

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2024

COUNCIL BILL NO. CB 24-1016
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance submitting to a vote of the qualified electors at a special municipal election to be held on Tuesday, November 5, 2024, the question of whether debt of the City and County of Denver Colorado, for use by and on behalf of the Denver Downtown Development Authority (“DDDA”), shall be approved for purposes of financing the costs of public facilities, infrastructure, and other improvements to public or private property in accordance with projects described in the DDDA Plan of Development, as it may be restated or amended from time to time; 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 (the "State") and the City Charter (the "Charter"); and

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

(3) WHEREAS, the Denver Downtown Development Authority (the “DDDA”), is a body corporate duly organized and existing under laws of the State of Colorado; and

(4) WHEREAS, the City Council has heretofore approved the Plan of Development (as it may be further restated or amended, the “Plan”) for the DDDA; and

(5) WHEREAS, the interest of the DDDA and the public interest and necessity demand and require the financing of certain projects described in the Plan (the “Project”); and

(6) WHEREAS, the Plan contemplates the use of tax increment revenues as provided in Section 31-25-807(3), C.R.S., to finance the costs of projects described in the Plan; and

(7) WHEREAS, pursuant to Section 31-25-807(3)(b), C.R.S., the City may irrevocably pledge such tax increment revenues to the payment of bonds, loans, advances or indebtedness if a question of issuing the same is first submitted for approval to the qualified electors of the DDDA at a special election held for those purposes; and

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(8) WHEREAS, Article X, Section 20 of the Constitution ("TABOR") requires voter approval for the creation of any debt; and

(9) WHEREAS, Section 31-25-807(3)(b) further provides that such election shall be called by resolution of the Board of Directors of the DDDA ("DDDA Board") and approved by the City Council at least 30 days prior to the election; and

(10) WHEREAS, on July 18, 2024 the DDDA Board adopted a resolution calling for an election ("DDDA Resolution"), which DDDA Resolution was filed on July 22, 2024, in the office of the Clerk and Recorder, ex officio Clerk, of the City and County of Denver as City Clerk Filing No. 20240089; and

(11) WHEREAS, TABOR requires elections on ballot issues (as defined in TABOR) to be held on limited election days; and

(12) WHEREAS, November 5, 2024 is one of the election dates at which ballot issues may be submitted pursuant to TABOR; and

(13) WHEREAS, the Clerk and Recorder of the City (the "Clerk") is conducting a coordinated election pursuant to the Uniform Election Code of 1992, being articles 1 through 13 of title 1, C.R.S. (the "Uniform Election Code") on November 5, 2024; and

(14) WHEREAS, pursuant to Section 8.2.1 of the Charter, Section 15-4 of the Denver Revised Municipal Code ("D.R.M.C."), Section 1-1-102 of the Uniform Election Code, Section 31-10-102.7, C.R.S., and this ordinance, the City Council may elect to utilize the provisions of the Uniform Election Code in order to participate in the coordinated election on November 5, 2024; and

(15) WHEREAS, the City Council hereby determines that it is necessary to submit to the qualified electors of the DDDA, at the coordinated election to be held on November 5, 2024 ("Election"), the question of whether the City shall be authorized to incur debt for use by DDDA purposes and on behalf of the DDDA as specified in Section 3 below (as more specifically defined below, the "Ballot Question"); and

(16) WHEREAS, it is necessary for the City Council to approve the Election called by the DDDA Board in accordance with the DDDA Resolution.

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

Section 1. All actions heretofore taken (not inconsistent with the provisions of this ordinance) by the City and the officers thereof, directed towards the Election and the objects and purposes herein stated are hereby ratified, approved and confirmed. All terms used herein and not otherwise defined shall have the meanings set forth in Title 31, Article 25, Part 8, C.R.S. (the "Act")

1 or Title 1, Articles 1 to 13, C.R.S., (the "Election Code").

2 **Section 2.** The City hereby approves the holding of the Election by the DDDA in the manner
3 prescribed by the DDDA Resolution, such Election held to authorize the issuance of financial
4 obligations by the City and the pledging of tax increment revenues to the payment of such financial
5 obligations by the City pursuant to the Ballot Question set forth in the DDDA Resolution .

6 **Section 3.** In accordance with Section 3.3.6 of the Charter and Article X, Section 20 of the
7 Colorado Constitution, the following question shall be submitted to a vote of the qualified electors of
8 the DDDA at the Election ("Ballot Question"). The Ballot Question shall contain the following title and
9 submission clause:

10 **Denver Downtown Development Authority Debt Question**

11 WITHOUT INCREASING TAXES, SHALL THE CITY AND COUNTY OF DENVER, COLORADO
12 ("CITY") DEBT BE INCREASED \$570,000,000, WITH A TOTAL REPAYMENT COST OF NOT
13 MORE THAN \$847,000,000 (MAXIMUM TOTAL PRINCIPAL AND INTEREST) FOR USE BY AND
14 ON BEHALF OF THE DENVER DOWNTOWN DEVELOPMENT AUTHORITY (THE "DDDA"), FOR
15 OBLIGATIONS THAT ARE SUBJECT TO TABOR'S ELECTION REQUIREMENTS, FOR THE
16 PURPOSE OF FINANCING THE COSTS OF PUBLIC FACILITIES AND OTHER IMPROVEMENTS,
17 SUCH AS CREATING AND MAINTAINING PUBLIC SPACES AND FACILITIES,
18 INFRASTRUCTURE, AND OTHER IMPROVEMENTS TO PUBLIC OR PRIVATE PROPERTY IN
19 ACCORDANCE WITH PROJECTS DESCRIBED IN THE DDDA PLAN OF DEVELOPMENT, AS IT
20 MAY BE RESTATED OR AMENDED FROM TIME TO TIME;

21 SUCH DEBT AND THE INTEREST THEREON TO BE PAID FROM AND SECURED BY A PLEDGE
22 OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN TAX INCREMENT REVENUES
23 LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE DDDA; AND SHALL THE CITY
24 BE AUTHORIZED TO PLEDGE THE SPECIAL FUND OF THE CITY AND THE TAX INCREMENT
25 REVENUES COLLECTED THEREIN TO THE REPAYMENT OF THE PRINCIPAL OF AND
26 INTEREST ON OBLIGATIONS THAT ARE NOT SUBJECT TO TABOR'S ELECTION
27 REQUIREMENTS FOR THE PURPOSE OF FINANCING PUBLIC FACILITIES AND OTHER
28 IMPROVEMENTS TO PUBLIC OR PRIVATE PROPERTY IN ACCORDANCE WITH PROJECTS
29 DESCRIBED IN THE DDDA PLAN OF DEVELOPMENT, AS IT MAY BE RESTATED OR AMENDED
30 FROM TIME TO TIME; AND SHALL ANY DEBT AUTHORIZED BY THIS QUESTION BE
31 EVIDENCED BY BONDS, LOANS, ADVANCES, OR OTHER INDEBTEDNESS OR FINANCIAL

1 OBLIGATIONS, TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE OR BELOW
2 THE PRINCIPAL AMOUNT THEREOF, ON TERMS AND CONDITIONS, AND WITH
3 SUCH MATURITIES, AS PERMITTED BY LAW AND AS THE CITY MAY DETERMINE,
4 INCLUDING PROVISIONS FOR THE REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH
5 OR WITHOUT PAYMENT OF A PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL
6 AMOUNT SO REDEEMED; AND SHALL THE CITY AND THE DDDA BE AUTHORIZED TO
7 COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND PROCEEDS
8 AND THE INVESTMENT INCOME THEREON AS A VOTER-APPROVED REVENUE CHANGE
9 AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X,
10 SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

11 **Section 4.** The proper officials of the City as are charged with duties relating to the Election
12 shall, before the Election, issue such calls, make such certifications and publications, give such
13 notices, make such appointments, and do all such other acts and things in connection with the
14 submission of this Ballot Question to the qualified electors of the DDDA at the Election as are
15 required by the Constitution and laws of the State of Colorado and the Charter and ordinances of
16 the City.

17 **Section 5.** If a majority of the votes cast on the Ballot Question of increasing City debt, for
18 the purposes specified in the Plan, submitted at the Election shall be in favor of same, the City, acting
19 on behalf of the DDDA, shall be authorized to proceed with the necessary action to comply with such
20 Ballot Question.

21 Any authority to increase City debt, if conferred by the results of the Election, shall be deemed
22 and considered a continuing authority to increase City debt, and neither the partial exercise of the
23 authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full
24 authority so conferred.

25 **Section 6.** The ballots cast at such Election shall be canvassed and the results
26 ascertained, determined, and certified in accordance with the requirements of the Constitution
27 and laws of the State of Colorado and the Charter and ordinances of the City.

28 **Section 7.** If any section, paragraph, clause, or other portion of this ordinance is held
29 to be invalid or unenforceable for any reason, the validity of the remaining portions of this
30 ordinance shall not be affected.

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1 COMMITTEE APPROVAL DATE: August 6, 2024

2 MAYOR-COUNCIL DATE: August 13, 2024

3 PASSED BY THE COUNCIL: August 26, 2024

4 *Amursh P. Sandora* - PRESIDENT

5 APPROVED: *Michael C. Johnston* - MAYOR Aug 27, 2024
Michael C. Johnston (Aug 27, 2024 14:27 MDT)

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: Butler Snow, LLP

11 REVIEWED BY: Bradley T. Neiman, Assistant City Attorney DATE: August 15, 2024

12 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.

16 Kerry C. Tipper, City Attorney for the City and County of Denver

17 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Aug 15, 2024