

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2015

COUNCIL BILL NO. CB15-0304
COMMITTEE OF REFERENCE:
Business Development

5 A BILL

6 **For an ordinance creating and establishing the RiNo Business Improvement**
7 **District, appointing the initial members of the Board of Directors of the District,**
8 **and approving the Initial Operating Plan and preliminary 2016 budget therefore.**
9

10
11 **WHEREAS**, the City Council of the City and County of Denver, Colorado (the “City
12 Council”), has received a petition for the organization of the RiNo Business Improvement District
13 within the City (the “District”); and

14 **WHEREAS**, based upon the petition for organization (the “Petition”) and other evidence
15 presented to City Council, the Petition has been signed in conformity with the Business
16 Improvement District Act, Section 31-25-1201 *et seq.*, C.R.S. (the “Act”), the signatures on the
17 Petition are genuine, and the signatures of parties thereon represent the persons who own real
18 property in the service area of the proposed District having a valuation for assessment of not less
19 than fifty percent of the valuation for assessment of all real property in the service area of the
20 proposed District and who own at least fifty percent of the acreage in the proposed District; and

21 **WHEREAS**, personal property is not within the proposed District; and

22 **WHEREAS**, the Petition sets forth, among other things:

23 (a) The name of the proposed District, which is to wit: “RiNo Business Improvement
24 District”;

25 (b) A general description of the service area of the proposed District is described in
26 **Exhibit A** which is attached hereto and incorporated herein. A map of the proposed service area
27 is attached hereto as **Exhibit B**. The boundaries of the District include all properties within the
28 service area perimeter which are classified as commercial property as defined in the Business
29 Improvement District Act, Section 31-25-1203(2), C.R.S., all of which is located in the City and
30 consists of approximately four hundred twenty five (425) acres, more or less (the “Service Area”).
31 Such Exhibits are also on file in City Clerk File Nos. 2015-0200-A and No. 2015-0200-B
32 respectively;

1 (c) A general description of the types of services or improvements or both to be provided
2 by the proposed District;

3 (d) The names of three persons to represent the petitioners, who have the power to
4 enter into agreements relating to the organization of the District;

5 (e) A request that City Council appoint the initial members of the Board of Directors of
6 the District pursuant to Section 31-25-1209(1)(b), C.R.S.;

7 (f) A request that City Council consider the District's initial operating plan and
8 preliminary 2016 budget for approval in accordance with Section 31-25-1211, C.R.S.;

9 (h) A request that City Council approve the organization of the District; and
10 **WHEREAS**, City Council has determined that it appears that the allegations of the Petition
11 are true; and

12 **WHEREAS**, City Council has determined that the types of services or improvements to be
13 provided by the proposed District are of the type which best satisfy the purposes of the Act; and

14 **WHEREAS**, the Petition was filed with a cash deposit in such amount determined sufficient
15 to cover all municipal expenses associated with these proceedings in case the organization of the
16 proposed District is not effected; and

17 **WHEREAS**, the Service Area of the proposed District is entirely within the City; and

18 **WHEREAS**, the Service Area of the proposed District is not located within any other existing
19 business improvement district

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

22 **Section 1. Findings.** That upon consideration of a recommendation that an ordinance be
23 enacted creating the RiNo Business Improvement District (the "District"), City Council finds:

24 (a) Petition Filing. That the proposed District was initiated by a Petition filed in the Office
25 of the Clerk and Recorder, Ex Officio Clerk of the City and County of Denver, on the 11th day of
26 May, 2015, File No. 2015-0200, that the Petition was sufficient, that the allegations in the Petition
27 are true, that such Petition was determined to be in due and regular form and properly executed,
28 and that appropriate organizational fees have been paid by Petitioner;

29 (b) Public Hearing Set. That City Council has heretofore fixed a place and time for a
30 hearing on the Petition, which hearing has been scheduled for Monday, June 1, 2015 at 5:30 p.m.,
31 in the City Council Chambers, Room 450 of the City and County Building, 1437 Bannock Street,
32 Denver, Colorado;

1 (c) Notice of Hearing. That notice of such hearing has been duly published and the
2 proponents of the District have mailed notice of such hearing to each property owner within the
3 boundaries of the proposed District, as required by Section 31-25-1206, C.R.S;

4 (d) Operating Plan and Budget. That the 2016 Operating Plan and Budget (the “Initial
5 Operating Plan”), which document includes the District’s 2016 budget, has been filed in the Office
6 of the Clerk and Recorder, Ex Officio Clerk of the City and County of Denver, on the 13th day of
7 May, 2015, Filing No. 2015-0200-C, and the same, as amended, has been reviewed and approved
8 by the Manager of Finance and the Manager of Public Works;

9 (e) Necessity, No Overlap. That the proposed District is lawful and necessary, should be
10 created and established, and that the proposed District does not include territory that is within any
11 other business improvement district.

12 **Section 2. Creation of District.** The RiNo Business Improvement District is hereby
13 created, organized, and established for the purposes and shall have the powers set forth in the
14 Act, except as otherwise modified in this Ordinance. All services and improvements provided by
15 the District shall be undertaken in accordance with the Act and the Initial Operating Plan, as the
16 same may be amended from time to time. Any amendments to this Ordinance shall be approved
17 by City Council.

18 **Section 3. Service Area and Boundaries.**

19 (a) Service Area. The Service Area boundaries of the District are set forth in **Exhibit A**
20 and depicted in **Exhibit B**, which exhibits are attached hereto and incorporated herein by
21 reference. The District is located entirely within the City and County of Denver and a general
22 description of the Service Area is: Beginning at the southern right-of-way boundary of Interstate 70
23 at its intersection with the right-of-way of the Burlington Northern Railroad in Section 23, T3S,
24 R68W of the 6th P.M. in Denver; thence east along the Interstate 70 right of way boundary to the
25 western right-of-way boundary of the Union Pacific Railroad Tracks; to the northern right-of-way
26 boundary of 40th Street; straight across the Union Pacific Railroad right-of-way to its intersection
27 with the northern right-of-way boundary of East 40th Avenue; to the eastern right-of-way boundary
28 of Williams Street; to the southern right-of-way boundary of East 39th Avenue; to the western right-
29 of-way boundary of Franklin Street; south to the eastern right-of-way boundary of Lafayette
30 Street; to the southern right-of-way boundary of 38th Street; to the eastern right-of-way boundary of
31 Walnut Street; to the eastern right-of-way boundary of Downing Street; to the eastern right of way
32 boundary of the alley between Larimer Street and Lawrence Street; extended to the western right-

1 of-way boundary of Broadway Street; to the northern right-of-way boundary of the Union Pacific
2 Railroad; to the northern right-of-way boundary of Wewatta Way; to the western right-of-way
3 boundary of Denargo Street/Delgany Street; south along said right-of-way line to its intersection
4 with the eastern right-of-way boundary of the Burlington Northern right-of-way north; and northeast
5 following the right-of-way to its intersection with the southern right-of-way boundary of Interstate
6 70. The area generally described as:, consisting of approximately four hundred twenty-five (425)
7 acres.

8 (b) Boundaries. The boundaries of the proposed District shall consist of all “commercial
9 property” now or hereafter located within the Service Area, as that term is defined at Section 31-25-
10 1203(2), C.R.S., but specifically excluding all taxable personal property. As set forth in the Initial
11 Operating Plan, the District may provide services and improvements inside and outside of the
12 Service Area.

13 **Section 4. Future Inclusions and Exclusions**. Inclusion and exclusion of property into
14 or from the District shall be completed as provided in the Act. Property located within the Service
15 Area of the District, as shown in Exhibit B attached hereto, that satisfies the definition of
16 “commercial property” set forth at Section 31-25-1203(2), C.R.S., but specifically excluding taxable
17 personal property, shall automatically be included within the District’s boundaries as provided in
18 the Act and shall have all rights and obligations of other commercial property located within the
19 District on and after January 1 of the year following said change.

20 **Section 5. Legal Classification, Name**. The District shall be a quasi-municipal
21 corporation and political subdivision of the State of Colorado with all powers and responsibilities
22 thereof. The District shall hereafter have the corporate name specified in the Petition: RiNo
23 Business Improvement District.

24 **Section 6. Directors Appointed**. Pursuant to Section 31-25-1209(1)(b), C.R.S., the
25 Board of Directors of the District (the “Board”) shall consist of nine (9) electors of the District,
26 appointed by the Mayor and confirmed by City Council resolution. Each member of the Board shall
27 be an elector of the District, as that term is defined at Section 31-25-1203(4)(a), C.R.S. The initial
28 members of the Board are hereby appointed and confirmed and shall take office upon qualification:

- 29 (a) Tracy Weil
- 30 (b) Andrew Feinstein
- 31 (c) Justin Croft
- 32 (d) Bryan Slekes

- 1 (e) Sonia Danielson
- 2 (f) Michael Mancarella
- 3 (g) Tai Beldock
- 4 (h) Ari Stutz
- 5 (i) Josh Fine

6 The terms of office will be staggered by the Board at its initial meeting to encourage
7 continuity in BID governance. Three (3) Board members shall have an initial term of one (1) year.
8 Three (3) Board members shall have an initial term of two (2) years, and three (3) Board members
9 shall have an initial term of three (3) years. The length of the term is three (3) years and the
10 consecutive term limit will be two (2) terms. After a member has fulfilled this term, they may not be
11 a member of the RiNo BID governing body for three (3) years before being reappointed.

12 The BID and the City shall inform each other of any Board vacancy that comes to its
13 attention. Appointment to the BID Board in future years will occur as follows:

14 The BID Board will promptly provide posted notice of a public hearing, hold a public hearing,
15 and thereafter provide the City with one or more recommended nominees to fill the vacancy, taking
16 into account the qualifications thereof, the desired diversity of the Board, and the nominee's
17 willingness to serve.

18 The City shall review the recommendation and may require additional information from the
19 Board or the nominee, shall take action as required to fill the vacancy, and inform the Board of the
20 appointment.

21 **Section 7. Board Operations.** In accordance with Section 31-25-1209(1)(b), C.R.S.,
22 members of the Board shall serve at the pleasure of the Mayor. Meetings of the Board shall be
23 subject to the Colorado Open Meetings Law. Five (5) Directors constitute a quorum and an
24 affirmative vote of the quorum is required for District action. Officers of the District shall include a
25 President, Secretary, and Treasurer and such other officers as the Board may appoint. The
26 Directors shall elect the District's officers. Within thirty (30) days after a vacancy occurs or as
27 otherwise provided by law, a successor shall be appointed by the Mayor and confirmed by
28 resolution of City Council.

29 **Section 8. Vacancies.** Within thirty (30) days of the effective date of this Ordinance, or
30 within thirty (30) days of each subsequent appointment to the Board by the City Council by
31 resolution, each member of the Board shall appear before an officer authorized to administer oaths
32 and take an oath that he or she will faithfully perform the duties of his or her office as required by

1 law and will support the constitution of the United States, the constitution of the State of Colorado,
2 and laws made pursuant thereto. The Board shall carry out the responsibilities required of such
3 Board by the Act and other applicable law.

4 **Section 9. Operating Plan and Budget.** The Initial Operating Plan, including the
5 District's preliminary 2016 budget, as filed with the City Clerk in City Clerk's Filing No. 2015-0200-
6 C is hereby approved. The Board will formally adopt the District's 2016 budget following the
7 effective date of this Ordinance, in compliance with the Colorado Local Government Budget Law.
8 Once formally adopted by the Board, a copy of the District's 2016 budget will be provided to the
9 Managers of Public Works and Finance. The budgets for 2017 and subsequent years shall be
10 incorporated into the District's annual Operating Plan submitted to Denver for review and approval
11 on or before September 30th of each year (commencing with September 30, 2016), as required by
12 Section 31-25-1211, C.R.S. The District is authorized to proceed with an election on November 3,
13 2015 for any purpose authorized by the Act. The District shall have the power to levy taxes and
14 issue debt, subject to the limits and restrictions on the same as set forth in its Operating Plan and
15 electoral approval.

16 **Section 10. No Business Personal Property.** The District shall not have the power to
17 levy ad valorem taxes against business personal property. No business personal property shall be
18 deemed to be within the boundaries of the District.

19 **Section 11. Election.** No tax shall be certified by the District unless such tax is approved
20 in an election in substantial compliance with Art. X, Sec. 20 of the State Constitution.

21 **Section 12. Financial Powers, City Fees.** The District shall have the power to levy
22 property taxes; fix, and from time to time increase or decrease rates, tolls, special assessments,
23 and charges; accept grants, gifts and other revenue allowed by the Act; and issue debt, subject to
24 the limits and restrictions on the same as set forth in its Operating Plan and electoral approval.
25 The District shall pay an annual fee as set forth in City policy and rules and regulations as they
26 currently exist, and as they may be adopted and amended from time to time, as determined by the
27 City's Manager of Finance and/or Manager of Public Works, unless waived by the City's Manager
28 of Finance.

29 **Section 13. Ratification of Past Actions.** The actions of the City Clerk, petitioner, and the
30 Designated Election Official in setting and providing public notice of the public hearing on the
31 sufficiency of the Petition, in acceptance of written designations of electors pursuant to §31-25-

1 1203(4)(a(IV), C.R.S., and in the November 3, 2015 election and in furtherance hereof are hereby
2 ratified and confirmed. .

3 **Section 14. Headers.** The headings on each Section hereof are for convenience of
4 reference only and shall not be deemed to expand or limit the scope of any Section.

5 **Section 15. Recordation.** This ordinance shall be recorded among the records of the
6 Clerk and Recorder of the City and County of Denver, State of Colorado by the City Clerk.

7 **Section 16. Ten Year Renewal.** The Board will provide notice and conduct a public
8 hearing during the ninth year of the District’s existence to obtain property owner comments on the
9 District’s effectiveness and success. If the District is deemed successful, the Board will request
10 that the City Council renew the District by giving public notice, holding a hearing, and adopting an
11 ordinance prior to the end of the ten-year initial term. If the District is not considered to be
12 successful, it will sunset at the end of the initial term and terminate after it has wound up its affairs.
13 This process will repeat every ten (10) years.

14 COMMITTEE APPROVAL DATE: May 12, 2015

15 MAYOR-COUNCIL DATE: N/A

16 PASSED BY THE COUNCIL _____ 2015
17 _____ - PRESIDENT

18 APPROVED: _____ - MAYOR _____ 2015

19 ATTEST: _____ - CLERK AND RECORDER,
20 EX-OFFICIO CLERK OF THE
21 CITY AND COUNTY OF DENVER
22

23 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2015; _____ 2015

24 PREPARED BY: Norman F. Kron, Spencer Fane Britt & Browne, LLP DATE: May 14, 2015

25 REVIEWED BY: Jo Ann Weinstein, Assistant City Attorney DATE: May 14, 2015

26
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
32 D. Scott Martinez, City Attorney

33
34 BY: _____, Assistant City Attorney DATE: _____, 2015

35

EXHIBIT A

Description of Service Area boundaries of RiNo Business Improvement District

A parcel of land lying in Sections 22, 23, 26, and 27, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at a point on the southerly right-of-way of I-70 at its intersection with the southeasterly property line of the Burlington Northern railroad, said point lying approximately 600 feet east of the South Platte River;

Thence easterly, with the southerly right-of-way of I-70, to its intersection with the northwesterly property line of the Union Pacific railroad;

Thence southwesterly, with the northwesterly property line of the Union Pacific railroad, to its intersection with the northeasterly right-of-way of vacated 40th Street, said right-of-way vacated by Ordinance 187 Series of 1925;

Thence southeasterly, crossing the Union Pacific railroad property to the northerly right-of-way of 40th Avenue at its intersection with the northwesterly right-of-way of Blake Street;

Thence easterly, with the northerly right-of-way of 40th Avenue, to its intersection with the centerline of Williams Street projected northerly;

Thence southerly, with the centerline of Williams Street, to its intersection with the centerline of 39th Avenue;

Thence westerly, with the centerline of 39th Avenue, to its intersection with the centerline of Franklin Street;

Thence southerly, with the centerline of Franklin Street, to its intersection with the centerline of Lafayette Street;

Thence westerly and southwesterly, with the centerline of Lafayette Street, to its intersection with the northeasterly property line of St. Charles Place Park;

Thence northwesterly, southwesterly, and northwesterly, with the property lines of St. Charles Place Park, to the northernmost corner said park, and the rights-of-way of Walnut Street and Marion Street;

Thence northwesterly, on a projection of the last line, to its intersection with the centerline of Walnut Street;

Thence southwesterly, with the centerline of Walnut Street, to its intersection with the centerline of Downing Street;

[continued]

Thence southerly, with the centerline of Downing Street, to its intersection with the centerline, projected northeasterly, of the alley lying between Larimer Street and Lawrence Street; Thence southwesterly, with said alley centerline, to its projected intersection with the centerline of Broadway Street;

Thence northerly, with the centerline of Broadway Street, to its intersection with the northwesterly property line of the Union Pacific railroad;

Thence southwesterly and westerly, with the northwesterly and northerly property line of the Union Pacific railroad, to its intersection with the northwesterly right-of-way of Delgany Street;

Thence southwesterly, with the northwesterly right-of-way of Delgany Street, to its intersection with the easterly property line of the Burlington Northern railroad;

Thence northerly and northeasterly, with the easterly and southeasterly property lines of the Burlington Northern railroad, to the point of beginning.

EXHIBIT B

Map of Service Area of RiNo Business Improvement District

