

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2024

COUNCIL BILL NO. CB24-1377
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance concerning the authorization of a First Amendment to Loan Agreement among the City, PNC Bank, National Association and U.S. Bank National Association in order to amend the requirements for mandatory prepayments and in connection therewith authorizing a first amendment to the DUS Project Mill Levy Pledge Agreement to allow the agreement to terminate on December 2, 2024; ratifying action previously taken relating thereto; and providing other matters relating thereto.

(1) **WHEREAS**, the City and County of Denver (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the Constitution (the "Constitution") and laws of the State of Colorado (the "State") and the City Charter (the "Charter"); and

(2) **WHEREAS**, the members of the City Council of the City (the "City Council") have been duly elected and qualified; and

(3) **WHEREAS**, pursuant to an election held on November 4, 2008 (the "Election") and Ordinance No. 400, Series of 2008, the City Council created the Denver Downtown Development Authority (the "DDDA"); and

(4) **WHEREAS**, at the Election, a majority of electors of the DDDA qualified to vote and voting thereon, approved the following ballot question:

Shall Denver Downtown Development Authority obligations be increased \$350,000,000 with a repayment cost of \$847,000,000 (maximum) for an approved plan of development, as amended or modified from time to time, such obligations may be incurred for the Authority by the City and County of Denver for the purpose of paying the costs of creating and implementing any plan of development, including operating, maintaining or otherwise providing systems, operations and administration for the purpose of carrying out the objects and purposes for which the Authority was organized, together with all necessary, incidental and appurtenant properties, capital improvements, facilities, equipment, personnel, contractors, consultants and costs and all land, easements and appurtenances necessary or appropriate in connection therewith, such obligations to bear interest at a net effective interest rate not in excess of seven percent (7%) per annum, such interest to be payable at such time or times

1 and which may compound periodically as may be determined by the City Council, such
2 obligations to be incurred or delivered in one series or more at a price above, below or
3 equal to the principal amount of such obligations and on such terms and conditions as
4 the City Council may determine, including provisions for redemption of the obligations
5 prior to maturity with or without payment of premium, and which obligations may be
6 refinanced without additional voter approval, provided that after the issuance of such
7 refinancing obligations the total outstanding principal amount of all obligations issued
8 pursuant to this question does not exceed the maximum amount set forth above, and
9 provided further that all obligations issued pursuant to this question are issued on terms
10 that do not exceed the repayment costs authorized in this question; such obligations
11 shall be paid from any legally available moneys of the Authority or from revenues of
12 the City legally available for the Authority, including the revenues pledged or from taxes
13 pledged pursuant to Section 31-25-807(3)(b) Colorado Revised Statutes or both such
14 revenues and taxes with such limitations as may be determined by the Board of the
15 Authority and the City Council, and shall the proceeds of any such obligations and the
16 proceeds of such taxes, any other revenue used to pay such obligations, and
17 investment income thereon be collected and spent as a voter-approved revenue
18 change, without regard to any spending, revenue-raising or other limitation contained
19 within Article X, Section 20 of the Colorado Constitution, or any other law, and without
20 limiting in any year the amount of other revenues that may be collected and spent by
21 the Authority and the City and County of Denver on behalf of the Authority?; and

22 (5) **WHEREAS**, pursuant to Ordinance No. 723, Series of 2008, the City Council approved
23 the Denver Union Station Plan of Development dated November 25, 2008 (the “DUS Plan”); and

24 (6) **WHEREAS**, the DUS Plan authorizes the use of property tax and sales tax increment
25 financing pursuant to C.R.S. § 31-25-807 to finance the costs of the Denver Union Station Project
26 (as defined in the DUS Plan); and

27 (7) **WHEREAS** pursuant to C.R.S. § 31-25-807 property tax and sales tax increment
28 revenues (“TIF Revenues”) are deposited to a special fund of the City (the “Special Fund”); and

29 (8) **WHEREAS**, the City, acting on behalf of the DDDA, previously entered into the Loan
30 Agreement dated February 3, 2017 (the “Original Loan Agreement”), with Compass Bank, Compass
31 Mortgage Corporation, and U.S. Bank National Association (“U.S. Bank”), pursuant to which
32 Compass Mortgage Corporation and U.S. Bank made a loan to the City in the original principal
33 amount of \$197,315,000, which funds were used to refund a portion of the loans that were incurred

1 by the Denver Union Station Project Authority for the purpose of financing the Denver Union Station
2 Project; and

3 (9) **WHEREAS**, after the execution of the Original Loan Agreement, PNC Bank, National
4 Association (“PNC”) became the successor in interest to Compass Bank and Compass Mortgage
5 Corporation; and

6 (10) **WHEREAS**, pursuant to the Original Loan Agreement, in addition to scheduled
7 principal payments, the City is required to prepay the outstanding loan amount from amounts on
8 deposit in the Surplus Fund created under the Original Loan Agreement on certain dates (as more
9 specifically defined in the Original Loan Agreement, the “Mandatory Excess Principal Prepayment”);
10 and

11 (11) **WHEREAS**, the City Council has determined and hereby determines that it is desirable
12 to enter into the First Amendment to Loan Agreement, by and among the City, PNC and U.S. Bank
13 (the “First Amendment to Loan Agreement”), to amend the Original Loan Agreement to eliminate the
14 Mandatory Excess Principal Prepayment requirement after the payment made on December 1,
15 2023, in order to make more funds available in the Special Fund for future DDDA projects; and

16 (12) **WHEREAS**, since the loan made pursuant to the Original Agreement is currently
17 payable from revenues received pursuant to the DUS Project Mill Levy Pledge Agreement, dated as
18 of February 3, 2017 (the “Mill Levy Pledge Agreement”), among the City, DUS Metropolitan District
19 No.1, DUS Metropolitan District No.2, DUS Metropolitan District No.3, PNC and U.S. Bank, in
20 addition to the TIF Revenues, the City Council has determined that it is desirable to enter into the
21 First Amendment to DUS Project Mill Levy Pledge Agreement, by and among the City, DUS
22 Metropolitan District No. 1, DUS Metropolitan District No. 2, DUS Metropolitan District No. 3, PNC
23 and U.S. Bank (the “First Amendment to Mill Levy Pledge Agreement”), to amend the Mill Levy
24 Pledge Agreement to allow for it to terminate on December 2, 2024, so that the elimination of the
25 Mandatory Excess Principal Payment requirement going forward does not extend any obligations
26 under the Mill Levy Pledge Agreement; and

27 (13) **WHEREAS**, the proposed First Amendment to Loan Agreement, in the words and
28 figures contained and set forth in that form of agreement available in the office and on the web page
29 of City Council, has been filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City
30 and County of Denver (the “Clerk”) under Clerk’s Filing No. 202476206; and

31 (14) **WHEREAS**, the proposed First Amendment to Mill Levy Pledge Agreement, in the
32 words and figures contained and set forth in that form of agreement available in the office and on

1 the web page of City Council, has been filed in the office of the Clerk under Clerk's Filing No.
2 202476202; and

3 (15) **WHEREAS**, collectively, the First Amendment to Loan Agreement and the First
4 Amendment to Mill Levy Pledge Agreement shall be referred to herein as the "Amendments;" and

5 (16) **WHEREAS**, the City Council has determined and does hereby declare that it is
6 necessary and in the best interests of the City that the City enter into the Amendments.

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

8 **Section 1. Ratification.** All action heretofore taken (not inconsistent with the provisions of
9 this ordinance) by the City and the officers, agents and employees thereof, directed towards the
10 Amendments and the objects and purposes herein stated are hereby ratified, approved and
11 confirmed.

12 **Section 2. Approvals and Authorization.**

13 A. The proposed First Amendment to Loan Agreement, in the words and figures contained
14 and set forth in that form of agreement available in the office and on the web page of City Council,
15 and filed in the office of the Clerk under Clerk's Filing No. 202476206, is hereby approved.

16 B. The proposed First Amendment to Mill Levy Pledge Agreement, in the words and
17 figures contained and set forth in that form of agreement available in the office and on the web page
18 of City Council, and filed in the office of the Clerk under Clerk's Filing No. 202476202, is hereby
19 approved.

20 C. The Amendments may be completed, corrected or revised as deemed necessary by
21 the parties thereto in order to carry out the purposes of this Ordinance. The Mayor, the Clerk, the
22 Auditor of the City, the Manager of Finance, Chief Financial Officer/*Ex officio* Treasurer and other
23 officers and employees of the City are hereby independently authorized and directed to take all
24 action necessary or appropriate to effect the provisions of this Ordinance, including without limiting
25 the generality of the foregoing, executing, attesting, authenticating and delivering the Amendments
26 and such other agreements, instruments, certificates and opinions as may be required to effect the
27 provisions of this Ordinance or the Amendments, or as may otherwise be reasonably required by the
28 City's bond counsel, PNC or U.S. Bank.

29 D. The execution of any document or instrument by the appropriate officers of the City
30 herein authorized shall be conclusive evidence of the approval by the City of such document or
31 instrument in accordance with the terms hereof.

32 **Section 3. Special and Limited Obligations.** The City's obligations pursuant to the
33 Original Loan Agreement, as amended by the First Amendment to Loan Agreement (collectively, the

1 “Loan Agreement”), shall be payable solely from the Pledged Revenue (as defined in the Loan
2 Agreement). Pursuant to C.R.S. § 31-25-813, the Loan Agreement shall not constitute an
3 indebtedness of the City within the meaning of any constitutional, Charter or statutory limitations.
4 The full faith and credit of the City is not pledged for the payment of any amounts due under the
5 Loan Agreement.

6 **Section 4. Ordinance Irrepealable.** This Ordinance shall be and remain irrepealable until
7 the Loan Agreement shall be fully paid or discharged.

8 **Section 5. Severability.** If any provision of this Ordinance shall be held invalid or
9 unenforceable, such holding shall not affect any other provisions hereof.

10 **Section 6. Effective Date.** This Ordinance shall become effective immediately upon its
11 final passage and publication, as provided by the Charter of the City.

12 **Section 7. Publication.** The bill for this Ordinance is hereby authorized and directed to be
13 published as provided in the Charter of the City.

14 **Section 8. Recordation and Authentication.** This Ordinance shall be recorded after its
15 passage in a Book of Ordinances of the City, kept for that purpose, and authenticated by the
16 signature of the Mayor and attested and countersigned by the Clerk.

17
18 COMMITTEE APPROVAL DATE: October 15, 2024

19 MAYOR-COUNCIL DATE: October 22, 2024

20 PASSED BY THE COUNCIL _____

21 _____ - PRESIDENT

22 APPROVED: _____ - MAYOR _____

23 ATTEST: _____ - CLERK AND RECORDER,
24 EX-OFFICIO CLERK OF THE
25 CITY AND COUNTY OF DENVER

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ ; _____

27 PREPARED BY: Butler Snow, LLP

28 REVIEWED BY: Bradley T. Neiman, Assistant City Attorney DATE: October 24, 2024

29 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
30 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
31 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
32 of the Charter.

33
34 Kerry Tipper, Denver City Attorney

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36 BY: _____, Assistant City Attorney DATE: _____,