

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2017

COUNCIL BILL NO. CB17-0883
COMMITTEE OF REFERENCE:

Business, Arts, Workforce & Aeronautical Services

A BILL

For an ordinance creating and establishing the Denver Tourism Improvement District, appointing the initial members of the Board of Directors of the District, and approving the Initial Plan and preliminary 2018 budget therefore.

WHEREAS, the Manager of Finance of the City and County of Denver, Colorado (the “Manager”), has received a petition for the creation of the Denver Tourism Improvement District within the boundaries of the City (the “District”); and

WHEREAS, based upon the petition for creation (the “Petition”) and other evidence presented to the Manager, the Petition has been signed in conformity with Chapter 20, Article XIII (the “TID Ordinance”) of the Denver Revised Municipal Code which enables the creation of tourism improvement districts, the signatures on the Petition are genuine, and the signatures of parties thereon are those of Authorized Managers authorized to sign for entities operating Lodging Businesses, as those terms are defined in the TID Ordinance, and such signatures represent approximately fifty percent (50%) of the Lodging Businesses to be included within the District, thus exceeding the minimum requirement of thirty percent (30%) set forth in the TID Ordinance; and

WHEREAS, the Petition sets forth, among other things:

(a) A description of the proposed boundaries of the District, which boundaries are coterminous with the boundaries of the City and County of Denver (the “City”) and shall include all Lodging Businesses in the City;

(b) A listing and description of the total number of Lodging Businesses to be included within the District, the street address of each such Lodging Business, and the tax account number maintained with the City’s Department of Finance;

(c) A general description of the types of services and improvements to be provided by the proposed District;

(d) The proposed taxes the District will levy if approved by a majority of District Electors that vote;

1 (e) The proposed composition of the District’s Board, including the number of Directors,
2 and a request that City Council confirm the appointment of the initial members of the Board of
3 Directors of the District pursuant to Sec. 20-415 of the TID Ordinance;

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

6 (g) An Initial Plan, including all information required by Sec. 20-409 of the TID Ordinance;

7 (f) A request that City Council consider the District’s Initial Plan and preliminary 2018
8 budget for approval in accordance with Sec. 20-417 of the TID Ordinance;

9 (h) A request that City Council approve the creation and 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 and improvements to be
13 provided by the proposed District are of the type which best satisfy the purposes of the TID
14 Ordinance; and

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

18 **WHEREAS**, the boundary of the proposed District is entirely within the City; and

19 **WHEREAS**, the proposed District is not located within any other existing tourism improvement
20 district; and

21 **WHEREAS**, all terms capitalized in this ordinance shall have the meanings set forth in the
22 TID Ordinance unless otherwise set forth herein.

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

25 **Section 1. Findings.** That upon consideration of a recommendation that an ordinance be
26 enacted creating the Denver Tourism Improvement District, City Council finds:

27 (a) Petition Filing. That the proposed District was initiated by a Petition filed in the Office
28 of the Manager of Finance for the City on the 17th day of July, 2017. The Petition was subsequently
29 filed in the office of the Clerk and Recorder, Ex Officio Clerk of the City and County of Denver, on
30 July 19, 2017 at File No. 2017-0346, that the Petition was sufficient, that the allegations in the Petition
31 are true, that such Petition was determined to be in due and regular form and properly executed,
32 and that appropriate organizational fees have been paid by the petitioner;

1 (b) Public Hearing Set. That City Council has heretofore fixed a place and time for a
2 hearing on the Petition, which hearing has been scheduled for Monday, August 28, 2017 at 5:30
3 p.m., in the City Council Chambers, Room 450 of the City and County Building, 1437 Bannock Street,
4 Denver, Colorado;

5 (c) Notice of Hearing. That notice of such hearing has been duly published and the
6 proponents of the District have mailed notice of such hearing to each Elector within the boundaries
7 of the proposed District, as required by Sec. 20-412 of the TID Ordinance;

8 (d) Initial Plan and Budget. That the 2018 Annual Plan and Budget (the “Initial Plan”),
9 which document includes the District’s 2018 budget, has been filed in the Office of the Manager of
10 Finance and the office of the Clerk and Recorder, Ex Officio Clerk of the City and County of Denver,
11 on July 19, 2017 at File No. 2017-0346, and the same, as amended, has been reviewed and
12 approved by the Manager. The contents of the Initial Plan, cited as Exhibit C in the Petition, are
13 hereby referenced in this ordinance as required by Sec. 20-414 (4) of the TID Ordinance;

14 (e) Necessity, No Overlap. That the proposed District is lawful and necessary, should be
15 created and established, and that the proposed District does not include territory that is within any
16 other tourism improvement district.

17 **Section 2. Creation of District.** The Denver Tourism Improvement District is hereby
18 created, organized, and established for the purposes and shall have the powers set forth in the TID
19 Ordinance, except as otherwise modified in this ordinance. All services and improvements provided
20 by the District shall be undertaken in accordance with the TID Ordinance and the District’s Initial
21 Plan, as the same may be amended from time to time. Any amendments to this ordinance shall be
22 approved by City Council.

23 **Section 3. District Boundaries.** The boundaries of the proposed District shall be
24 coterminous with the City’s boundaries and shall include all Lodging Businesses now or hereafter
25 located within the City’s boundaries. As set forth in the Initial Plan, the District may provide services
26 and improvements inside and outside of the District boundaries.

27 **Section 4. Future Inclusions and Exclusions.** Inclusion and exclusion of Lodging
28 Businesses into or from the District shall be completed as provided in Sec. 20-411 of the TID
29 Ordinance. As provided in the Petition, every Lodging Business within the City, as defined in the
30 TID Ordinance, shall automatically be included within the District’s boundaries when such Lodging
31 Business is obligated to remit Lodger’s Tax to the City. This provision shall apply to new Lodging
32 establishments as well as Lodging establishments that, by change of circumstances, qualify as a

1 Lodging Business under the TID Ordinance. Conversely, any Lodging establishment that, by change
2 of circumstances, no longer qualifies as a Lodging Business under the TID Ordinance shall be
3 automatically excluded from the District.

4 Upon commencement of such Lodging Business's obligation to remit Lodger's Tax or
5 qualification as a Lodging Business under the TID Ordinance, the Lodging Business shall have all
6 rights and obligations of other Lodging Businesses located within the District.

7 **Section 5. Legal Classification, Name.** The District shall be a body corporate and politic,
8 and a "district" within the meaning of Art. X. Sec. 20(2)(b) of the Colorado Constitution, a unit of local
9 government distinct and separate from the City itself. The District shall hereafter have the corporate
10 name specified in the Petition: Denver Tourism Improvement District.

11 **Section 6. Directors Appointed.** In accordance with Sec. 20-415 (a) of the TID Ordinance,
12 the Board of Directors of the District (the "Board") shall consist of seven (7) Electors of the District,
13 as that term is defined in Sec. 20-404 (11) of the TID Ordinance, appointed by the Mayor and
14 confirmed by City Council resolution. The initial members of the Board are hereby appointed and
15 confirmed, for the terms set forth next to their names, and shall take office upon qualification:

- 16 (a) Tom Curley One year
- 17 (b) Bill Ninivaggi One year
- 18 (c) Navin Dimond Two years
- 19 (d) Allen Paty Two years
- 20 (e) Greg Leonard Three years
- 21 (f) Walter Isenberg Three years
- 22 (g) Paul Eckert Three years

23 The terms of office are staggered to encourage continuity in governance. The length of the
24 term is three (3) years and the consecutive term limit will be two (2) three (3) year terms. In the
25 event director appointments are made in the middle of such terms, the newly appointed Director
26 shall serve until the end of the term that he or she was appointed to fill. After a Director has served
27 two (2) consecutive three (3) year terms, they may not be a Director for three (3) years before being
28 reappointed. The District and the City shall inform each other of any Board vacancy that comes to
29 its attention.

30 Two (2) Directors shall be nominated by the Mayor, two (2) shall be nominated by VISIT
31 DENVER, and three (3) shall be nominated by the Colorado Hotel & Lodging Association's Metro

1 Denver Lodging Council. The Mayor shall review each Board nominee. If satisfied with a nominee,
2 the Mayor shall appoint the nominee to the District Board, subject to City Council confirmation.

3 The Chief Executive Officer of VISIT DENVER shall serve as an ex officio nonvoting member
4 of the Board of Directors.

5 **Section 7. Board Operations.** In accordance with Sec. 20-415 (b), members of the Board
6 shall serve at the pleasure of the Mayor. Meetings of the Board shall be subject to Denver Revised
7 Municipal Code Sec. 2-31 *et seq.* Four (4) Directors constitute a quorum and an affirmative vote of
8 the quorum is required for District action. Officers of the District shall include a President, Secretary,
9 and Treasurer and such other officers as the Board may appoint. The Directors shall elect the
10 District's officers. Within thirty (30) days after a vacancy occurs or as otherwise provided by law, a
11 successor shall be appointed by the Mayor and confirmed by resolution of City Council.

12 **Section 8. Oath.** Within thirty (30) days of the effective date of this ordinance, or within
13 thirty (30) days of each subsequent appointment to the Board by the City Council by resolution, each
14 member of the Board shall appear before an officer authorized to administer oaths and take an oath
15 that he or she will faithfully perform the duties of his or her office as required by law and will support
16 the constitution of the United States, the constitution of the State of Colorado, and laws made
17 pursuant thereto. The Board shall carry out the responsibilities required of such Board by the TID
18 Ordinance and other applicable law.

19 **Section 9. Operating Plan and Budget.** The Initial Plan, including the District's
20 preliminary 2018 budget, as filed with the City Clerk in City Clerk's Filing No. 2017-0346 is hereby
21 approved. The Board will formally adopt the District's 2018 budget following the effective date of
22 this ordinance, in compliance with the Colorado Local Government Budget Law. Once formally
23 adopted by the Board, a copy of the District's 2018 budget will be provided to the Manager. The
24 budgets for 2019 and subsequent years shall be incorporated into the District's Annual Plan
25 submitted to Denver for review and approval on or before September 30th of each year (commencing
26 with September 30, 2017), as required by Sec. 20-417 of the TID Ordinance. The District shall hold
27 its required public hearing on its Annual Plan no later than September 1st of each year.

28 **Section 10. Election.** The District is authorized to proceed with an election on November
29 7, 2017 for any purpose authorized by the TID Ordinance. No tax shall be certified by the District
30 unless such tax is approved in an election in substantial compliance with Art. X, Sec. 20 of the
31 Colorado Constitution.

1 **Section 11. Financial Powers, City Fees.** Subject to the approval of the Electors of the
2 District, commencing January 1, 2018, the District shall have the power to levy a tax on the purchase
3 of Lodging at the rate of one percent (1%) to be levied, collected, enforced, and generally
4 administered in the same manner and fashion as City Lodger’s Tax, provided for in Article IV of
5 Chapter 53 of the Denver Revised Municipal Code, including, but not limited to, penalties, interest,
6 and liens for non-payment of the tax; the District shall not have the power to levy any other tax, fees,
7 or assessments. The District’s power to levy a tax on the purchase of Lodging shall not exceed a
8 total of thirty (30) years, which may be non-consecutive. The District shall have the power to enter
9 into a contractual multiple-fiscal year financial obligation with the City, within the meaning of Article
10 X, Section 20(4)(b) of the Colorado Constitution, whereby the District pledges all revenue derived
11 from the District’s tax to the City in order to fund Tourism Improvements and Services; the District
12 shall not have the power to incur any other multiple-fiscal year obligation.

13 The District shall pay a fee, as determined by the Manager, or as set forth in an
14 intergovernmental agreement between the District and the City.

15 **Section 12. Tax Revenue Collection and Disbursement Procedures.** The District shall
16 contract with the City for the collection, enforcement, and disbursement of any tax revenues owed
17 to the District. The details of such collection, enforcement, and disbursement process shall be
18 outlined in an intergovernmental agreement between the City and the District.

19 **Section 13. Successor Organizations.** In the event that VISIT DENVER or the Colorado
20 Hotel & Lodging Association’s Metro Denver Lodging Council cease to exist, their respective duties
21 related to the District shall be filled by their successor organizations—in the case of VISIT DENVER,
22 by the organization acting as the City’s official tourism marketing arm, and in the case of the Colorado
23 Hotel & Lodging Association’s Metro Denver Lodging Council, by the successor organization
24 approved by the Board.

25 **Section 14. Ratification of Past Actions.** The actions of the City Clerk, the petitioner, and
26 the Manager in setting and providing public notice of the public hearing on the sufficiency of the
27 Petition, in acceptance of written affirmations of Electors pursuant to Sec. 20-404 (11) and Sec. 20-
28 408 of the TID Ordinance, are hereby ratified and confirmed.

29 **Section 15. Headers.** The headings on each Section hereof are for convenience of
30 reference only and shall not be deemed to expand or limit the scope of any Section.

31 **Section 16. Recordation.** This ordinance shall be recorded among the records of the Clerk
32 and Recorder of the City and County of Denver, State of Colorado by the City Clerk.

