

1 **BY AUTHORITY**

2 **ORDINANCE NO. _____**
3 **SERIES OF 2017**

COUNCIL BILL NO. 17-1225
COMMITTEE OF REFERENCE:
4 **BUSINESS, ARTS, WORKFORCE & AERONAUTICAL 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 Revolving Credit Agreement**
8 **Subordinate Obligation under the General Subordinate Bond Ordinance in**
9 **a maximum aggregate principal Revolving Loan amount not to exceed**
10 **\$150,000,000 at any one time in connection with a revolving credit**
11 **agreement to be entered into for the purposes of defraying the costs of**
12 **certain approved projects, and providing other details in connection**
13 **therewith; providing the maximum rate and other terms and other details of**
14 **the Revolving Credit Agreement Subordinate Obligation, which shall be**
15 **evidenced by a revolving credit agreement and notes issued thereunder;**
16 **authorizing the execution of certain related agreements; ratifying action**
17 **previously taken; providing for other related matters; and providing the**
18 **effective date of this ordinance.**

19 **PREFACE**

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

23 **DEFINITIONS**

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

28 **RECITALS**

29 (1) The City is a municipal corporation duly organized and existing as a home rule
30 city under Article XX, State Constitution, and under the Charter, and is a political subdivision of
31 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 General Bond Ordinance, there have been issued multiple series
17 of Senior Bonds and other Obligations in respect of the Airport System and such Senior Bonds
18 and Obligations are secured by an irrevocable and first lien (but not necessarily an exclusive
19 first lien) on the Net Revenues of the Airport System on a parity with the lien thereon in favor of
20 each other.

21 (5) Pursuant to the General Bond Ordinance, the City may issue bonds or incur
22 other additional obligations payable from the Net Revenues of the Airport System and having a
23 lien thereon subordinate to the lien thereon of the Senior Bonds. The City adopted the 1997
24 Subordinate Bond Ordinance pursuant to which the City issued various Subordinate Bonds
25 which have been paid or defeased prior to the date hereof and which are no longer
26 outstanding. Pursuant to the 1997 Subordinate Bond Ordinance, the City incurred certain
27 Subordinate Hedge Facility Obligations which remain outstanding.

28 (6) The City amended and restated the 1997 Subordinate Bond Ordinance in its
29 entirety pursuant to the provisions of the General Subordinate Bond Ordinance and the City

1 has issued Subordinate Bonds under the General Subordinate Bond Ordinance. The General
2 Subordinate Bond Ordinance also allows the City to incur Subordinate Obligations.

3 (7) Pursuant to the General Bond Ordinance and the General Subordinate Bond
4 Ordinance, the City has adopted the General Junior Lien Bond Ordinance and, pursuant to the
5 General Junior Lien Bond Ordinance, the City has incurred the Hotel Junior Lien Obligation
6 and the Great Hall Junior Lien Obligation.

7 (8) None of the Net Revenues of the Airport System have been pledged to any
8 outstanding bonds or other obligations, except in respect of the Senior Bonds (and certain
9 Obligations relating thereto), the Subordinate Bonds (and certain Subordinate Credit Facility
10 Obligations relating thereto), certain Subordinate Hedge Facility Obligations incurred under the
11 1997 Subordinate Bond Ordinance, and the Hotel Junior Lien Obligation and the Great Hall
12 Junior Lien Obligation incurred under the General Junior Lien Bond Ordinance.

13 (9) On or about the date hereof, the City expects to adopt a Subordinate
14 Supplemental Ordinance authorizing the incurrence of a Subordinate Contract Obligation in the
15 maximum aggregate principal amount not to exceed \$300,000,000 in connection with loans
16 made under a non-revolving credit agreement.

17 (10) As contemplated by the Enterprise Ordinance, the Manager of the Department
18 has executed the Revolving Credit Agreement Manager's Resolution approving, authorizing
19 and requesting the incurrence by the City, for and on behalf of the Department, of the
20 Revolving Credit Agreement Subordinate Obligation as set forth herein, for the purposes of (i)
21 defraying the costs of the Approved Projects and (ii) paying certain Costs relating to the
22 incurrence of the Revolving Credit Agreement Subordinate Obligation, which includes the
23 issuance of the Revolving Notes and the execution and delivery of the Revolving Credit
24 Agreement.

25 (11) The Revolving Credit Provider has agreed to enter into the Revolving Credit
26 Agreement under which the Revolving Credit Provider will make certain Revolving Loans
27 evidenced by the Revolving Notes in accordance with the terms of the Revolving Credit
28 Agreement, which Revolving Loans shall not exceed the maximum aggregate principal amount
29 of \$150,000,000 at any one time.

1 (12) The obligation of the City, for and on behalf of the Department, to make
2 payments under the Revolving Credit Agreement, including payment of the Revolving Notes
3 issued thereunder and the payment of fees and expenses thereunder, shall constitute the
4 Revolving Credit Agreement Subordinate Obligation and is herein designated a Subordinate
5 Contract Obligation for purposes of the General Subordinate Bond Ordinance.

6 (13) The Council has determined and does hereby declare:

7 A. The procedures and requirements of Article V, Chapter 20 of the Revised
8 Municipal Code of the City and County of Denver have been completely and timely met
9 in respect of the issuance of the Revolving Notes under the Revolving Credit
10 Agreement;

11 B. The Revolving Credit Agreement Subordinate Obligation is to be incurred
12 pursuant to the Revolving Credit Agreement Manager's Resolution and the provisions of
13 the General Subordinate Bond Ordinance (as supplemented hereby);

14 C. The Revolving Credit Agreement Subordinate Obligation constitutes a
15 Subordinate Contract Obligation, and the Approved Projects constitute Subordinate
16 Bond Improvement Projects; and

17 D. All acts, conditions and things required by law and by the General
18 Subordinate Bond Ordinance to exist, have happened and have been performed as a
19 condition to the incurrence of the Revolving Credit Agreement Subordinate Obligation,
20 do or will exist, and have been or will have been performed in regular and due time,
21 form and manner as required by law.

22 (14) There have been filed with the City's Clerk and Recorder:

23 A. the proposed form of the Revolving Credit Agreement (which includes the
24 form of Revolving Notes to evidence the Revolving Loans under the Revolving Credit
25 Agreement), City Clerk File No. 17-_____; and

26 B. the proposed form of the Revolving Notes Paying Agent and Registrar
27 Agreement, City Clerk File No. 17-_____.

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

2
3 **ARTICLE I**
4 **DEFINITIONS, RATIFICATION, EFFECTIVE DATE,**
5 **PUBLICATION AND AUTHENTICATION**

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

9 **Section 102. Meanings and Construction.**

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

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

15 (1) **"1997 Subordinate Bond Ordinance"** means Ordinance No. 549,
16 Series of 1997, cited as the "1997 Airport System Subordinate Bond Ordinance,"
17 as amended and supplemented.

18 (2) **"Approved Projects"** means those projects designated as such on
19 Exhibit A attached hereto, together with such other projects designated as an
20 Approved Project by the Treasurer. The Approved Projects set forth on Exhibit A
21 and any project designated as an Approved Project by the Treasurer constitute
22 Subordinate Bond Improvement Projects.

23 (3) **"Commitment Termination Date"** has the meaning set forth in the
24 Revolving Credit Agreement.

25 (4) **"Consent Agent"** means UMB Bank (formerly American National
26 Bank) and any successor thereof, as provided in Section 505 hereof.

(5) **"Enterprise Ordinance"** means Ordinance No. 755, Series of 1993.

1 (6) "General Bond Ordinance" means Ordinance No. 626, Series of
2 1984, cited as the "1984 Airport System General Bond Ordinance," as amended
3 and supplemented from time to time by any Supplemental Ordinance.

4 (7) "General Junior Lien Bond Ordinance" means Ordinance No. 17-
5 0972, Series of 2017, cited as "Airport System General Junior Lien Bond
6 Ordinance," as amended and supplemented from time to time.

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

11 (9) "Great Hall Junior Lien Obligation" means the Junior Lien
12 Obligation (as defined in the General Junior Lien Bond Ordinance) incurred
13 pursuant to the General Junior Lien Bond Ordinance and Ordinance No. 17-
14 0973, Series of 2017.

15 (10) "Hotel Junior Lien Obligation" has the meaning set forth in the
16 General Junior Lien Bond Ordinance.

17 (11) "Lender Obligations" has the meaning set forth in the Revolving
18 Credit Agreement.

19 (12) "Loan Notice" has the meaning set forth in the Revolving Credit
20 Agreement.

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

24 (14) "Note Date" means the applicable dated date of the Revolving
25 Notes as defined in Section 302A hereof.

26 (15) "Proposed Amendments" means the amendments to the General
27 Bond Ordinance set forth in a writing delivered to the Revolving Credit Provider

1 and identified therein as the "Proposed Amendments" as described in Section
2 504 of this Supplemental Subordinate Ordinance.

3 (16) "Revolving Credit Agreement" means the Revolving Credit
4 Agreement between the City, for and on behalf of the Department, and the
5 Revolving Credit Provider, in substantially the form filed with the Clerk, with such
6 revisions thereto as are permitted by this Supplemental Ordinance.

7 (17) "Revolving Credit Agreement Cost of Issuance Account" has the
8 meaning ascribed to it in Section 401A of this Supplemental Subordinate
9 Ordinance.

10 (18) "Revolving Credit Agreement Manager's Resolution" means the
11 resolution of the Manager approving, authorizing and requesting the incurrence
12 by the City, for and on behalf of the Department, of the Revolving Credit
13 Agreement Subordinate Obligation.

14 (19) "Revolving Credit Agreement Rebate Fund" has the meaning
15 ascribed to it in Section 501B of this Supplemental Subordinate Ordinance.

16 (20) "Revolving Credit Agreement Subordinate Obligation" means the
17 City's obligation, for and on behalf of the Department, to make payments to the
18 Revolving Credit Provider with respect to all Lender Obligations under the
19 Revolving Credit Agreement, including the repayment of the Revolving Notes.

20 (21) "Revolving Credit Agreement Taxable Project Account" has the
21 meaning ascribed to it in Section 401B of this Supplemental Subordinate
22 Ordinance.

23 (22) "Revolving Credit Agreement Tax-Exempt Project Account" has the
24 meaning ascribed to it in Section 401B of this Supplemental Subordinate
25 Ordinance.

26 (23) "Revolving Credit Provider" means U.S. Bank National Association,
27 its successor and assigns and, with respect to a substitute Revolving Credit
28 Agreement with City, for and on behalf of the Department, the other party thereto.

1 (24) "Revolving Loan" has the meaning set forth in the Revolving Credit
2 Agreement.

3 (25) "Revolving Notes" means the Taxable Revolving Note and the Tax-
4 Exempt Revolving Note issued under the Revolving Credit Agreement and
5 governed by this Supplemental Subordinate Ordinance.

6 (26) "Revolving Notes Interest Subaccount" has the meaning ascribed to
7 it in Section 303 of this Supplemental Subordinate Ordinance.

8 (27) "Revolving Notes Paying Agent/Registrar" means, with respect to
9 the Revolving Notes, ZB, National Association dba Zions Bank, and includes any
10 successor thereof.

11 (28) "Revolving Notes Paying Agent/Registrar Agreement" means, with
12 respect to the Revolving Notes, the agreement executed by the City, for and on
13 behalf of the Department, and the Revolving Notes Paying Agent/Registrar in
14 substantially the form filed with the Clerk, with such revisions thereto as are
15 permitted by this Supplemental Subordinate Ordinance, and any subsequent
16 Revolving Notes Paying Agent/Registrar Agreement executed by the Revolving
17 Notes Paying Agent/Registrar and the City, for and on behalf of the Department,
18 as provided herein.

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

21 (30) "Subordinate Bonds" mean the following series of outstanding
22 bonds: (i) the "City and County of Denver, Colorado, for and on behalf of its
23 Department of Aviation, Airport System Subordinate Revenue Bonds, Series
24 2013A and Airport System Subordinate Revenue Bonds, Series 2013B" as
25 authorized by the General Subordinate Bond Ordinance and Ordinance No. 301,
26 Series of 2013; (ii) the "City and County of Denver, Colorado, for and on behalf of
27 its Department of Aviation, Airport System Subordinate Revenue Bonds, Series
28 2015A" as authorized by the General Subordinate Bond Ordinance and

1 Ordinance No. 15-756, Series of 2015; and (iii) any future Subordinate Bonds
2 issued by the City, for and on behalf of the Department.

3 (31) "Taxable Revolving Note" means the Revolving Note to be
4 designated an "Airport System Revolving Credit Agreement Subordinate
5 Obligation Revolving Note, Taxable Series B" (or such other appropriate
6 designation or designations as shall be determined by the Treasurer), the interest
7 on which is includable in the gross income of the owners thereof for federal
8 income tax purposes.

9 (32) "Tax-Exempt Revolving Note" means the Revolving Note to be
10 designated an "Airport System Revolving Credit Agreement Subordinate
11 Obligation Revolving Note, Tax-Exempt Series A" (or such other appropriate
12 designation or designations as shall be determined by the Treasurer), the interest
13 on which is excludable from the gross income of the owners thereof for federal
14 income tax purposes, except to the extent such interest is treated as an item of
15 tax preference for purposes of the alternative minimum tax provisions of the Tax
16 Code.

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

20 A. Approved Projects. The Approved Projects; and

21 B. Revolving Credit Agreement Subordinate Obligation. The incurrence of
22 the Revolving Credit Agreement Subordinate Obligation, including the execution and
23 delivery of the Revolving Credit Agreement and the issuance of the Revolving Notes
24 thereunder;

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

26 **Section 104. Ordinance an Irrepealable Contract.** This Supplemental Subordinate
27 Ordinance and the General Subordinate Bond Ordinance shall constitute an irrevocable
28 contract between the City, for and on behalf of the Department, and the Revolving Credit

1 Provider, except as otherwise provided herein and in the General Subordinate Bond
2 Ordinance.

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

11 **Section 106. Severability.** If any section, subsection, paragraph, clause, or other
12 provision of this Supplemental Subordinate Ordinance shall for any reason be held to be
13 invalid or unenforceable, the invalidity or unenforceability of such section, subsection,
14 paragraph, clause, or other provision shall not affect any of the remaining provisions of this
15 Supplemental Subordinate Ordinance.

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

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

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

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

1 A. Basic Agreements. The execution and delivery of the Revolving Credit
2 Agreement (which includes the forms of the Revolving Notes), the Revolving Notes, and
3 the Revolving Notes Paying Agent and Registrar Agreement, with such omissions,
4 insertions, endorsements, and variations as to any recitals of fact or other provisions as
5 may by the circumstances be required;

6 B. Certificates and Agreements. The execution and delivery of such
7 certificates and opinions as are required by the Revolving Credit Agreement and as may
8 otherwise be reasonably required by the City's bond counsel, or the Revolving Credit
9 Provider, and the execution and delivery of such agreements as are necessary or
10 desirable; and

11 C. Costs. The payment of the Costs of incurring the Revolving Credit
12 Agreement Subordinate Obligation.

13 ARTICLE II
14 **COUNCIL'S DETERMINATIONS, NECESSITY OF REVOLVING CREDIT AGREEMENT**
15 **SUBORDINATE OBLIGATION, REVOLVING CREDIT AGREEMENT, REVOLVING NOTES,**
16 **APPROVED PROJECTS, TERMS OF INCURRENCE OF SUBORDINATE OBLIGATION**

17 **Section 201.** Authority for this Ordinance. This Supplemental Subordinate Ordinance is
18 executed pursuant to the City's powers as a home-rule city organized and operating under the
19 Charter and Article XX of the State Constitution and pursuant to the Supplemental Public
20 Securities Act, title 11, article 57, part 2, Colorado Revised Statutes, as amended (the
21 provisions of which are hereby elected, to the extent not inconsistent herewith), and the
22 General Subordinate Bond Ordinance; and the City hereby determines that each and every
23 matter and thing as to which provision is made herein is necessary in order to carry out and to
24 effect the purposes hereof.

25 **Section 202.** Necessity and Approval of Revolving Credit Agreement Subordinate
26 Obligation, Revolving Credit Agreement, Revolving Notes, and Approved Projects. The
27 Council hereby determines and declares that the Revolving Credit Agreement Subordinate
28 Obligation (including the Revolving Credit Agreement and the issuance of the Revolving Notes
29 thereunder) and the Approved Projects are necessary and in the best interests of the City and
30 its residents.

1 **Section 203. Terms of Revolving Credit Agreement Subordinate Obligation.** The
2 Revolving Credit Agreement Subordinate Obligation shall be evidenced by the Revolving
3 Credit Agreement and the Revolving Notes issued thereunder and shall be subject to the terms
4 hereof and of the Revolving Credit Agreement. The Revolving Facility Provider shall have the
5 rights as provided for herein and in Revolving Credit Agreement.

6 **Section 204. Revolving Loans and Revolving Credit Agreement Subordinate Obligation.**
7 In accordance with the terms of the Revolving Credit Agreement, the Revolving Credit Provider
8 will be required to make Revolving Loans evidenced by the Revolving Notes issued by the
9 City, for and on behalf of the Department. The obligation of the City, for and on behalf of the
10 Department, to make payments to the Revolving Credit Provider with respect to all Lender
11 Obligations in accordance with the Revolving Credit Agreement, including the repayment of
12 Revolving Notes, constitutes the Revolving Credit Agreement Subordinate Obligation
13 authorized to be incurred hereunder and a Subordinate Contract Obligation for purposes of the
14 General Subordinate Bond Ordinance. The validity and enforceability of the Revolving Credit
15 Agreement Subordinate Obligation shall be approved as to validity by Hogan Lovells US LLP,
16 Denver, Colorado, as bond counsel, and by Becker Stowe Partners LLC, Denver, Colorado, as
17 bond counsel.

18 **ARTICLE III**
19 **AUTHORIZATION, TERMS, AND INCURRENCE OF REVOLVING CREDIT AGREEMENT**
20 **SUBORDINATE OBLIGATION**

21 **Section 301. Authorization of Revolving Credit Agreement Subordinate Obligation.**
22 There is hereby authorized to be incurred by the City, for and on behalf of the Department, for
23 the purpose of defraying the Cost of the Approved Projects, the Revolving Credit Agreement
24 Subordinate Obligation, with the Revolving Loans thereunder in the maximum aggregate
25 principal Revolving Loan amount not to exceed \$150,000,000 at any one time, payable solely
26 out of the Net Revenues of the Airport System and certain funds and accounts to the extent
27 provided in the General Subordinate Bond Ordinance and this Supplemental Subordinate
28 Ordinance.

29
30

1 Section 302. Details of Revolving Notes.

2 A. Revolving Notes. The Revolving Notes shall be designated, with respect
3 to the Tax-Exempt Revolving Note, "Airport System Revolving Credit Agreement
4 Subordinate Obligation Note, Tax-Exempt Series A" (or such other appropriate
5 designation or designations as shall be determined by the Treasurer) (the "Tax-Exempt
6 Revolving Note"), and with respect to the Taxable Revolving Note, "Airport System
7 Revolving Credit Agreement Subordinate Obligation Note, Taxable Series B" (or such
8 other appropriate designation or designations as shall be determined by the Treasurer)
9 (the "Taxable Revolving Note"). The authority to issue the Revolving Notes under the
10 provisions of this Supplemental Subordinate Ordinance and the provisions of the
11 Revolving Credit Agreement shall be in full force and effect from the effective date of the
12 Revolving Credit Agreement until the Commitment Termination Date. Subject to the
13 limitation contained herein, the Revolving Notes herein authorized shall be issued as a
14 Tax-Exempt Revolving Note or a Taxable Revolving Note, as the case may be, and
15 dated as of their applicable date of issuance (the "Note Date"), as determined by the
16 Treasurer and shall bear interest at such rate or rates, not exceeding the Maximum
17 Rate, and in the manner set forth in the Revolving Credit Agreement. All Revolving
18 Notes authorized herein shall mature and become due and payable on or before three
19 (3) years from the date of delivery of the Revolving Credit Agreement.

20 Revolving Notes issued hereunder shall be subject to redemption or the prepayment
21 thereof prior to maturity as provided in the Revolving Credit Agreement and the form of
22 Revolving Notes set forth as an exhibit to the Revolving Credit Agreement.

23 The Revolving Notes shall be numbered in ascending consecutive numerical order in
24 the order of their issuance. At the direction of the Treasurer, the numbers of the
25 Revolving Notes may be prefixed or suffixed with a distinct letter or letters as
26 determined by the Treasurer. The Revolving Notes shall be registered with the
27 Revolving Notes Paying Agent/Registrar and shall be issued in certificated form.

28 Principal of and interest, if any, on the Revolving Notes shall be payable on the dates
29 and in the amounts in accordance with the terms of the Revolving Credit Agreement.

1 The Revolving Notes are authorized to be issued, sold, and delivered to the Revolving
2 Credit Provider, in denominations as set forth in the Revolving Credit Agreement.

3 Provided the Subordinate Debt Service Requirements of the Revolving Notes satisfy the
4 definition of a Balloon Maturity contained in the General Subordinate Bond Ordinance,
5 such requirements of the Revolving Notes are hereby authorized to be treated as
6 Balloon Maturities at the election of the Treasurer for such purposes.

7 B. Revolving Notes and Initial Revolving Loans. Subject to applicable terms,
8 limitations, and procedures contained herein and in the Revolving Credit Agreement,
9 the Revolving Notes shall be issued and the initial Revolving Loan under each of the
10 Revolving Notes shall be funded in accordance with the terms hereof and the terms of
11 the Revolving Credit Agreement. Upon compliance with the provisions herein and in the
12 Revolving Credit Agreement, the Revolving Notes shall be completed and delivered by
13 the Revolving Notes Paying Agent/Registrar in accordance with written instructions of
14 the Treasurer and in the manner specified below. The instructions shall include
15 instructions regarding the disposition of the initial Revolving Loan proceeds of the
16 Revolving Notes, subject to Section 401 hereof, and a request that the Revolving Notes
17 Paying Agent/Registrar authenticate such Revolving Notes by countersignature of its
18 authorized officer or employee and deliver them to the Revolving Credit Provider upon
19 receipt of such proceeds. Furthermore, the Mayor, Auditor, Clerk, Treasurer and
20 Manager and other officers and employees of the City is each hereby authorized and
21 directed to furnish and execute such documents relating to the City, for and on behalf of
22 the Department, and its financial affairs as may be necessary for the issuance of the
23 Revolving Notes to the Revolving Credit Provider in accordance with this Supplemental
24 Subordinate Ordinance and the Revolving Credit Agreement.

25 C. Revolving Loans under Revolving Notes. In connection with the funding of
26 subsequent Revolving Loans (after the initial Revolving Loan under each of the
27 Revolving Notes) or the conversion or continuation of Revolving Loans, the Treasurer is
28 hereby authorized to furnish and execute any documents necessary to satisfy any
29 applicable conditions precedent under the Revolving Credit Agreement. Furthermore,
30 the Mayor, Auditor, Clerk, Treasurer and Manager and other officers and employees of
31 the City is each hereby authorized and directed to furnish and execute such documents

1 relating to the City, for and on behalf of the Department, and its financial affairs as may
2 be necessary for the funding of Revolving Loans or the conversion or continuation of
3 Revolving Loans under the Revolving Notes to the Revolving Credit Provider in
4 accordance with this Supplemental Subordinate Ordinance and the Revolving Credit
5 Agreement, including, without limitation, delivering a Loan Notice.

6 D. Fees/Costs; Physical Form; Transfers. While the Revolving Credit
7 Provider is committed to fund Revolving Loans under the Revolving Credit Agreement
8 and the Revolving Notes, the City, for and on behalf of the Department, agrees to pay
9 all applicable fees and costs that constitute Lender Obligations as described in the
10 Revolving Credit Agreement and such obligation shall be considered part of the
11 Revolving Credit Agreement Subordinate Obligation authorized to be incurred
12 hereunder. Such amounts shall be paid out of the subaccount created in the Interest
13 Account of the General Subordinate Bond Ordinance described in Section 303 hereof.
14 The Revolving Notes shall be issued in physical, certificated definitive form. The
15 Revolving Credit Provider shall not transfer or assign either of the Revolving Notes
16 except in accordance with the Revolving Credit Agreement.

17 **Section 303.** Payment of Revolving Notes. The principal of and interest on the
18 Revolving Notes and any other amounts which constitute Lender Obligations shall be payable
19 in lawful money of the United States of America. Principal of and interest on the Revolving
20 Notes and any other amounts which constitute Lender Obligations shall be payable to the
21 Revolving Credit Provider by wire transfer as designated by the Revolving Credit Provider or
22 as otherwise provided in the Revolving Credit Agreement. The City hereby establishes and
23 creates a subaccount within the Principal Account of the Subordinate Bond Fund established
24 and created under Section 502 of the General Subordinate Bond Ordinance out of which the
25 principal of the Revolving Notes shall be paid, which subaccount shall be designated as the
26 “Revolving Notes Principal Subaccount”. The City hereby establishes and creates a
27 subaccount within the Interest Account of the Subordinate Bond Fund established and created
28 under Section 502 of the General Subordinate Bond Ordinance out of which the interest on the
29 Revolving Notes shall be paid, which subaccount shall be designated as the “Revolving Notes
30 Interest Subaccount”. Any other amounts which constitute Lender Obligations shall be
31 payable from the Revolving Notes Interest Subaccount. All deposits of Net Revenues in the

1 Revolving Notes Principal Subaccount and the Revolving Notes Interest Subaccount shall be
2 made pro rata with any deposits in any other subaccounts in the Principal Account or Interest
3 Account and the accumulation and application of moneys in the General Subordinate Bond
4 Ordinance for the payment of, or the creation of reserves for, the Revolving Credit Agreement
5 Subordinate Obligations shall be on a parity with the payment of, or the creation of reserves
6 for, Subordinate Bonds.

7 **Section 304.** Execution, Recordation and Authentication. The Revolving Notes shall be
8 signed by the Mayor and countersigned by the Auditor, both of which signatures may be by
9 facsimile, and the Revolving Notes shall bear the official seal of the City or a facsimile thereof
10 attested by the manual or facsimile signature of the Clerk. A record thereof shall be made by
11 the Auditor, in such record to show the date of issue, date of payment, and date and amount of
12 interest payments as the same shall accrue. The Revolving Notes shall have been approved
13 by the Manager and shall be authenticated by the Revolving Notes Paying Agent/Registrar.

14 By authenticating the Revolving Notes, the Revolving Notes Paying Agent/Registrar
15 shall be deemed to have assented to the provisions of the General Subordinate Bond
16 Ordinance, as supplemented by this Supplemental Subordinate Ordinance. If the Revolving
17 Notes Paying Agent/Registrar, or its duly appointed successor pursuant to this section, shall
18 resign, or if the City shall reasonably determine that such Revolving Notes Paying
19 Agent/Registrar has become incapable of fulfilling its duties hereunder, the City may, upon
20 notice mailed to Revolving Credit Provider at the address last shown on the registration books,
21 appoint a successor Revolving Notes Paying Agent/Registrar.

22 **Section 305.** Note Form. Subject to the provisions of this Supplemental Subordinate
23 Ordinance, the Revolving Notes shall be in substantially the form set forth in the exhibits to the
24 Revolving Credit Agreement (provided that any of the text may, with appropriate reference, be
25 printed on the back of the Revolving Notes), with such omissions, insertions, endorsements,
26 and variations as to any recitals of fact or other provisions as may be required by the
27 circumstances.

28 **Section 306.** Substitution or Extension of Certain Agreements. The Treasurer is
29 hereby authorized, without further approval of the Council, to (i) extend or modify the terms of
30 any Revolving Credit Agreement, Revolving Notes Paying Agent and Registrar Agreement or

1 other agreement approved hereby; and (ii) execute and deliver any additional Revolving Notes
2 and any additional agreements, including, but not limited to, one or more Revolving Credit
3 Agreements or substitute Revolving Credit Agreements, Revolving Notes Paying Agent and
4 Registrar Agreement, any other agreement approved hereby or required in connection with the
5 Revolving Credit Agreement Subordinate Obligation; provided that any such modified,
6 extended, additional, or substitute agreement (i) shall be entered into for and on behalf of the
7 Department, (ii) shall obligate only Airport System funds, (iii) shall be with existing parties or
8 parties selected in accordance with the Treasurer's established policies, and (iv) shall, in the
9 judgment of the Treasurer, be in commercially customary form. The effectiveness of any
10 execution, extension, modification or replacement of any agreement or instrument as
11 contemplated in this Section 306 shall be contingent upon the receipt by the Treasurer and
12 Revolving Notes Agent/Registrar of a Favorable Opinion of Bond Counsel with respect to such
13 proposed action.

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ARTICLE IV
USE OF PROCEEDS

16 **Section 401. Disposition of Proceeds.** The proceeds of Revolving Loans made under
17 the Revolving Notes, upon receipt thereof from time to time, shall be deposited in the following
18 accounts and applied for purposes thereof:

19 A. Revolving Credit Agreement Cost of Issuance Account. First, to the
20 Project Fund to a special and separate subaccount hereby created therein and
21 designated as the "City and County of Denver, Colorado, for and on behalf of its
22 Department of Aviation, Revolving Credit Agreement Cost of Issuance Account" (the
23 "Revolving Credit Agreement Cost of Issuance Account"), such amount as the
24 Treasurer determines to be necessary for the payment of the Costs of the incurrence of
25 the Revolving Credit Agreement Subordinate Obligation, the issuance of the Revolving
26 Notes and Revolving Loans made thereunder, and the execution and delivery of the
27 Revolving Credit Agreement.

28 B. Approved Project Account. Second, to the Project Fund in amounts
29 determined by the Treasurer for credit to either of the special and separate subaccounts
30 hereby created therein and designated as the "City and County of Denver, Colorado, for
31 and on behalf of its Department of Aviation, Tax-Exempt Revolving Notes, Project

1 Account" (the "Revolving Credit Agreement Tax-Exempt Project Account") for the
2 payment of Costs of Approved Projects determined by Bond Counsel to be eligible to be
3 paid from proceeds of the Tax-Exempt Revolving Note and the "City and County of
4 Denver, Colorado, for and on behalf of its Department of Aviation, Taxable Revolving
5 Notes, Project Account" (the "Revolving Credit Agreement Taxable Project Account") for
6 the payment of Costs of the Approved Projects.

7 **Section 402. Other Transfers.** Notwithstanding the provisions of Section 401 hereof,
8 the Treasurer is authorized to supplement and amend the application of proceeds of Revolving
9 Notes provided in Section 401 in a manner consistent with the objectives of this Supplemental
10 Subordinate Ordinance and not inconsistent with the General Subordinate Bond Ordinance.

11 **ARTICLE V**
12 **MISCELLANEOUS**

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

16 A. **General Covenants.** (1) The City hereby covenants that it shall not
17 (i) make any use of the proceeds of the Tax-Exempt Revolving Note, any funds
18 reasonably expected to be used to pay the principal of or interest on the Tax-Exempt
19 Revolving Note, or any other funds of the City; or (ii) take (or omit to take) any other
20 action with respect to the Tax-Exempt Revolving Note, the proceeds thereof, or
21 otherwise, if such use, action or omission would, under the Tax Code, cause the interest
22 on the Tax-Exempt Revolving Note to be included in gross income for federal income
23 tax purposes.

24 (2) In particular, without limitation, the City hereby covenants that it shall not
25 take (or omit to take) or permit or suffer any action to be taken if the result of the same
26 causes the Tax-Exempt Revolving Note to be "arbitrage bonds" within the meaning of §
27 148 of the Tax Code.

28 B. **Rebate.** (1) Except as otherwise expressly provided therein, the City shall
29 pay to the United States in accordance with the requirements of § 148(f) of the Tax
30 Code an amount equal to the sum of (i) the excess of the amount earned on all

1 nonpurpose investments allocable to the Tax-Exempt Revolving Note (other than
2 investments attributable to such excess) over the amount that would have been earned
3 if such nonpurpose investments were invested at a rate equal to the yield on the Tax-
4 Exempt Revolving Note, plus (ii) any income attributable to such excess.

5 (2) The City shall maintain within the Airport System Fund a special and
6 separate account hereby created and to be known as the "City and County of Denver,
7 Colorado, for and on behalf of its Department of Aviation, Revolving Notes Rebate
8 Fund" (the "Revolving Credit Agreement Rebate Fund"). The City shall maintain within
9 the Revolving Credit Agreement Rebate Fund such subaccounts as may be necessary,
10 and the City shall deposit to the credit of, and make disbursements to the United States
11 and otherwise from, the Revolving Credit Agreement Rebate Fund such amounts, at
12 such times, as shall be necessary hereunder.

13 (3) Any amounts so deposited to the credit of the Revolving Credit Agreement
14 Rebate Fund shall be derived from the Net Revenues of the Airport System or from
15 such other legally available sources as the City may determine; provided, however, that
16 the accumulation and application of Net Revenues for such purpose shall be
17 subordinate in priority to payment of principal of and interest on, when due, the
18 Revolving Notes.

19 (4) Notwithstanding any provision of this Section 501B, if the Treasurer shall
20 obtain an opinion of an attorney or firm of attorneys whose experience in matters
21 relating to the issuance of obligations by states and their political subdivisions is
22 nationally recognized that any action required under this Section 501B is no longer
23 required or that some further action is required to maintain the exclusion from federal
24 income tax of interest on the Tax-Exempt Revolving Note, the City may rely conclusively
25 on such opinion in complying with the requirements of this Section 501B, and the
26 covenants contained herein shall be deemed to be modified to that extent.

27 C. Tax Certificate. The Treasurer is hereby authorized to execute one or
28 more tax certificates on behalf of the City in implementation of the covenants and
29 agreements set forth in this Section 501, or to make any election permitted by the Tax
30 Code and determined by the Treasurer to be to the advantage of the City; and the

1 representations, agreements, and elections set forth therein shall be deemed the
2 representations, agreements, and elections of the City, as if the same were set forth
3 herein.

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

8 **Section 503. Applicability of General Subordinate Bond Ordinance.** Except as
9 otherwise provided herein, the provisions of the General Subordinate Bond Ordinance govern
10 the Revolving Credit Agreement Subordinate Obligation, the Revolving Notes, the Approved
11 Projects, and the Revolving Credit Agreement. The rights, undertakings, covenants,
12 agreements, obligations, warranties, and representations of the City with respect to
13 Subordinate Obligations set forth in the General Subordinate Bond Ordinance shall in respect
14 of the Revolving Credit Agreement Subordinate Obligation be deemed the rights, undertakings,
15 covenants, agreements, obligations, warranties, and representations of the City for and on
16 behalf of the Department.

17 **Section 504. Consent to Proposed Amendments.** By execution and delivery of the
18 Revolving Credit Agreement and purchase and acceptance of the Revolving Notes, the
19 Revolving Credit Provider shall be deemed to have irrevocably (i) consented to the adoption by
20 Supplemental Ordinance of amendments to the General Bond Ordinance in substantially the
21 form of the Proposed Amendments and (ii) appointed the Consent Agent as their agent, with
22 irrevocable instructions to file a written consent to that effect with the Clerk as provided in the
23 final paragraph of Section 1303 of the General Subordinate Bond Ordinance. In so acting, the
24 Consent Agent (who shall be compensated by the City for such services) may rely on an
25 Attorney's Opinion, which shall be full and complete authorization and protection of the
26 Consent Agent in respect of any action taken or suffered by it under the General Subordinate
27 Bond Ordinance in good faith.

28 **Section 505. Endorsement of Revolving Notes.** A notation in substantially the following
29 form shall be endorsed on the Revolving Notes in respect of the Proposed Amendments:

1 "By acceptance of this Revolving Note, the Revolving Credit Provider is
2 deemed to have irrevocably (i) consented to the adoption by Supplemental
3 Ordinance of amendments to the General Bond Ordinance in substantially the
4 form of the Proposed Amendments set forth in the writing provided to the
5 Revolving Credit Provider and (ii) appointed the Consent Agent as their agent,
6 with irrevocable instructions to file a written consent to that effect at the time and
7 place and otherwise in the manner provided by the General Subordinate Bond
8 Ordinance."

9 In addition, copies of this notation, together with copies of the Proposed
10 Amendments, shall be filed with the Municipal Securities Rulemaking Board's Electronic
11 Municipal Market Access System.

1 COMMITTEE APPROVAL DATE: November 1, 2017

2 MAYOR-COUNCIL DATE: November 7, 2017

3 PASSED BY THE COUNCIL _____

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 _____; _____

10 PREPARED BY: HOGAN LOVELLS US LLP and BECKER STOWE PARTNERS LLC;

11 DATE: November 22, 2017

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 submitted to the City Council for approval
15 pursuant to § 3.2.6 of the Charter.

16 Kristin M. Bronson, City Attorney

17 BY: *Kristin M. Bronson*, Assistant City Attorney DATE: Nov 22, 2017

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EXHIBIT A
APPROVED PROJECTS

- Airfield improvements, including runway and taxiway expansions and upgrades and airfield lighting improvements;
- Terminal and concourse improvements, including concourse and terminal expansions and upgrades, baggage system improvements, central plant improvements, and train system improvements;
- Cargo and maintenance facilities and improvements;
- Roads, parking, and ground transportation facilities;
- Communications, computer systems, electronics, security, and fire protection improvements;
- Environmental, utilities, and storm water drainage improvements;
- Vehicles, equipment, and other personal property used in airport operations; and
- Functionally related and subordinate facilities for any of the foregoing.

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

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