing, the District shall conduct an independent audit no less frequently than every three years  
3 after its organization. In addition, if the District issues any indebtedness, it shall cause an audit to  
4 be performed in each year in which such indebtedness is outstanding. The District Advisory Board  
5 shall be authorized to execute any audit exemption.

6 (ix) To prepare, deliver and recommend to the Board of Directors for the Board's  
7 approval, at least once a year on or before September 30, a Work Plan describing the major  
8 activities to be undertaken by the District for the next succeeding fiscal year; provided, however,  
9 that the District Advisory Board may from time to time request that the Board of Directors amend or  
10 supplement such Work Plan.

11 (x) Recommend to the Board of Directors rates, tolls, charges and property taxes  
12 necessary for the next year's Work Plan.

13 (xi) To enter into contracts affecting the affairs of the District up to \$100,000 and  
14 such greater amounts if specifically approved in the Work Plan and Budget, including any contract  
15 with the City, concerning the construction of improvements to Brighton Boulevard or designating  
16 responsibilities relating thereto.

17 (xii) To engage appropriate professional consultants, including but not limited to  
18 accounting, auditing, engineering and legal consultants.

19 (xiii) To design, acquire, review, evaluate, recommend, value engineer, construct  
20 and install improvements as approved in the Work Plan. Such improvements may include  
21 connections from and to Brighton Boulevard, either within or outside of the District, including but  
22 not limited to connections to the South Platte River.

23 (xiv) To develop and recommend design guidelines or standards applicable to the  
24 territory within the District.

25 (xv) To have management, control and supervision of business and affairs of the  
26 District, as approved in the Work Plan subject to the limitations set forth herein.

27 (xvi) To apply for, in the name of the District, obtain and maintain such permits as  
28 may be needed for improvements or services of the District.

29 To construct and install improvements along any public street or alley; except that plans and  
30 specifications of proposed improvements shall be approved by the Manager of Public Works or  
31 designee and/or Colorado Department of Transportation, as applicable, and all permits are  
32 obtained before construction or installation of improvements is commenced.

1 (xvii) To review and recommend proposals for public art within the District.

2 (xviii) To adopt reasonable by-laws or amended by-laws.

3 (xix) To receive petitions for inclusions and exclusions to the District and to publish  
4 notice of inclusion and exclusion hearings; except that such inclusion or exclusion hearing shall be  
5 conducted by the Board of Directors. The District Advisory Board shall cause a certified copy of  
6 any inclusion ordinance or exclusion ordinance to be recorded with the Denver Clerk and  
7 Recorder.

8 (xx) The following state statutes apply to the business and affairs of the District  
9 Advisory Board:

10 (1) The Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

11 (2) The Colorado Sunshine Act (Open Meetings Law), C.R.S. § 24-6-201,  
12 *et seq.*, specifically including the requirement for public notice of  
13 meetings.

14 (3) The Colorado Open Records Act, C.R.S. § 24-72-101, *et seq.*

15 (4) The Fair Campaign Practices Act, specifically C.R.S. § 1-45-117.

16 (5) The Colorado Local Government Budget Law, C.R.S. § 29-1-101, *et*  
17 *seq.*

18 (6) The Colorado Local Government Audit Law, C.R.S. § 29-1-601, *et seq.*

19 (7) The Legal Investment Law, C.R.S. § 24-75-601.1, *et seq.*

20 (8) The Local Government Delinquency Charge Law, C.R.S. § 29-1-1101,  
21 *et seq.*

22 (9) The Supplemental Public Securities Act, C.R.S. § 11-57-201, *et seq.*

23 (10) The Code of Ethics, C.R.S. § 24-18-101, *et seq.* and C.R.S. § 18-8-308.

24 (11) The statutes concerning entry into intergovernmental agreements and  
25 the creation of authorities, C.R.S. § 29-1-201, *et seq.*

26 (xxi) To exercise all rights and powers necessary or incidental to the powers  
27 specifically delegated to the District Advisory Board.

28 **Section 9. District Powers and Obligations.** Except as limited by the Election,  
29 subsequent elections, and this Creation Ordinance, the District shall have all of the limited powers  
30 set forth in Part 6 of Article 25 of Title 31, C.R.S., including but not limited to Sections 31-25-611  
31 and 31-25-611.5, C.R.S. as follows:

32 (a) If approved by a majority of the electors of the District voting in an election as

1 required by law, the District may assess property tax rates, tolls, charges and special assessments  
2 as allowed by Part 6 of Article 25 of Title 31, C.R.S. and as set forth herein, subject to the  
3 provisions of the Work Plan and Budget;

4 (b) If approved by a majority of the electors of the District voting an election as allowed  
5 by law, the District may incur indebtedness, obligations and liabilities, including but not limited to  
6 bonds, notes, reimbursement agreements, acquisition agreements, redevelopment agreements, or  
7 other lawful obligations evidencing or securing a borrowing by the District for purposes of providing  
8 new money or refunding obligations (collectively "Obligations") only for the purposes for which the  
9 District is created, as described in the Election, subsequent elections, this Creation Ordinance, and  
10 in accordance with law. Obligations shall not have a term to exceed 30 years, a net effective  
11 interest rate shall not exceed 10%, and an underwriter's discount shall not exceed 3%. A letter of  
12 credit or other credit enhancement may be obtained to provide additional security for the bonds if it  
13 is in the best interests of the District at the time of issue to do so.

14 (c) The initial issuance of Obligations shall be in a maximum principal amount of  
15 \$3,000,000. Obligations will be used to pay for the initial capital costs of the Brighton Boulevard  
16 Improvements as set forth in this Creation Ordinance and the Financing Plan. No District capital  
17 bond funds shall be spent except pursuant to a separate intergovernmental agreement between  
18 the City and the District, by which the District will transfer the net proceeds of the bond issue to  
19 the City for use by the City to construct such Brighton Boulevard Improvements.

20 **Section 10. Bond Documents.** No later than five (5) business days after the sale of any  
21 Obligations, the District shall provide copies of final Obligation documents, an opinion to the City  
22 from counsel opining that the final Obligation documents are in general conformance with the  
23 applicable provisions of this Ordinance and all applicable State and Federal laws and rules, and an  
24 External Financial Advisor Certification. Such External Financial Advisor Certification shall certify  
25 as to the market reasonableness of the interest rate and terms of Bonds sold shall be provided by  
26 an underwriter, investment banker or individual entity listed as a public finance advisor in the Bond  
27 Buyer's Municipal Market Place and which advises Colorado governmental entities on matters  
28 relating to the issuance of securities by Colorado governmental entities such as the pricing, sales  
29 and issuance of such securities, and shall be delivered to the Manager of Finance within five (5)  
30 business days of closing on any Obligation issuance. Documentation for Obligations shall include  
31 a statement stating the City has no responsibility for payment of any Obligations.

32 **Section 11. District Improvements and District Services.**

1 (a) District Improvements. A general description of the public benefits and  
2 improvements to be furnished by or for the District includes, but is not limited to:

3 (i) Brighton Boulevard Improvements. The District will finance enhancements  
4 to Brighton Boulevard between 29<sup>th</sup> Street and 44<sup>th</sup> Street (“Brighton Boulevard Zone”) as part of  
5 the reconstruction of the street, bicycle and pedestrian environment. These enhancements may  
6 include, but will not be limited to:

- 7 (1) Lighting improvements focused on pedestrians, landmark lighting to  
8 improve safety at key intersections, and other lighting enhancements as  
9 deemed appropriate to support it and the electrical infrastructure needs to  
10 support such lighting; and
- 11 (2) Trees, plantings and landscaping and the irrigation infrastructure  
12 appropriate to support it; and
- 13 (3) Other enhancements, which may include but not be limited to pavement  
14 enhancements and bus shelters, bicycle and pedestrian amenities.

15 The estimated cost of the proposed District improvements for Brighton Boulevard including  
16 contingencies and debt issuance costs is up to \$3,000,000. If approved by the voters of the  
17 District, the initial authority to issue debt or other multiple fiscal year financial obligations is  
18 \$3,000,000. The District will impose charges or special assessments charged against the linear  
19 front footage of property abutting Brighton Boulevard between 29<sup>th</sup> Street to 44<sup>th</sup> Street to repay  
20 such debt or other multiple fiscal year financial obligations as set forth in Section 12.

21 (ii) Other Improvements. In addition to the Brighton Boulevard Improvements, the  
22 District shall have the power to provide the other improvements as set forth in the Petition.

23 (b) District Services. A general description of the services to be provided by the District  
24 is as follows: the provision of enhanced operation and maintenance of improvements and services  
25 related to, of benefit to, the District. The District shall be authorized to undertake operations and  
26 maintenance functions with respect to the improvements and area within and for the District, as  
27 necessary and within the limits set forth in this Creation Ordinance and the statutes and any  
28 revenue and spending limits approved by the voters of the District in the Election or in a  
29 subsequent election, subject to future agreements and permits with the City for use of the right of  
30 way.

31 **Section 12. District Capital Charges.**

32 (a) Up Front Payment Options. The District Advisory Board shall develop and implement

1 a program to allow Capital Charges (as defined below) to be paid in a lump sum prior to issuance  
2 of Obligations. Following the issuance of Obligations, Capital Charges shall be paid as provided in  
3 this Section 12.

4 (b) Payment of Annual Debt Service. Pursuant to Section 31-25-611(1)(k), C.R.S., the  
5 District shall impose a system of annual special assessments or Capital Charges (“Capital  
6 Charges”). Because the District’s Brighton Boulevard Improvements are expected to improve  
7 Brighton Boulevard, a rational and reasonable measure to apportion the capital costs is to apply  
8 the costs of the improvements against the linear front footage of the property in the District abutting  
9 Brighton Boulevard to develop a schedule of Capital Charges to be applied against each property.  
10 No Capital Charges shall be applied to property owned, operated or leased by the City and County  
11 of Denver. Subject to the approval of the District’s Board of Directors as part of the annual Work  
12 Plan and Budget and any modification thereof the methods to determine the Capital Charges shall  
13 be:

14 (i) The District Advisory Board will obtain and apply Capital Charges to the Linear  
15 front footage for each property with frontage on Brighton Boulevard within the District from the  
16 Denver County Assessor or other reliable source.

17 (ii) The District Advisory Board will obtain and apply Capital Charges to the linear  
18 footage of each chargeable parcel on Brighton Boulevard or adjacent to property owned by the  
19 Regional Transportation District on Brighton Boulevard within the District, except land owned,  
20 operated or leased by the City and County of Denver and other property determined to be non-  
21 chargeable by the District Board of Directors.

22 (iii) The District Advisory Board shall determine, or cause to be determined, the  
23 annual debt service payment for the District Obligations (from the payment schedule that is  
24 determined at the time the Obligations were issued or otherwise). For the chargeable parcels,  
25 debt service shall be divided by the total linear front footage of all chargeable parcels to develop a  
26 Capital Charge rate. The Capital Charge Rate shall be multiplied by the linear front footage of  
27 each parcel in the District with front footage on Brighton Boulevard to determine the Capital  
28 Charge for each parcel with front footage on Brighton Boulevard.

29 (c) Annual Hearing. Not less than ten days prior to the hearing, the District Advisory  
30 Board shall furnish a mailed or electronic notice to each chargeable parcel owner of an annual  
31 public hearing on the Capital Charge proposed for the owner’s property and shall hold a public  
32 hearing on the Capital Charges, at which time adjustments may be made to the Capital Charges

1 based on information concerning parcel linear front footage, and such other information as is  
2 presented. The District Advisory Board shall then develop rational and reasonable final Capital  
3 Charges in the best interests of the parcel owners and the District to recommend to the District  
4 Board of Directors. The public hearing by the District Advisory Board on the Capital Charges may  
5 be held at the same time as the public hearing by the District Advisory Board on its annual budget  
6 described below.

7 (d) Approval by District Board of Directors. Following a public hearing, the District Board  
8 of Directors shall make a final determination on the Capital Charges per parcel as part of its  
9 approval of the District's Work Plan and Budget.

10 (e) Collection of Capital Charges. Following approval by the District Board of Directors,  
11 the District shall collect the Capital Charges by causing a bill to be sent to parcel owners and  
12 collecting the Capital Charges as set forth in Section 31-25-611(1)(k), C.R.S. The Capital  
13 Charges, being authorized by Section 31-25-611(1)(k), C.R.S., constitute a perpetual lien against  
14 the respective properties until paid. In lieu of sending a bill for Capital Charges to each unit owner  
15 as defined in Section 38-33.3-103(31), C.R.S., in a common interest community as defined in  
16 Section 38-33.3-103(8), C.R.S., the District may send the bill to the association as defined in  
17 Section 38-33.3-103(3), C.R.S., for the common interest community and collect from such  
18 association.

19 (f) Use of Capital Charges. Revenues received from Capital Charges shall be used  
20 exclusively for debt service on the District Obligations, costs of billing and collection, and  
21 reasonable debt service reserves and other costs of Obligations and capital reserves and for no  
22 other purposes whatsoever.

23 (g) Accounting. Revenues received from the Capital Charges will be accounted for  
24 separately from other District revenue in the manner required by the District's Obligations'  
25 documents.

26 **Section 13. District Mill Levy.** Revenue obtained from certification of an ad valorem mill  
27 levy not to exceed four (4) mills shall be expended for the cost to administer the District, and for  
28 neighborhood infrastructure enhancements and maintenance.

29 (a) Mill levy and other revenue may be used for additional neighborhood infrastructure  
30 enhancements and improvements, as well as the general maintenance of Brighton Boulevard, and  
31 the broader District area. Any such enhancements and maintenance will be funded from an ad  
32 valorem mill levy not to exceed four (4.000) mills, which will raise approximately \$200,000 for

1 enhancements and maintenance in the first year. The priority projects and maintenance to initially  
2 be funded through this levy include:

3 (i) Brighton Boulevard maintenance, including expenses related to operation,  
4 maintenance and repair of lighting, landscaping, and other enhancements funded on Brighton  
5 Boulevard by the District;

6 (ii) Lighting enhancements through the District to support safety and connectivity  
7 throughout the District;

8 (iii) South Platte River access and enhancements, to allow for improved use of the  
9 waterway; and

10 (iv) Enhancements to the proposed RiNo Park.

11 In the future, other improvements within and for the District area may also be funded,  
12 including but not limited to the financing, acquisition, construction, installation and maintenance of  
13 streetscaping, landscaping, pedestrian amenities, bicycle facilities, trails, riverwalk, bridges,  
14 parking, entry monumentation, median islands, irrigation, galleries, museums, artist and other  
15 creative work spaces, public art, statuarities, fountains, decorative structures, restrooms, public  
16 meeting facilities, fishing facilities, boating facilities, marinas, water sports facilities, area  
17 identification, together with all necessary, incidental, and appurtenant facilities, equipment, land  
18 and easements and extensions of and improvements to such facilities. The limitation on tax  
19 revenues shall not be a limitation on other revenues that may be collected and spent by the  
20 District, including gifts, grants, charges, interest, special assessments, and enterprise revenue.  
21 The District may have additional authority to issue debt or other multiple fiscal year obligations in  
22 the future in amounts as approved by the voters of the District and the District Board of Directors.

23 The District shall not impose more than four (4) mills without receiving voter approval from  
24 the District electorate.

25 **Section 14. Preparation of Annual Work Plan and Budget.** In 2015, the District Advisory  
26 Board shall provide notice of a public hearing on the proposed 2016 Work Plan and Budget in  
27 accordance with the Local Government Budget Law of Colorado and shall hold a public hearing on  
28 the 2016 Work Plan and Budget and thereafter submit the same to the District Board of Directors  
29 in November or December, 2015. The District Board of Directors shall review for approval the  
30 Work Plan and Budget for 2016 on or before December 5, 2015. Beginning in 2016 and every  
31 year thereafter, on or before September 30 of each year and after a hearing, in such detail as may  
32 be reasonably requested by the Board of Directors, the District Advisory Board shall write and

1 submit a written proposal for the District work plan and budget for the ensuing year. The District  
2 Advisory Board shall provide notice of the hearing on the proposed Work Plan and Budget in  
3 accordance with the Local Government Budget Law of Colorado. Following approval, the services,  
4 improvements, and financial arrangements shall conform so far as practicable to the approved  
5 Work Plan and Budget. After the hearing, the Work Plan and Budget shall be submitted to the  
6 District Board, the Manager of Public Works and the Manager of Finance. After the Managers of  
7 Public Works and Finance approve the proposed Work Plan and Budget, the Board of Directors  
8 shall approve or disapprove the Work Plan and Budget by December 5 of the year in which such  
9 documents are submitted. The District Advisory Board may from time to time request that the  
10 Board of Directors amend or supplement such Work Plan and Budget including any material  
11 modification to the Financing Plan after review and approval by the Manager of Public Works and  
12 the Manager of Finance.

13 **Section 15. Audit.** The District shall comply with the Colorado Local Government Audit  
14 Law, Part 6 of Article 1 of Title 29, C.R.S. A copy of each audit and each audit exemption  
15 prepared pursuant to the Colorado Local Government Audit Law shall be filed with the City's  
16 Manager of Finance no later than the date such audit or audit exemption is required to be filed with  
17 the State Auditor pursuant to Section 29-1-606, C.R.S., or Section 29-1-604, C.R.S., respectively.  
18 Notwithstanding the foregoing, the District shall conduct an independent audit no less frequently  
19 that every three years after its organization. In addition, if the District issues any indebtedness or  
20 other Obligations, it shall cause an audit to be performed in each year in which such Obligations  
21 are outstanding. The District Advisory Board shall be authorized to execute any audit exemption  
22 on behalf of the District.

23 **Section 16. Standard of Construction.**

24 (a) Construction. All public improvements constructed by the District shall be designed  
25 and constructed in accordance with applicable standards of the City, except as modified by  
26 agreement with the City, and in compliance with the applicable provisions of the Denver Revised  
27 Municipal Code. No public improvements shall be funded by the District until the City, acting  
28 through the Manager of Public Works or his designated representative has approved the plans and  
29 specifications as being in conformance with the standards of the City and all required permits and  
30 approvals are obtained.

31 (b) Certain Ordinances.

32 (i) All construction and maintenance performed by the District shall comply with

1 the prevailing wage requirements of DRMC 20-76 or a successor ordinance in substantially the  
2 same manner as the City.

3 (ii) The District shall comply with DRMC 20-85 to 20-89 or a successor Ordinance  
4 concerning public art in substantially the same manner as the City.

5 (iii) The District shall comply with DRMC 28-200 to 28-234 or a successor  
6 ordinance concerning small business, minority, and women business enterprise in substantially the  
7 same manner as the City.

8 (iv) The District shall comply with all applicable state laws concerning public  
9 bidding and construction contracting.

10 (c) Conveyance of Improvements. All public improvements constructed by the District  
11 shall be conveyed, at the City's request, to the City upon acceptance of such improvements by the  
12 Manager of Public Works.

13 **Section 17. Inclusions, Exclusions.** Inclusions or exclusions of property into and from  
14 the District may be made pursuant to the procedures in Section 31-25-618, C.R.S.

15 **Section 18. Recorded Notice of Organization.** The District shall **provide** notice of its  
16 existence to all persons acquiring property within the District by recording a notice of organization  
17 in the real property records of the Clerk and Recorder of the City and County of Denver.

18 **Section 19. Conclusive.** This Creation Ordinance finally and conclusively establishes the  
19 regular organization of the District against all persons unless an action attacking the validity of the  
20 organization is commenced in a court of competent jurisdiction within 30 days after the effective  
21 date of this Creation Ordinance. Thereafter, any such action shall be perpetually barred.

22 **Section 20. Confirmation of Actions and Powers.** The District may seek confirmations  
23 of Board actions and powers as authorized in Section 31-25-631, C.R.S.

24 **Section 21. Intergovernmental Agreements.**

25 (a) The District may enter into one or more intergovernmental agreements as approved  
26 by the District Advisory Board or the District Board.

27 (b) The District shall not expend any Obligation funds or Capital Charges until an IGA  
28 with the City for construction of the Brighton Boulevard Improvements has been entered into.

29 **Section 22. Dissolution.** The District may be dissolved as provided in Section 31-25-625,  
30 C.R.S.

31 **Section 23. City Fees and Charges.** The District shall pay the City such fees and charges  
32 as may be required by statute, ordinance, charter, and City rules and regulations including but not

1 limited to (a) a 1% fee for billing and collections by the Treasurer on behalf of the District, if any;  
2 and (b) an annual fee for costs that the City incurs for the annual review and monitoring of the  
3 District which shall be reasonably related to the City's administrative cost associated with the  
4 District, not to exceed the fees set forth in City Policy and the Manager of Finance Rules and  
5 Regulations as they currently exist or may be adopted or amended from time to time, invoices for  
6 which shall be submitted to the District on January 1<sup>st</sup> in the then current year and shall be payable  
7 on August 31 for the then current year. Due to the unique nature of the joint financing of Brighton  
8 Boulevard by the City and the District, the City shall bill the District for the GID \$5,000 letter of  
9 intent fee and GID \$10,000 application fee in 2016, but not payable earlier than August 31, 2016.

10 **Section 24. Certain Reporting Requirements.** The following events shall be reported to  
11 the Manager of Finance within thirty (30) days of such occurrence, to the extent such information is  
12 known and available to the District; (a) a negative change in any bond rating or failure of a credit  
13 facility; (b) a change, if known, in any development assumption that materially and negatively  
14 impacts the Obligation financing projections for any series of issued Obligations; or (c) a change, if  
15 known, in use of a particular property that materially and negatively impacts the ability of the  
16 District to discharge its Obligations; or (d) material changes in the Financing Plan

17 **Section 25. Severability.** If any section, paragraph, clause or provision of this ordinance  
18 shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such  
19 section, paragraph, clause or provision shall in no manner affect any remaining provisions of this  
20 ordinance.

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1 COMMITTEE APPROVAL DATE: May 12, 2015  
2 MAYOR-COUNCIL DATE: N/A  
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

10 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2015; \_\_\_\_\_ 2015

11 PREPARED BY: Norman F. Kron, Spencer Fane Britt & Browne, LLP DATE: May 14, 2015

12 REVIEWED BY: Jo Ann Weinstein, Assistant City Attorney DATE: May 14, 2015

13  
14 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
15 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
16 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
17 § 3.2.6 of the Charter.

18  
19 D. Scott Martinez, City Attorney

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21 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2015  
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# EXHIBIT A

## Legal Description

A parcel of land lying in Sections 22, 23, 26, and 27, Township 3 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at a point on the southerly right-of-way of I-70 at its intersection with the southeasterly property line of the Burlington Northern railroad, said point lying approximately 600 feet east of the South Platte River;

Thence easterly, with the southerly right-of-way of I-70, to its intersection with the northwesterly property line of the Union Pacific railroad;

Thence southwesterly, with the northwesterly property line of the Union Pacific railroad, to the southerly corner of the property conveyed to Oxman Holdings, LLP by deed recorded October 11<sup>th</sup>, 2013 at Reception number 2013150105 also known by address as 2900 Brighton Blvd;

Thence northwesterly, with the southwesterly line of said property and its extension, to its intersection with the centerline of Brighton Blvd.;

Thence southwesterly, with the centerline of Brighton Blvd., to its intersection with the centerline of 29<sup>th</sup> Street;

Thence northwesterly, with the centerline of 29<sup>th</sup> Street and its extension, to the centerline of the South Platte River;

Thence southwesterly, with the centerline of the South Platte River, to its intersection with the southeasterly property line of the Burlington Northern railroad;

Thence northeasterly, with the southeasterly property lines of the Burlington Northern railroad, to the point of beginning.

