

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2024

COUNCIL BILL NO. 24-1447
COMMITTEE OF REFERENCE:
4 BUSINESS, ARTS, WORKFORCE, CLIMATE & AVIATION SERVICES

5 **A BILL**

6 **For an ordinance concerning the Airport Facilities of the City and County of**
7 **Denver; authorizing the incurrence of the Interim Revolving Note**
8 **Subordinate Obligation under the General Subordinate Bond Ordinance in**
9 **a maximum aggregate principal amount not to exceed \$500,000,000 at any**
10 **time in connection with a note purchase agreement to be entered into for**
11 **the purposes of defraying the costs of certain approved projects, and**
12 **providing other details in connection therewith; providing the maximum**
13 **rate and other terms and other details of the Interim Revolving Note**
14 **Subordinate Obligation, which shall be evidenced by a note purchase**
15 **agreement and a note; authorizing the execution of certain related**
16 **agreements; ratifying action previously taken; providing for other related**
17 **matters; and providing the effective date of this ordinance.**

18 **PREFACE**

19 This ordinance (referred to herein as "this Supplemental Subordinate Ordinance") is
20 supplemental to, and is adopted for and on behalf of the Department in accordance with the
21 provisions of, the General Subordinate Bond Ordinance.

22 **DEFINITIONS**

23 All defined terms in this Supplemental Subordinate Ordinance have the meanings set
24 forth in the General Subordinate Bond Ordinance except as otherwise expressly provided
25 herein and in Section 102 of this Supplemental Subordinate Ordinance, except where the
26 context by clear implication otherwise requires.

27 **RECITALS**

28 (1) The City is a municipal corporation duly organized and existing as a home rule
29 city under Article XX, State Constitution, and under the Charter, and is a political subdivision of
30 the State.

1 (2) Subject to certain exceptions, all legislative powers possessed by the City,
2 conferred by Article XX, State Constitution, or contained in the Charter, as either has from time
3 to time been amended, or otherwise existing by operation of law, are vested in the City
4 Council.

5 (3) Pursuant to Article XX, State Constitution, the Charter, and the plenary grant of
6 powers as a home rule city, the City has acquired certain airport facilities constituting its Airport
7 System, the management, operation, and control of which is vested by the Charter in the
8 Department of Aviation. Pursuant to the Enterprise Ordinance, the City designated the
9 Department as an "enterprise" within the meaning of Section 20, Article X, State Constitution.
10 The Enterprise Ordinance provides that, the City owns the Department; the Manager of the
11 Department of Aviation is the governing body of the Department; and the Department has the
12 authority to issue its own bonds or other financial obligations in the name of the City, payable
13 solely from revenues derived or to be derived from the functions, services, benefits or facilities
14 of the Department or from any other available funds, as authorized by ordinance after approval
15 and authorization by the Manager.

16 (4) Pursuant to the 1984 General Bond Ordinance, there have been issued multiple
17 series of Senior Bonds and other Obligations in respect of the Airport System and such Senior
18 Bonds and Obligations are secured by an irrevocable and first lien (but not necessarily an
19 exclusive first lien) on the Net Revenues of the Airport System on a parity with the lien thereon
20 in favor of each other.

21 (5) After having received the requisite bond owner consents and satisfying all
22 applicable requirements, the City amended and restated the 1984 General Bond Ordinance in
23 its entirety pursuant to the provisions of the General Bond Ordinance and the City has issued
24 or incurred, as applicable, and will in the future issue or incur, as applicable, Senior Bonds and
25 Obligations under the General Bond Ordinance, in addition to the currently outstanding Senior
26 Bonds and Obligations.

27 (6) Pursuant to the General Bond Ordinance, the City may issue bonds or incur
28 other additional obligations payable from the Net Revenues of the Airport System and having a
29 lien thereon subordinate to the lien thereon of the Senior Bonds. The City adopted the 1997
30 Subordinate Bond Ordinance pursuant to which the City issued various Subordinate Bonds

1 which have been paid or defeased prior to the date hereof and which are no longer
2 outstanding. Pursuant to the 1997 Subordinate Bond Ordinance, the City incurred certain
3 Subordinate Hedge Facility Obligations which remain outstanding.

4 (7) The City amended and restated the 1997 Subordinate Bond Ordinance in its
5 entirety pursuant to the provisions of the General Subordinate Bond Ordinance and the City
6 has issued or incurred, as applicable, and will in the future issue or incur, as applicable,
7 Subordinate Bonds and Subordinate Obligations under the General Subordinate Bond
8 Ordinance.

9 (8) Pursuant to the General Bond Ordinance and the General Subordinate Bond
10 Ordinance, the City has adopted the General Junior Lien Bond Ordinance and, pursuant to the
11 General Junior Lien Bond Ordinance, the City has incurred the Hotel Junior Lien Obligation
12 and the Great Hall Junior Lien Obligation. The Great Hall Junior Lien Obligation is no longer
13 outstanding.

14 (9) The Council has also adopted in supplementation of the General Bond
15 Ordinance that certain Ordinance No. 0776, Series of 2018, providing for certain passenger
16 facility charges to be included in Gross Revenues commencing January 1, 2019.

17 (10) None of the Net Revenues of the Airport System have been pledged to any
18 outstanding bonds or other obligations, except in respect of the Senior Bonds (and certain
19 Obligations relating thereto), the Subordinate Bonds (and certain Subordinate Credit Facility
20 Obligations relating thereto), certain Subordinate Hedge Facility Obligations incurred under the
21 1997 Subordinate Bond Ordinance, and the Hotel Junior Lien Obligation incurred under the
22 General Junior Lien Bond Ordinance.

23 (11) As contemplated by the Enterprise Ordinance, the Manager of the Department
24 has executed the Interim Revolving Note Manager's Resolution approving, authorizing and
25 requesting the incurrence by the City, for and on behalf of the Department, of the Interim
26 Revolving Note Subordinate Obligation as set forth herein, for the purposes of (i) defraying the
27 costs of the Approved Projects and (ii) paying certain Costs relating to the incurrence of the
28 Interim Revolving Note Subordinate Obligation, which includes the issuance of the Interim
29 Revolving Note and the execution and delivery of the Note Purchase Agreement.

1 (12) The Interim Revolving Note Purchaser has agreed to enter into the Note
2 Purchase Agreement under which the Interim Revolving Note Purchaser will purchase from
3 time to time, on a revolving basis, the Interim Revolving Note in accordance with the terms of
4 the Note Purchase Agreement, which note shall not exceed the maximum aggregate principal
5 amount of \$500,000,000 at any time.

6 (13) The obligation of the City, for and on behalf of the Department, to make the
7 principal of and interest payments on the Interim Revolving Note shall constitute the Interim
8 Revolving Note Subordinate Obligation and is herein designated a Subordinate Contract
9 Obligation for purposes of the General Subordinate Bond Ordinance.

10 (14) The Council has determined and does hereby declare:

11 A. The procedures and requirements of Article V, Chapter 20 of the Revised
12 Municipal Code of the City and County of Denver have been completely and timely met
13 in respect of the issuance of the Interim Revolving Note in connection with the Note
14 Purchase Agreement;

15 B. The Interim Revolving Note Subordinate Obligation is to be incurred
16 pursuant to the Interim Revolving Note Manager's Resolution and the provisions of the
17 General Subordinate Bond Ordinance (as supplemented hereby);

18 C. The Interim Revolving Note Subordinate Obligation constitutes a
19 Subordinate Contract Obligation, and the Approved Projects constitute Subordinate
20 Bond Improvement Projects; and

21 D. All acts, conditions and things required by law and by the General
22 Subordinate Bond Ordinance to exist, have happened and have been performed as a
23 condition to the incurrence of the Interim Revolving Note Subordinate Obligation, do or
24 will exist, and have been or will have been performed in regular and due time, forms
25 and manner as required by law.

26 (15) There have been filed with the City's Clerk and Recorder:

1 A. the proposed form of the Series 2024 Interim Revolving Note Paying
2 Agent and Registrar Agreement, City Clerk File No. 20240132A; and

3 B. the proposed form of the Series 2024 DEN Note Purchase
4 Agreement_TruiSt 2024, City Clerk File No. 20240132B.

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

6 **ARTICLE I**
7 **DEFINITIONS, RATIFICATION, EFFECTIVE DATE,**
8 **PUBLICATION AND AUTHENTICATION**

9 **Section 101. Supplemental Subordinate Ordinance.** This Supplemental Subordinate
10 Ordinance is supplemental to, and is adopted for and on behalf of the Department in
11 accordance with the provisions of, the General Subordinate Bond Ordinance.

12 **Section 102. Meanings and Construction.**

13 A. **General Subordinate Bond Ordinance Definitions.** All defined terms in this
14 Supplemental Subordinate Ordinance have the meanings set forth in the General
15 Subordinate Bond Ordinance except as otherwise expressly provided herein.

16 B. **Additional Definitions.** For all purposes of this Supplemental Subordinate
17 Ordinance, except where the context by clear implication otherwise requires:

18 (1) **"1984 General Bond Ordinance"** means Ordinance No. 626, Series
19 of 1984, cited as the "1984 Airport System General Bond Ordinance," as
20 amended and supplemented from time to time.

21 (2) **"1997 Subordinate Bond Ordinance"** means Ordinance No. 549,
22 Series of 1997, cited as the "1997 Airport System Subordinate Bond Ordinance,"
23 as amended and supplemented.

24 (3) **"Approved Projects"** means those projects designated as such on
25 Exhibit A attached hereto, together with such other projects designated as an
26 Approved Project by the Treasurer. The Approved Projects set forth on Exhibit A

1 and any project designated as an Approved Project by the Treasurer constitute
2 Subordinate Bond Improvement Projects.

3 (4) "Enterprise Ordinance" means Ordinance No. 755, Series of 1993.

4 (5) "General Bond Ordinance" means the 1984 General Bond
5 Ordinance, as amended and restated in its entirety pursuant to the provisions of
6 Ordinance No. 0777, Series of 2018, cited as the "2018 Amended and Restated
7 Airport System General Bond Ordinance," as amended and supplemented from
8 time to time by any Supplemental Ordinance.

9 (6) "General Junior Lien Bond Ordinance" means Ordinance No. 17-
10 0972, Series of 2017, cited as the "Airport System General Junior Lien Bond
11 Ordinance," as amended and supplemented from time to time.

12 (7) "General Subordinate Bond Ordinance" means the 1997
13 Subordinate Bond Ordinance as amended and restated in its entirety pursuant to
14 the provisions of Ordinance No. 302, Series of 2013, as amended and
15 supplemented from time to time.

16 (8) "Great Hall Junior Lien Obligation" means the Junior Lien
17 Obligation (as defined in the General Junior Lien Bond Ordinance) incurred
18 pursuant to the General Junior Lien Bond Ordinance and Ordinance No. 17-
19 0973, Series of 2017.

20 (9) "Hotel Junior Lien Obligation" has the meaning set forth in the
21 General Junior Lien Bond Ordinance.

22 (10) "Interim Revolving Note" means the note governed by this
23 Supplemental Subordinate Ordinance. The form of the Interim Revolving Note is
24 attached to the Note Purchase Agreement.

25 (11) "Interim Revolving Note Cost of Issuance Account" has the
26 meaning ascribed to it in Section 401A of this Supplemental Subordinate
27 Ordinance.

1 (12) "Interim Revolving Note Interest Subaccount" has the meaning
2 ascribed to it in Section 303 of this Supplemental Subordinate Ordinance.

3 (13) "Interim Revolving Note Manager's Resolution" means the
4 resolution of the Manager approving, authorizing and requesting the incurrence
5 by the City, for and on behalf of the Department, of the Interim Revolving Note
6 Subordinate Obligation.

7 (14) "Interim Revolving Note Paying Agent/Registrar" means, with
8 respect to the Interim Revolving Note, Zions Bancorporation, National
9 Association, and includes any successor thereof.

10 (15) "Interim Revolving Note Paying Agent/Registrar Agreement"
11 means, with respect to the Interim Revolving Note, the agreement executed by
12 the City, for and on behalf of the Department, and the Interim Revolving Note
13 Paying Agent/Registrar in substantially the form filed with the Clerk, with such
14 revisions thereto as are permitted by this Supplemental Subordinate Ordinance,
15 and any subsequent Interim Revolving Note Paying Agent/Registrar Agreement
16 executed by the Interim Revolving Note Paying Agent/Registrar and the City, for
17 and on behalf of the Department, as provided herein, as the same may be
18 amended, modified or restated in accordance with the terms hereof.

19 (16) "Interim Revolving Note Principal Subaccount" has the meaning
20 ascribed to it in Section 303 of this Supplemental Subordinate Ordinance.

21 (17) "Interim Revolving Note Project Account" has the meaning ascribed
22 to it in Section 401B of this Supplemental Subordinate Ordinance.

23 (18) "Interim Revolving Note Purchaser" means Truist Commercial
24 Equity, Inc., its successor and assigns and, with respect to a substitute Note
25 Purchase Agreement with City, for and on behalf of the Department, the other
26 party thereto.

27 (19) "Interim Revolving Note Rebate Fund" has the meaning ascribed to
28 it in Section 501B of this Supplemental Subordinate Ordinance.

1 (20) "Interim Revolving Note Subordinate Obligation" means the City's
2 obligation, for and on behalf of the Department, to make payments to the Interim
3 Revolving Note Purchaser that constitute Subordinate Note Obligations.

4 (21) "Maximum Rate" means the lesser of (i) twelve percent (12%) per
5 annum and (ii) the maximum non-usurious lawful rate of interest permitted by
6 law.

7 (22) "Note Purchase Agreement" means the Note Purchase and
8 Advance Agreement between the City, for and on behalf of the Department, and
9 the Interim Revolving Note Purchaser, in substantially the form filed with the
10 Clerk, with such revisions thereto as are permitted by this Supplemental
11 Ordinance, as the same may be amended, modified or restated in accordance
12 with the terms hereof.

13 (23) "Purchaser Obligations" has the meaning set forth in the Note
14 Purchase Agreement.

15 (24) "Subordinate Note Obligations" means the obligation of the City to
16 pay principal of and interest on the Interim Revolving Note.

17 (25) "Subordinate Bonds" mean the following series of bonds: (i) the
18 "City and County of Denver, Colorado, for and on behalf of its Department of
19 Aviation, Airport System Subordinate Revenue Bonds, Series 2015A" as
20 authorized by the General Subordinate Bond Ordinance and Ordinance No. 15-
21 756, Series of 2015; (ii) the "City and County of Denver, Colorado, for and on
22 behalf of its Department of Aviation, Airport System Subordinate Revenue
23 Bonds, Series 2018A and Airport System Subordinate Revenue Bonds, Series
24 2018B" as authorized by the General Subordinate Bond Ordinance and
25 Ordinance No. 775, Series of 2018; (iii) the "City and County of Denver,
26 Colorado, for and on behalf of its Department of Aviation, Airport System
27 Subordinate Revenue Bonds, Series 2019A and Airport System Subordinate
28 Revenue Bonds, Series 2019B" as authorized by the General Subordinate Bond
29 Ordinance and Ordinance No. 0543, Series of 2019; (iv) the "City and County of

1 Denver, Colorado, for and on behalf of its Department of Aviation, Airport System
2 Subordinate Revenue Bonds, Series 2023A and Airport System Subordinate
3 Revenue Bonds, Series 2023B” as authorized by the General Subordinate Bond
4 Ordinance and Ordinance No. 1454, Series of 2023; and (v) any future
5 Subordinate Bonds issued by the City, for and on behalf of the Department.

6 **Section 103. Ratification.** All action heretofore taken (not inconsistent with the
7 provisions of this Supplemental Subordinate Ordinance) by the Council, the Manager, the
8 Treasurer, and the other officers of the City relating to:

9 A. Approved Projects. The Approved Projects; and

10 B. Interim Revolving Note Subordinate Obligation. The incurrence of the
11 Interim Revolving Note Subordinate Obligation, including the execution and delivery of
12 the Note Purchase Agreement and the issuance of the Interim Revolving Note;

13 be, and the same hereby is, authorized, ratified, approved, and confirmed.

14 **Section 104. Ordinance an Irrepealable Contract.** This Supplemental Subordinate
15 Ordinance and the General Subordinate Bond Ordinance shall constitute an irrevocable
16 contract between the City, for and on behalf of the Department, and the Interim Revolving Note
17 Purchaser, except as otherwise provided herein and in the General Subordinate Bond
18 Ordinance.

19 **Section 105. Repealer.** All ordinances, resolutions, bylaws, orders, and other
20 instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of
21 such inconsistency; but nothing herein shall be construed to repeal any provision of the
22 General Subordinate Bond Ordinance, it being intended that any inconsistent provision therein
23 shall remain applicable to any other Subordinate Obligations incurred and Subordinate Bonds
24 issued hereafter under the General Subordinate Bond Ordinance. This repealer shall not be
25 construed to revive any ordinance, resolution, bylaw, order, or other instrument, or part thereof,
26 heretofore repealed.

27 **Section 106. Severability.** If any section, subsection, paragraph, clause, or other
28 provision of this Supplemental Subordinate Ordinance shall for any reason be held to be

1 invalid or unenforceable, the invalidity or unenforceability of such section, subsection,
2 paragraph, clause, or other provision shall not affect any of the remaining provisions of this
3 Supplemental Subordinate Ordinance.

4 **Section 107. Effective Date.** This Supplemental Subordinate Ordinance shall take
5 effect immediately upon its final passage and publication.

6 **Section 108. Publications.** The bill for this Supplemental Subordinate Ordinance and
7 this Supplemental Subordinate Ordinance are hereby authorized and directed to be published
8 as required by the Charter.

9 **Section 109. Recordation and Authentication.** This Supplemental Subordinate
10 Ordinance shall be recorded after its passage in the office of the Clerk, and authenticated by
11 the signature of the Mayor and attested and countersigned by the Clerk.

12 **Section 110. Delegated Powers.** The Mayor, Auditor, Clerk, Treasurer and Manager
13 and other officers and employees of the City are hereby authorized and directed to take all
14 action necessary or appropriate to effect the provisions of this Supplemental Subordinate
15 Ordinance, including without limitation:

16 A. **Basic Agreements.** The execution and delivery of the Note Purchase
17 Agreement (which includes the form of the Interim Revolving Note), the Interim
18 Revolving Note, and the Interim Revolving Note Paying Agent/Registrar Agreement,
19 with such omissions, insertions, endorsements, and variations as to any recitals of fact
20 or other provisions as may by the circumstances be required;

21 B. **Certificates and Agreements.** The execution and delivery of such
22 certificates and opinions as are required by the Note Purchase Agreement and as may
23 otherwise be reasonably required by the City's bond counsel, or the Interim Revolving
24 Note Purchaser, and the execution and delivery of such agreements as are necessary
25 or desirable; and

26 C. **Costs.** The payment of the Costs of incurring the Interim Revolving Note
27 Subordinate Obligation.

1 subsequently be advanced, all as provided in the Note Purchase Agreement and the
2 form of Interim Revolving Note set forth as an exhibit to the Note Purchase Agreement.

3 At the direction of the Treasurer, the number of the Interim Revolving Note may be
4 prefixed or suffixed with a distinct letter or letters as determined by the Treasurer. The
5 Interim Revolving Note shall be registered with the Interim Revolving Note Paying
6 Agent/Registrar and shall be issued in certificated form.

7 Principal of and interest, if any, on the Interim Revolving Note shall be payable on the
8 dates and in the amounts in accordance with the terms of the Note Purchase
9 Agreement.

10 The Interim Revolving Note is authorized to be incurred and delivered to the Interim
11 Revolving Note Purchaser, and funded from time to time, as set forth in the Note
12 Purchase Agreement.

13 Provided the Subordinate Debt Service Requirements of the Interim Revolving Note
14 satisfy the definition of a Balloon Maturity contained in the General Subordinate Bond
15 Ordinance, such requirements of the Interim Revolving Note are hereby authorized to
16 be treated as Balloon Maturities at the election of the Treasurer for such purposes.

17 B. Interim Revolving Note and Proceeds. Subject to applicable terms,
18 limitations, and procedures contained herein and in the Note Purchase Agreement, the
19 Interim Revolving Note shall be incurred and the proceeds shall be delivered from time
20 to time in accordance with the terms hereof and the terms of the Note Purchase
21 Agreement. Upon compliance with the provisions herein and in the Note Purchase
22 Agreement, the Interim Revolving Note shall be completed and delivered by the Interim
23 Revolving Note Paying Agent/Registrar in accordance with written instructions of the
24 Treasurer and in the manner specified below. The instructions shall include instructions
25 regarding the disposition of the proceeds of the Interim Revolving Note, subject to
26 Section 401 hereof, and a request that the Interim Revolving Note Paying
27 Agent/Registrar authenticate such Interim Revolving Note by countersignature of its
28 authorized officer or employee and deliver them to the Interim Revolving Note
29 Purchaser upon receipt of such proceeds. Furthermore, the Mayor, Auditor, Clerk,

1 Treasurer and Manager and other officers and employees of the City is each hereby
2 authorized and directed to furnish and execute such documents relating to the City, for
3 and on behalf of the Department, and its financial affairs as may be necessary for the
4 issuance of the Interim Revolving Note to the Interim Revolving Note Purchaser in
5 accordance with this Supplemental Subordinate Ordinance and the Note Purchase
6 Agreement.

7 C. Fees/Costs; Physical Form; Transfers. While the Interim Revolving Note
8 remains Outstanding, the City, for and on behalf of the Department, agrees to pay all
9 applicable fees and costs that constitute Purchaser Obligations (other than Subordinate
10 Note Obligations) from available monies in the Capital Fund. The Capital Fund shall be
11 funded as provided in the General Bond Ordinance. The Interim Revolving Note shall
12 be issued in physical, certificated definitive form. The Interim Revolving Note Purchaser
13 shall not transfer or assign either of the Interim Revolving Note except in accordance
14 with the Note Purchase Agreement.

15 **Section 303.** Payment of Interim Revolving Note. The Subordinate Note Obligations
16 and any other amounts which constitute Purchaser Obligations shall be payable in lawful
17 money of the United States of America. Subordinate Note Obligations and any other amounts
18 which constitute Purchaser Obligations shall be payable to the Interim Revolving Note
19 Purchaser by wire transfer as designated by the Interim Revolving Note Purchaser or as
20 otherwise provided in the Note Purchase Agreement. The City hereby establishes and creates
21 a subaccount within the Principal Account of the Subordinate Bond Fund established and
22 created under Section 502 of the General Subordinate Bond Ordinance out of which the
23 principal of the Interim Revolving Note shall be paid, which subaccount shall be designated as
24 the "Interim Revolving Note Principal Subaccount". The City hereby establishes and creates a
25 subaccount within the Interest Account of the Subordinate Bond Fund established and created
26 under Section 502 of the General Subordinate Bond Ordinance out of which the interest on the
27 Interim Revolving Note shall be paid, which subaccount shall be designated as the "Interim
28 Revolving Note Interest Subaccount". Any other amounts which constitute Purchaser
29 Obligations (other than Subordinate Note Obligations) shall be payable from the Capital Fund.
30 The Subordinate Note Obligations are payable solely out of Net Revenues and (i) proceeds of
31 Refunding Bonds or Subordinate Refunding Bonds deposited to the Interim Revolving Note

1 Principal Subaccount and Interim Revolving Note Interest Subaccount, (ii) moneys held in the
2 Interim Revolving Note Project Account and not otherwise encumbered for the payment of
3 Costs of Approved Projects, and (iii) other legally available funds as shall be determined by the
4 City and paid into the Interim Revolving Note Principal Subaccount and Interim Revolving Note
5 Interest Subaccount no later than the day immediately preceding the maturity date of the
6 Interim Revolving Note, all with the priority and otherwise as provided in the General
7 Subordinate Bond Ordinance. The Net Revenues and such other funds and accounts are
8 thereby and hereby pledged to that extent to the payment of Subordinate Note Obligations, as
9 therein and herein provided, the lien on Net Revenues being subordinate only to the lien
10 thereon in favor of Senior Bonds and Obligations. For the avoidance of doubt, the Interim
11 Revolving Note Principal Subaccount and Interim Revolving Note Interest Subaccount are not
12 funded by the accumulation and application of Net Revenues as provided in Sections 502A
13 and 502B of the General Subordinate Bond Ordinance.

14 **Section 304. Execution, Recordation and Authentication.** The Interim Revolving Note
15 shall be signed by the Mayor and countersigned by the Auditor, both of which signatures may
16 be by facsimile, and the Interim Revolving Note shall bear the official seal of the City or a
17 facsimile thereof attested by the manual or facsimile signature of the Clerk. A record thereof
18 shall be made by the Auditor, in such record to show the date of issue, date of payment, and
19 date and amount of interest payments as the same shall accrue. The Interim Revolving Note
20 shall have been approved by the Manager and shall be authenticated by the Interim Revolving
21 Note Paying Agent/Registrar.

22 By authenticating the Interim Revolving Note, the Interim Revolving Note Paying
23 Agent/Registrar shall be deemed to have assented to the provisions of the General
24 Subordinate Bond Ordinance, as supplemented by this Supplemental Subordinate Ordinance.
25 If the Interim Revolving Note Paying Agent/Registrar, or its duly appointed successor pursuant
26 to this section, shall resign, or if the City shall reasonably determine that such Interim
27 Revolving Note Paying Agent/Registrar has become incapable of fulfilling its duties hereunder,
28 the City may, upon notice mailed to Interim Revolving Note Purchaser at the address last
29 shown on the registration books, appoint a successor Interim Revolving Note Paying
30 Agent/Registrar.

1 Aviation, Interim Revolving Note Cost of Issuance Account" (the " Interim Revolving
2 Note Cost of Issuance Account"), such amount as the Treasurer determines to be
3 necessary for the payment of the Costs of the incurrence of the Interim Revolving Note
4 Subordinate Obligation, the issuance of the Interim Revolving Note, and the execution
5 and delivery of the Note Purchase Agreement.

6 B. Approved Project Account. Second, to the Project Fund in amounts
7 determined by the Treasurer for credit to the special and separate subaccount hereby
8 created therein and designated as the "City and County of Denver, Colorado, for and on
9 behalf of its Department of Aviation, Interim Revolving Note Project Account" (the
10 "Interim Revolving Note Project Account") for the payment of Costs of Approved
11 Projects, including capitalized interest and unused fees with respect to the Interim
12 Revolving Note, determined by Bond Counsel to be eligible to be paid from proceeds of
13 the Interim Revolving Note.

14 **Section 402. Other Transfers.** Notwithstanding the provisions of Section 401 hereof,
15 the Treasurer is authorized to supplement and amend the application of proceeds of the
16 Interim Revolving Note provided in Section 401 and create additional accounts and
17 subaccounts all in a manner consistent with the objectives of this Supplemental Subordinate
18 Ordinance and not inconsistent with the General Subordinate Bond Ordinance.

19 **ARTICLE V**
20 **MISCELLANEOUS**

21 **Section 501. Tax Covenants.** In furtherance of Section 1013 of the General
22 Subordinate Bond Ordinance, the City, for and on behalf of the Department, represents and
23 specifically agrees as follows:

24 A. General Covenants. (1) The City hereby covenants that it shall not
25 (i) make any use of the proceeds of the Interim Revolving Note, any funds reasonably
26 expected to be used to pay the principal of or interest on the Interim Revolving Note, or
27 any other funds of the City; or (ii) take (or omit to take) any other action with respect to
28 the Interim Revolving Note, the proceeds thereof, or otherwise, if such use, action or
29 omission would, under the Tax Code, cause the interest on the Interim Revolving Note
30 to be included in gross income for federal income tax purposes.

1 (2) In particular, without limitation, the City hereby covenants that it shall not
2 take (or omit to take) or permit or suffer any action to be taken if the result of the same
3 causes the Interim Revolving Note to be "arbitrage bonds" within the meaning of § 148
4 of the Tax Code.

5 B. Rebate. (1) Except as otherwise expressly provided therein, the City shall
6 pay to the United States in accordance with the requirements of § 148(f) of the Tax
7 Code an amount equal to the sum of (i) the excess of the amount earned on all
8 nonpurpose investments allocable to the Interim Revolving Note (other than
9 investments attributable to such excess) over the amount that would have been earned
10 if such nonpurpose investments were invested at a rate equal to the yield on the Interim
11 Revolving Note, plus (ii) any income attributable to such excess.

12 (2) The City shall maintain within the Airport System Fund a special and
13 separate account hereby created and to be known as the "City and County of Denver,
14 Colorado, for and on behalf of its Department of Aviation, Interim Revolving Note
15 Rebate Fund" (the "Interim Revolving Note Rebate Fund"); provided that the City shall
16 be required to create the Interim Revolving Note Rebate Fund only if the City
17 determines, in consultation with the City's bond counsel, that a rebate payment to the
18 United States is reasonably expected to be required with respect to the Interim
19 Revolving Note under § 148(f) of the Tax Code. The City shall maintain within the
20 Interim Revolving Note Rebate Fund such subaccounts as may be necessary, and the
21 City shall deposit to the credit of, and make disbursements to the United States and
22 otherwise from, the Note Purchase Agreement Rebate Fund such amounts, at such
23 times, as shall be necessary hereunder.

24 (3) Any amounts so deposited to the credit of the Note Purchase Agreement
25 Rebate Fund shall be derived from the Net Revenues of the Airport System or from
26 such other legally available sources as the City may determine; provided, however, that
27 the accumulation and application of Net Revenues for such purpose shall be
28 subordinate in priority to payment of principal of and interest on, when due, the Interim
29 Revolving Note.

1 (4) Notwithstanding any provision of this Section 501B, if the Treasurer shall
2 obtain an opinion of an attorney or firm of attorneys whose experience in matters
3 relating to the issuance of obligations by states and their political subdivisions is
4 nationally recognized that any action required under this Section 501B is no longer
5 required or that some further action is required to maintain the exclusion from federal
6 income tax of interest on the Interim Revolving Note, the City may rely conclusively on
7 such opinion in complying with the requirements of this Section 501B, and the
8 covenants contained herein shall be deemed to be modified to that extent.

9 C. Tax Certificate. The Treasurer is hereby authorized to execute one or
10 more tax certificates on behalf of the City in implementation of the covenants and
11 agreements set forth in this Section 501, or to make any election permitted by the Tax
12 Code and determined by the Treasurer to be to the advantage of the City; and the
13 representations, agreements, and elections set forth therein shall be deemed the
14 representations, agreements, and elections of the City, as if the same were set forth
15 herein.

16 **Section 502.** Preservation of Enterprise Status. The City hereby covenants that it shall
17 not take (or omit to take) any action with respect to the Department that would cause the
18 Department to lose its status as an "enterprise" within the meaning of Section 20, Article X,
19 State Constitution.

20 **Section 503.** Applicability of General Subordinate Bond Ordinance. Except as
21 otherwise provided herein, the provisions of the General Subordinate Bond Ordinance govern
22 the Interim Revolving Note Subordinate Obligation, the Interim Revolving Note, the Approved
23 Projects, and the Note Purchase Agreement. The rights, undertakings, covenants,
24 agreements, obligations, warranties, and representations of the City with respect to
25 Subordinate Obligations set forth in the General Subordinate Bond Ordinance shall in respect
26 of the Interim Revolving Note Subordinate Obligation be deemed the rights, undertakings,
27 covenants, agreements, obligations, warranties, and representations of the City for and on
28 behalf of the Department.

1 COMMITTEE APPROVAL DATE: October 23, 2024
2 MAYOR-COUNCIL DATE: October 29, 2024 by Consent
3 PASSED BY THE COUNCIL _____ 2024
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ AND _____
10 PREPARED BY: Hogan Lovells US LLP; DATE: October 31, 2024
11 REVIEWED BY: Kevin Cain, Assistant City Attorney; DATE: October 31, 2024
12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office
13 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
14 proposed ordinance. The proposed ordinance is not submitted to the City Council for approval
15 pursuant to § 3.2.6 of the Charter.
16 Kerry C. Tipper, Denver City Attorney
17 BY: _____, Assistant City Attorney DATE: _____

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EXHIBIT A

APPROVED PROJECTS

AMT

Great Hall Completion Phase
Baggage Handling System TSA Recap - Airport Share
Baggage Handling System Modernization - Airport Share
Gate Apron Rehabilitation and Drainage Improvements (GARDI) Program
Concourse A East Ground Loading Facility
Business Technology upgrades
Passenger Conveyance Modernization Phase 3
Passenger Loading Bridge (PLB) Replacement
Automated Guidway Transit System (AGTS)
AGTS Train Car Replacement (1-16 + 10)
AGTS Maintenance Expansion
Concourse Restroom Renewal
Wayfinding Refresh
North Terminal Expansion
61st Ave Road walk
Boiler 1, 3 & 4 Replacement
Physical Access Control System Phase 2
Concourse A & C Pre-Conditioned Air
Parking Garage Repairs
Concourse A Center Core Escalator
R-22 Replacement Phase 2
Radio Coverage Upgrade Phase II
FedEx Building Assessment & Repair
South Cargo Readiness
Level 5A Roadway Rehabilitation
Aircraft Rescue and Fire Fighting (ARFF) 4, North Terminal, and Tower A Roof Repairs
Economy Parking Lot Pavement Rehab Phase I
Airport Office Building and Terminal Fire Pump Replacement
Pikes Peak Parking Restoration Phase 2
Terminal Parking Structure Accessibility Improvements
Concourse A Business Technology Office Renovation
Airport Office Building Office Renovation
Lift Station 1 Roof Replacement
Satellite Utility Plant
Emergency Communication System (ECS) Survivability and Concourse Loudspeaker Replacement
Custom Border Protection Biometric Air Exit
75th and Gun Club Site Readiness
Hydronic Piping Resiliency
Switchgear Heaving Remediation

Roof Replacement Lab & Deice Control Building
 Diesel Generator Replacement
 Concourse A, B, & C Overhead Door Replacements
 Materials Management Renovation
 Concourse B Phase 2A Gate Reconfiguration
 Worldport and Turnstile Buildings Roof Replacement
 Parking Buildings and ARFF Training Center Roofs
 Second Creek District, Enabling Water Mains
 Parking Level 5A Electric Vehicle (EV) Infrastructure Construction
 Concourse Flooring Replacement
 Terminal Level 4 & Level 5 East Break Room Construction
 Concourse Trash Chute Refurbishment
 Concourse B Xcel Transformer Relocation
 Economy Parking Lot Pavement Rehab Phase 2
 Ground Transportation Boiler Replacement
 Concourses A, B, & C Paramedic Office Relocations
 Concourse A Sterile Area
 Identity Management System Agreement
 Concourse A Federal Inspection Service (FIS) Mezzanine Pet Relief Area Buildout
 Concourses A, B, & C Triturator Refresh
 Annual Airfield Pavement Rehabilitation
 South Worldport Lot

Non-AMT

Annual Landside Pavement Rehab
 Delta Sierra (DS) Regional Aircraft Facility--Airfield Pavement
 7th Runway Study
 West Gates DIW Pond Expansion (Pond 002)
 Commercial Return Loop Retaining Wall Repair
 Runway 17L-35R Wildlife Hazard Mitigation Phase 2
 Runway 17R-35L Complex Pavement Rehab & Lighting Upgrade
 Annual Airfield Pavement Rehabilitation
 Ramp Tower High Angle Cameras
 Parking Camera East, West, Pikes Peak
 Annual Landside Pavement & Bridge Rehab
 Runway 17L-35R Complex Pavement Rehabilitation & Electrical Upgrade Phase 2
 Water Quality Infrastructure Improvements
 South VanDriver & 74th Ave Pavement Rehab & Drainage Improvements
 Taxiways F, G, H and Deice Pads Pavement Rehab
 Pena Boulevard Phase 1b
 Great Hall - Center of Equity and Excellence in Aviation
 Hotel Transit Center - Level 4 DEN Office Buildout
 Taxiway Delta Sierra (DS) and De-Ice Pad Phase 1
 Pena Blvd Design and NEPA Project

CITY AND COUNTY OF DENVER, COLORADO
 FOR AND ON BEHALF OF ITS DEPARTMENT OF AVIATION
 AIRPORT SYSTEM INTERIM REVOLVING NOTE
 SUBORDINATE OBLIGATION

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