

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2017

COUNCIL BILL NO.
COMMITTEE OF REFERENCE:

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at a special municipal election to be held on Tuesday, November 7, 2017, the question of whether the City shall be authorized to issue or incur general obligation debt for the purpose of financing and/or refinancing the cost of repairs and improvements to Denver cultural facilities; providing the form of the ballot question; providing for other details in connection therewith; and ratifying action previously taken.

(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 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, Article X, Section 20 of the Constitution ("TABOR") requires voter approval for the creation of any debt, imposition of any new tax, tax rate increase, mill levy above that for the prior year, extension of an expiring tax, and for collecting, retaining and expending certain moneys above limits established by TABOR; and

(4) WHEREAS, Section 7.5.1 of the Charter provides that no general obligation bonds shall be issued until the question of issuing the bonds shall have been submitted to a vote of the qualified and registered electors of the City and a majority of those voting upon the question by ballot shall have voted in favor of issuing such bonds; and

(5) WHEREAS, the City Council, after consultation with the Mayor and other appropriate municipal officers, has determined that the question of whether the City shall be authorized to issue or incur general obligation debt, including bonds, notes, loan agreements or other multiple fiscal year financial obligations of the City for the purposes and in the manner set forth in this ordinance should be submitted to the qualified and registered electors of the City at the special municipal election called by this ordinance to be held on November 7, 2017 (the "Election"); and

(6) WHEREAS, TABOR also requires the City to submit ballot issues (as defined in TABOR) to the City's electors on limited election days before action can be taken on such ballot issues; and

1 (7) WHEREAS, November 7, 2017, is one of the election dates at which ballot issues may
2 be submitted to the City's qualified and registered electors pursuant to TABOR; and

3 (8) WHEREAS, the Denver Clerk and Recorder (the "Clerk") is conducting a coordinated
4 election pursuant to the Uniform Election Code of 1992, being articles 1 through 13 of title 1, C.R.S.
5 (the "Uniform Election Code") on November 7, 2017; and

6 (9) WHEREAS, pursuant to Section 8.2.1 of the Charter, Section 15-4 Denver Revised
7 Municipal Code, Section 1-1-102 of the Uniform Election Code, Section 31-10-102.7, C.R.S. of the
8 Municipal Election Code, and this ordinance, the City Council may elect to utilize the provisions of
9 the Uniform Election Code in order to participate in the coordinated election on November 7, 2017;
10 and

11 (10) WHEREAS, the City Council hereby determines that it is necessary to submit to the
12 qualified and registered electors of the City, at the coordinated election to be held on November 7,
13 2017, the question of creating an indebtedness in the amounts specified in Section 3 below and the
14 imposition of an ad valorem property tax for the payment of such indebtedness; and

15 (11) WHEREAS, it is necessary to set forth certain procedures concerning the conduct of
16 the Election.

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

19 Section 1. All action heretofore taken (not inconsistent with the provisions of this ordinance)
20 by the City and the officers thereof, directed towards the election, and the objects and purposes
21 herein stated is hereby ratified, approved and confirmed.

22 Section 2. Unless otherwise defined herein, all terms used herein shall have the
23 meanings defined in the Uniform Election Code.

24 Section 3. Pursuant to Section 8.2.3 of the Charter, the City Council hereby determines to
25 call a special election to be conducted pursuant to the Uniform Election Code as part of the
26 coordinated election being conducted by the Clerk on November 7, 2017. The City Council hereby
27 determines that at the Election, there shall be submitted to the qualified and registered electors of
28 the City the following question:

29

Denver Cultural Facilities Bonds

30 SHALL THE CITY AND COUNTY OF DENVER DEBT BE INCREASED \$116,907,000, WITH
31 A MAXIMUM REPAYMENT COST OF \$210,465,000, WITH NO INCREASE IN THE CITY'S
32 CURRENT RATE OF TAXATION FOR GENERAL OBLIGATION DEBT SERVICE BASED ON THE

1 CITY'S PROJECTED ASSESSED VALUE, THE PROCEEDS THEREOF TO BE USED FOR
2 REPAIRS AND IMPROVEMENTS TO DENVER CULTURAL FACILITIES, INCLUDING, WITHOUT
3 LIMITATION:

4 • MAKE IMPROVEMENTS TO SECURITY AND SAFETY SYSTEMS AND
5 EQUIPMENT AT THE DENVER PERFORMING ARTS COMPLEX, DENVER MUSEUM OF
6 NATURE AND SCIENCE, AND THE DENVER ART MUSEUM,

7 • RENOVATION, PRESERVATION, AND EXPANSION OF THE DENVER ART
8 MUSEUM'S 46-YEAR-OLD NORTH BUILDING AND WELCOME CENTER,

9 • CONSTRUCT A NEW ANIMAL HOSPITAL TO IMPROVE ANIMAL CARE AND MAKE
10 IMPROVEMENTS TO ENHANCE ANIMAL EXHIBIT SPACE AT THE DENVER ZOO,

11 • INCREASE EDUCATION AND SCIENTIFIC RESEARCH OPPORTUNITIES BY
12 CONSTRUCTING THE CENTER FOR SCIENCE, ART AND EDUCATION AND A CHILDREN'S
13 EDUCATION AREA AT THE DENVER BOTANIC GARDENS,

14 • INFRASTRUCTURE RESTORATION, INCLUDING STAGE ROOF REPLACEMENT
15 AND OTHER FACILITY REPAIRS AT RED ROCKS AMPHITHEATRE AND BUELL THEATRE
16 RENOVATIONS, AND

17 • CRITICAL CAPITAL IMPROVEMENTS TO INCREASE ENERGY EFFICIENCY AND
18 COST SAVINGS AND IMPROVE ACCESSIBILITY AT THE DENVER MUSEUM OF NATURE AND
19 SCIENCE, DENVER CENTER FOR THE PERFORMING ARTS, AND THE DENVER ART
20 MUSEUM,

21 BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS, NOTES, LOAN
22 AGREEMENTS OR OTHER MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS WHICH SHALL
23 BE ISSUED OR INCURRED IN SUCH MANNER AND CONTAINING SUCH TERMS, NOT
24 INCONSISTENT HEREWITH, AS THE CITY MAY DETERMINE (THE EXPENDITURE OF THE
25 PROCEEDS THEREOF TO BE PUBLICLY REPORTED BY THE CITY ON AN ANNUAL BASIS);
26 AND SHALL CITY AD VALOREM PROPERTY TAXES BE INCREASED BY NOT MORE THAN A
27 MAXIMUM PHASED IN ANNUAL AMOUNT OF \$8,581,000 AND ANNUALLY WITHOUT
28 LIMITATION AS TO RATE, IN AMOUNTS SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM,
29 IF ANY, AND INTEREST ON SUCH FINANCIAL OBLIGATIONS; AND SHALL THE CITY BE
30 AUTHORIZED TO ISSUE FINANCIAL OBLIGATIONS TO REFUND OR REFINANCE SUCH
31 FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION, PROVIDED THAT SUCH
32 REFUNDING FINANCIAL OBLIGATIONS WHEN COMBINED WITH OTHER OUTSTANDING

1 FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION DO NOT EXCEED THE MAXIMUM
2 PRINCIPAL LIMITS OR REPAYMENT COSTS AUTHORIZED BY THIS QUESTION; AND IN
3 CONNECTION THEREWITH, SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND
4 EXPEND ALL SUCH PROPERTY TAXES, OTHER LEGALLY AVAILABLE FUNDS AND
5 INVESTMENT EARNINGS ON THE PROCEEDS OF SUCH FINANCIAL OBLIGATIONS,
6 PROPERTY TAXES AND OTHER LEGALLY AVAILABLE FUNDS FOR SUCH PURPOSE, AS A
7 VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE
8 COLORADO CONSTITUTION OR ANY OTHER LAW?

9 Section 4. The Clerk is hereby appointed as the designated election official of the City for
10 purposes of performing acts required or permitted by law in connection with the Election.

11 Section 5. The officers and employees of the City are hereby authorized and directed to
12 take all action necessary or appropriate to effectuate the provisions of this ordinance.

13 Section 6. If a majority of the votes cast on the question to authorize general obligation
14 indebtedness and the levy of ad valorem property taxes submitted at the Election shall be in favor
15 of incurring general obligation indebtedness and levying ad valorem property taxes as provided in
16 such question, the City, acting through the Mayor and City Council, shall be authorized to proceed
17 with the necessary action to incur general obligation indebtedness and levy ad valorem property
18 taxes in accordance with such question. Any authority to contract general obligation indebtedness
19 or to levy ad valorem property taxes, if conferred by the results of the Election, shall be deemed and
20 considered a continuing authority to contract the general obligation indebtedness and levy the ad
21 valorem taxes so authorized at any one time, or from time to time, and neither the partial exercise
22 of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the
23 full authority so conferred.

24 Section 7. If a majority of the votes cast on the question authorize the incurrence of general
25 obligation indebtedness and levy of an ad valorem property tax as described in the question set forth
26 in Section 3 above, the City intends to issue or incur such general obligation indebtedness in the
27 approximate aggregate principal amount of \$116,907,000 to pay the costs of the certain public
28 improvements described in the election question (the "Project") including the reimbursement of
29 certain costs incurred by the City prior to the execution and delivery of such bonds, upon terms
30 acceptable to the City, as authorized in an ordinance to be hereafter adopted and to take all further
31 action which is necessary or desirable in connection therewith. The officers, employees and agents
32 of the City shall take all action necessary or reasonably required to carry out, give effect to and

1 consummate the transactions contemplated hereby and shall take all action necessary or desirable
2 to finance the Project and to otherwise carry out the transactions contemplated by the ordinance.
3 This ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the
4 meaning of Treasury Regulation §1.150-2.

5 Section 8. Pursuant to Article XX of the State Constitution and the Charter, all State
6 statutes that might otherwise apply in connection with the provisions of this ordinance (including,
7 without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies
8 or conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or
9 conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article
10 XX of the State Constitution and the Charter.

11 Section 9. If any section, paragraph, clause or provision of this ordinance shall for any
12 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section,
13 paragraph, clause or provision shall in no manner affect any remaining provisions of this ordinance.

14 Section 10. All ordinances or parts of ordinances inconsistent herewith are hereby repealed
15 to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance
16 or part of any ordinance heretofore repealed.

17 COMMITTEE APPROVAL DATE: July 24, 2017

18 MAYOR-COUNCIL DATE: August 1, 2017

19 PASSED BY THE COUNCIL: _____

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____

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

25 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

26 PREPARED BY: Kwali M. Farbes, Assistant City Attorney DATE:

27 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
28 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
29 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
30 3.2.6 of the Charter.

31 Kristin M. Bronson, City Attorney for the City and County of Denver

32 BY: _____, Assistant City Attorney DATE: _____