

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB-24-1660

3 SERIES OF 2024

COMMITTEE OF REFERENCE:

4 Finance and Governance

5
6 **A BILL**

7 **For an ordinance approving an Amended and Restated Denver Downtown**
8 **Development Authority Plan of Development; ratifying action previously taken**
9 **relating thereto; and providing other matters relating thereto.**

10
11 (1) WHEREAS, the City and County of Denver (the "City"), is a municipal
12 corporation duly organized and existing as a home-rule municipality under Article XX of the
13 Constitution (the "Constitution") and laws of the State of Colorado (the "State") and the City
14 Charter (the "Charter"); and

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

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

20 (4) WHEREAS, at the 2008 Election, a majority of electors of the DDDA qualified
21 to vote and voting thereon, approved the following ballot question:

22 SHALL DENVER DOWNTOWN DEVELOPMENT AUTHORITY OBLIGATIONS BE
23 INCREASED \$350,000,000 WITH A REPAYMENT COST OF \$847,000,000
24 (MAXIMUM) FOR AN APPROVED PLAN OF DEVELOPMENT, AS AMENDED OR
25 MODIFIED FROM TIME TO TIME, SUCH OBLIGATIONS MAY BE INCURRED FOR
26 THE AUTHORITY BY THE CITY AND COUNTY OF DENVER FOR THE PURPOSE
27 OF PAYING THE COSTS OF CREATING AND IMPLEMENTING ANY PLAN OF
28 DEVELOPMENT, INCLUDING OPERATING, MAINTAINING OR OTHERWISE
29 PROVIDING SYSTEMS, OPERATIONS AND ADMINISTRATION FOR THE
30 PURPOSE OF CARRYING OUT THE OBJECTS AND PURPOSES FOR WHICH
31 THE AUTHORITY WAS ORGANIZED, TOGETHER WITH ALL NECESSARY,
32 INCIDENTAL AND APPURTENANT PROPERTIES, CAPITAL IMPROVEMENTS,

1 FACILITIES, EQUIPMENT, PERSONNEL, CONTRACTORS, CONSULTANTS AND
2 COSTS AND ALL LAND, EASEMENTS AND APPURTENANCES NECESSARY OR
3 APPROPRIATE IN CONNECTION THEREWITH, SUCH OBLIGATIONS TO BEAR
4 INTEREST AT A NET EFFECTIVE INTEREST RATE NOT IN EXCESS OF SEVEN
5 PERCENT (7%) PER ANNUM, SUCH INTEREST TO BE PAYABLE AT SUCH TIME
6 OR TIMES AND WHICH MAY COMPOUND PERIODICALLY AS MAY BE
7 DETERMINED BY THE CITY COUNCIL, SUCH OBLIGATIONS TO BE INCURRED
8 OR DELIVERED IN ONE SERIES OR MORE AT A PRICE ABOVE, BELOW OR
9 EQUAL TO THE PRINCIPAL AMOUNT OF SUCH OBLIGATIONS AND ON SUCH
10 TERMS AND CONDITIONS AS THE CITY COUNCIL MAY DETERMINE,
11 INCLUDING PROVISIONS FOR REDEMPTION OF THE OBLIGATIONS PRIOR TO
12 MATURITY WITH OR WITHOUT PAYMENT OF PREMIUM, AND WHICH
13 OBLIGATIONS MAY BE REFINANCED WITHOUT ADDITIONAL VOTER
14 APPROVAL, PROVIDED THAT AFTER THE ISSUANCE OF SUCH REFINANCING
15 OBLIGATIONS THE TOTAL OUTSTANDING PRINCIPAL AMOUNT OF ALL
16 OBLIGATIONS ISSUED PURSUANT TO THIS QUESTION DOES NOT EXCEED
17 THE MAXIMUM AMOUNT SET FORTH ABOVE, AND PROVIDED FURTHER THAT
18 ALL OBLIGATIONS ISSUED PURSUANT TO THIS QUESTION ARE ISSUED ON
19 TERMS THAT DO NOT EXCEED THE REPAYMENT COSTS AUTHORIZED IN
20 THIS QUESTION; SUCH OBLIGATIONS SHALL BE PAID FROM ANY LEGALLY
21 AVAILABLE MONEYS OF THE AUTHORITY OR FROM REVENUES OF THE CITY
22 LEGALLY AVAILABLE FOR THE AUTHORITY, INCLUDING THE REVENUES
23 PLEDGED OR FROM TAXES PLEDGED PURSUANT TO SECTION 31-25-
24 807(3)(B) COLORADO REVISED STATUTES OR BOTH SUCH REVENUES AND
25 TAXES WITH SUCH LIMITATIONS AS MAY BE DETERMINED BY THE BOARD
26 OF THE AUTHORITY AND THE CITY COUNCIL, AND SHALL THE PROCEEDS OF
27 ANY SUCH OBLIGATIONS AND THE PROCEEDS OF SUCH TAXES, ANY OTHER
28 REVENUE USED TO PAY SUCH OBLIGATIONS, AND INVESTMENT INCOME
29 THEREON BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE
30 CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING OR
31 OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE

COLORADO CONSTITUTION, OR ANY OTHER LAW, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE AUTHORITY AND THE CITY AND COUNTY OF DENVER ON BEHALF OF THE AUTHORITY?; and

(5) WHEREAS, pursuant to Ordinance No. 723, Series of 2008, the City Council approved the Denver Union Station Plan of Development dated November 25, 2008 (the “Original Plan”) to facilitate the development of the Denver Union Station Project (the “DUS Project”) within the plan of development area (as amended from time to time, the “Plan Area”); and

(6) WHEREAS, the Original Plan contains a provision that authorizes the use of property tax and sales tax increment financing pursuant to C.R.S. § 31-25-807(3) (the “TIF Provision”) to finance the costs of development projects within the boundaries of the Plan Area that will be effective for thirty years following approval of the Original Plan, or such longer period as authorized by C.R.S. §§ 31-25-801, *et seq.* (as may be amended from time to time, the “DDA Act”); and

(7) WHEREAS, the City, acting on behalf of the DDDA, previously issued its Downtown Development Authority Tax Increment Revenue Bond, Series 2017 (the “2017 Bond”) to finance the development of the DUS Project; and

(8) WHEREAS, the DUS Project has been completed and the 2017 Bond will be paid and discharged on or prior to December 1, 2028; and

(9) WHEREAS, at an election held on November 5, 2024 (the “2024 Election”) called pursuant to Ordinance No. 1016, Series of 2024, a majority of electors of the DDDA qualified to vote and voting thereon, approved the following ballot question:

WITHOUT INCREASING TAXES, SHALL THE CITY AND COUNTY OF DENVER, COLORADO (“CITY”) DEBT BE INCREASED \$570,000,000, WITH A TOTAL REPAYMENT COST OF NOT MORE THAN \$847,000,000 (MAXIMUM TOTAL PRINCIPAL AND INTEREST) FOR USE BY AND ON BEHALF OF THE DENVER DOWNTOWN DEVELOPMENT AUTHORITY (THE “DDDA”), FOR OBLIGATIONS THAT ARE SUBJECT TO TABOR’S ELECTION REQUIREMENTS, FOR THE PURPOSE OF FINANCING THE COSTS OF PUBLIC FACILITIES AND OTHER IMPROVEMENTS, SUCH AS CREATING AND MAINTAINING PUBLIC SPACES

1 AND FACILITIES, INFRASTRUCTURE, AND OTHER IMPROVEMENTS TO
2 PUBLIC OR PRIVATE PROPERTY IN ACCORDANCE WITH PROJECTS
3 DESCRIBED IN THE DDDA PLAN OF DEVELOPMENT, AS IT MAY BE RESTATED
4 OR AMENDED FROM TIME TO TIME;

5 SUCH DEBT AND THE INTEREST THEREON TO BE PAID FROM AND SECURED
6 BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN
7 TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE
8 BOUNDARIES OF THE DDDA; AND SHALL THE CITY BE AUTHORIZED TO
9 PLEDGE THE SPECIAL FUND OF THE CITY AND THE TAX INCREMENT
10 REVENUES COLLECTED THEREIN TO THE REPAYMENT OF THE PRINCIPAL
11 OF AND INTEREST ON OBLIGATIONS THAT ARE NOT SUBJECT TO TABOR'S
12 ELECTION REQUIREMENTS FOR THE PURPOSE OF FINANCING PUBLIC
13 FACILITIES AND OTHER IMPROVEMENTS TO PUBLIC OR PRIVATE PROPERTY
14 IN ACCORDANCE WITH PROJECTS DESCRIBED IN THE DDDA PLAN OF
15 DEVELOPMENT, AS IT MAY BE RESTATED OR AMENDED FROM TIME TO TIME;
16 AND SHALL ANY DEBT AUTHORIZED BY THIS QUESTION BE EVIDENCED BY
17 BONDS, LOANS, ADVANCES, OR OTHER INDEBTEDNESS OR FINANCIAL
18 OBLIGATIONS, TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE
19 OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON TERMS AND
20 CONDITIONS, AND WITH SUCH MATURITIES, AS PERMITTED BY LAW AND AS
21 THE CITY MAY DETERMINE, INCLUDING PROVISIONS FOR THE REDEMPTION
22 OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A
23 PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO
24 REDEEMED; AND SHALL THE CITY AND THE DDDA BE AUTHORIZED TO
25 COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND
26 PROCEEDS AND THE INVESTMENT INCOME THEREON AS A VOTER-
27 APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH
28 WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE
29 COLORADO CONSTITUTION OR ANY OTHER LAW?; and

30 (10) WHEREAS, collectively, the 2008 Election and the 2024 Election shall be
31 referred to herein as the "Election;" and

1 (11) WHEREAS, pursuant to C.R.S. § 31-25-807(2)(d) and C.R.S. § 31-25-
2 807(3)(a), the Board of the DDDA has determined that the Original Plan should be amended
3 and restated in accordance with the proposed Amended and Restated Denver Downtown
4 Development Authority Plan of Development, as set forth and filed with the office of the
5 Denver Clerk and Recorder, *ex officio* Clerk of the City (“City Clerk”) on the 12th of
6 November, 2024, under City Clerk Filing Number 20240140 (the “Amended Plan of
7 Development”), to establish categories for future development and redevelopment projects
8 to be undertaken by the City and the DDDA within the Plan Area to assist the City in
9 overcoming the economic challenges affecting the City’s central business district and
10 adopted a resolution approving the Amended Plan of Development on November 7, 2024;
11 and

12 (12) WHEREAS, the Amended Plan of Development is not intended to modify and
13 shall not be construed to modify the TIF Provision contained in the Original Plan; therefore,
14 the TIF Provision will be effective for thirty years following approval of the Original Plan, or
15 such longer period as authorized by the DDA Act; and

16 (13) WHEREAS, since the TIF Provision may continue to be in effect until at least
17 2038 in accordance with the DDA Act, the City Council has determined and hereby
18 determines that the Original Plan should be amended and restated in accordance with the
19 terms of the Amended Plan of Development in order to authorize additional development
20 and redevelopment projects to be undertaken within the Plan Area in order to promote the
21 safety, prosperity, security, and general welfare of the Plan Area and its inhabitants, to
22 prevent deterioration of property values and structures within the Plan Area, to prevent the
23 growth of blighted areas within the Plan Area, and to assist the City in the development,
24 redevelopment, and planning of the economic and physical restoration and growth of the
25 Plan Area, all in accordance with the DDA Act and the Amended Plan of Development; and

26 (14) WHEREAS, the Denver Planning Board, which is the duly designated and
27 acting official planning body of the City, has submitted to the City Council its report and
28 recommendations respecting the Amended Plan of Development in accordance with C.R.S.
29 § 31-25-807(4)(b) and the City Council has duly considered the report and
30 recommendations of the Denver Planning Board; and

1 (15) WHEREAS, after notice as required by the DDA Act, a public hearing has been
2 held concerning the Amended Plan of Development in accordance with C.R.S. § 31-25-
3 807(4)(c) (the “Public Hearing”); and

4 (16) WHEREAS, the City permitted School District No. 1 of the City to participate
5 in an advisory capacity regarding the inclusion of the TIF Provision in the Original Plan,
6 which provision remains unmodified by the Amended Plan of Development; and

7 (17) WHEREAS, the City Council has determined and does hereby declare that it
8 is necessary and in the best interests of the City that the City approve the Amended Plan of
9 Development.

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

11 **Section 1. Ratification.** All action heretofore taken (not inconsistent with the
12 provisions of this ordinance) by the City and the officers, agents and employees thereof,
13 directed towards the Amended Plan of Development and the objects and purposes herein
14 stated are hereby ratified, approved and confirmed.

15 **Section 2. Findings.** The foregoing recitals are incorporated herein by reference
16 and adopted as findings and determinations of the City Council. Based upon the evidence
17 presented at the Public Hearing and contained in the Amended Plan of Development, the
18 City Council has determined and hereby finds and determines in accordance with the DDA
19 Act that: (a) there continues to be a need to take corrective measures in order to halt or
20 prevent deterioration of property values and structures within the Plan Area, as amended
21 from time to time, or to halt or prevent the growth of blighted areas in the Plan Area, as it is
22 amended from time to time, or any combination thereof; and (b) the Amended Plan of
23 Development will afford maximum opportunity, consistent with the sound needs and plans
24 of the City as a whole, for the development or redevelopment of the Plan Area, as amended
25 from time to time, by the DDDA and by private enterprise.

26 **Section 3. Approvals and Authorization.** The proposed Amended Plan of
27 Development, in the words and figures contained and set forth in that form available in the
28 office and on the web page of City Council, and filed in the office of the City Clerk under City
29 Clerk’s Filing No. 20240140, is hereby approved and shall amend and restate the Original
30 Plan in its entirety.

1 **Section 4. Severability.** If any provision of this Ordinance or the Amended Plan
2 of Development shall be held invalid or unenforceable, such holding shall not affect any
3 other provisions hereof or thereof.

4 **Section 5. Effective Date.** This Ordinance shall become effective immediately
5 upon its final passage and publication, as provided by the Charter of the City.

6 **Section 6. Publication.** The bill for this Ordinance is hereby authorized and
7 directed to be published as provided in the Charter of the City.

8 **Section 7. Recordation and Authentication.** This Ordinance shall be recorded
9 after its passage in a Book of Ordinances of the City, kept for that purpose, and
10 authenticated by the signature of the Mayor and attested and countersigned by the City
11 Clerk.

12 COMMITTEE APPROVAL DATE: November 19, 2024

13 MAYOR-COUNCIL DATE: November 26, 2024 by Consent

14 PASSED BY THE COUNCIL:

15 December 9, 2024

16 *Amursh P. Sandborn* - PRESIDENT

17 APPROVED: *Michael C. Johnston* - MAYOR 12/11/2024
Michael C. Johnston (Dec 11, 2024 11:57 MST)

18 ATTEST: _____ - CLERK AND RECORDER,
19 EX-OFFICIO CLERK OF THE
20 CITY AND COUNTY OF DENVER

21 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____,

22 PREPARED BY: Butler Snow, LLP

23 REVIEWED BY: Bradley T. Neiman, Assistant City Attorney DATE: November 27, 2024

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

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

29 BY: *Anshul Bagga*, Assistant City Attorney DATE: Nov 26, 2024