

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO. 21-0864
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at a special municipal election to be held on Tuesday, November 2, 2021, the question of whether the City shall be authorized to issue or incur general obligation debt for the purpose of financing and/or refinancing the cost of repairs and improvements to the Denver Facilities System; 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 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**, Article X, Section 20 of the Constitution ("TABOR") requires voter approval for the creation of any debt, imposition of any new tax, tax rate increase, mill levy above that for the prior year, extension of an expiring tax, and for collecting, retaining and expending certain moneys above limits established by TABOR; and

(4) **WHEREAS**, Section 7.5.1 of the Charter provides that no general obligation bonds shall be issued until the question of issuing the bonds shall have been submitted to a vote of the qualified and registered electors of the City and a majority of those voting upon the question by ballot shall have voted in favor of issuing such bonds; and

(5) **WHEREAS**, the City Council, after consultation with the Mayor and other appropriate municipal officers, has determined that the question of whether the City shall be authorized to issue or incur general obligation debt, including bonds, notes, loan agreements or other multiple fiscal year financial obligations of the City for the purposes and in the manner set forth in this ordinance should be submitted to the qualified and registered electors of the City at the special municipal election called by this ordinance to be held on November 2, 2021 (the "Election"); and

(6) **WHEREAS**, TABOR also requires the City to submit ballot issues (as defined in TABOR) to the City's electors on limited election days before action can be taken on such ballot issues; and

(7) **WHEREAS**, November 2, 2021, is one of the election dates at which ballot issues may

1 be submitted to the City's qualified and registered electors pursuant to TABOR; and

2 (8) **WHEREAS**, the Denver Clerk and Recorder (the "Clerk") is conducting a coordinated
3 election pursuant to the Uniform Election Code of 1992, being articles 1 through 13 of title 1, C.R.S.
4 (the "Uniform Election Code") on November 2, 2021; and

5 (9) **WHEREAS**, pursuant to Section 8.2.1 of the Charter, Section 15-4 Denver Revised
6 Municipal Code, Section 1-1-102 of the Uniform Election Code, Section 31-10-102.7, C.R.S. of the
7 Municipal Election Code, and this ordinance, the City Council may elect to utilize the provisions of
8 the Uniform Election Code in order to participate in the coordinated election on November 2, 2021;
9 and

10 (10) **WHEREAS**, the City Council hereby determines that it is necessary to submit to the
11 qualified and registered electors of the City, at the coordinated election to be held on November 2,
12 2021, the question of creating an indebtedness in the amounts specified in Section 3 below and the
13 imposition of an ad valorem property tax for the payment of such indebtedness for the purpose of
14 funding certain facilities for the City and its residents and taxpayers (the "Denver Facilities System");
15 and

16 (11) **WHEREAS**, the City Council hereby determines that the Denver Facilities System
17 includes facilities owned and/or operated by the City for the benefit of its residents and taxpayers
18 including without limitation community centers, libraries, and cultural facilities; and

19 (12) **WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of
20 the Election.

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

23 **Section 1.** All action heretofore taken (not inconsistent with the provisions of this
24 ordinance) by the City and the officers thereof, directed towards the election, and the objects and
25 purposes herein stated is hereby ratified, approved and confirmed.

26 **Section 2.** Unless otherwise defined herein, all terms used herein shall have the
27 meanings defined in the Uniform Election Code.

28 **Section 3.** Pursuant to Section 8.2.3 of the Charter, the City Council hereby determines to
29 call a special election to be conducted pursuant to the Uniform Election Code as part of the
30 coordinated election being conducted by the Clerk on November 2, 2021. The City Council hereby
31 determines that at the Election, there shall be submitted to the qualified and registered electors of
32 the City the following question:
33

Denver Facilities System Bonds

SHALL THE CITY AND COUNTY OF DENVER DEBT BE INCREASED \$104,040,000, WITH A MAXIMUM REPAYMENT COST OF \$179,175,000, WITH NO EXPECTED INCREASE IN THE CITY'S CURRENT RATE OF TAXATION FOR GENERAL OBLIGATION DEBT SERVICE BASED ON THE CITY'S PROJECTED ASSESSED VALUE, THE PROCEEDS THEREOF TO BE USED FOR REPAIRS AND IMPROVEMENTS TO THE DENVER FACILITIES SYSTEM, WHICH MAY INCLUDE BUT ARE NOT LIMITED TO:

- CRITICAL INFRASTRUCTURE IMPROVEMENTS, AND OTHER FACILITY REPAIRS AT DENVER BOTANIC GARDENS, BONFILS THEATER COMPLEX, DENVER MUSEUM OF NATURE AND SCIENCE, AND DENVER ZOO; AND
- PRESERVATION AND RESTORATION OF THE MAY BONFILS STANTON THEATER AT THE HISTORIC LORETTO HEIGHTS CAMPUS FOR USE AS A PERFORMING AND CULTURAL ARTS VENUE; AND
- RENOVATION OF AN EXISTING CITY-OWNED FACILITY INTO A YOUTH EMPOWERMENT CENTER; AND
- CONSTRUCTION OF TWO NEW LIBRARIES AND UPGRADING EXISTING LIBRARIES TO INCLUDE CHILDREN'S LEARNING AREAS, COMMUNITY SPACES, AND TECHNOLOGY LABS; AND
- ACCESSIBILITY IMPROVEMENTS TO DENVER FACILITIES FOR PEOPLE WITH DISABILITIES;

BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS, NOTES, LOAN AGREEMENTS OR OTHER MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS, WHICH SHALL BE ISSUED OR INCURRED IN SUCH MANNER AND CONTAINING SUCH TERMS NOT INCONSISTENT HERewith AS THE CITY MAY DETERMINE (THE EXPENDITURE OF THE PROCEEDS THEREOF TO BE PUBLICLY REPORTED BY THE CITY ON AN ANNUAL BASIS); AND SHALL CITY AD VALOREM PROPERTY TAXES BE INCREASED WITHOUT LIMITATION AS TO RATE BUT BY NOT MORE THAN A MAXIMUM AMOUNT OF \$19,250,000 ANNUALLY IN AMOUNTS SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH FINANCIAL OBLIGATIONS OR TO CREATE A RESERVE FOR SAME; AND SHALL THE CITY BE AUTHORIZED TO ISSUE FINANCIAL OBLIGATIONS TO REFUND OR REFINANCE SUCH FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION, PROVIDED THAT SUCH REFUNDING FINANCIAL OBLIGATIONS WHEN COMBINED WITH

1 OTHER OUTSTANDING FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION DO NOT
2 EXCEED THE MAXIMUM PRINCIPAL LIMITS OR REPAYMENT COSTS AUTHORIZED BY THIS
3 QUESTION?

4 **Section 4.** The Clerk is hereby appointed as the designated election official of the City for
5 purposes of performing acts required or permitted by law in connection with the Election.

6 **Section 5.** The officers and employees of the City are hereby authorized and directed to
7 take all action necessary or appropriate to effectuate the provisions of this ordinance.

8 **Section 6.** If a majority of the votes cast on the question to authorize general obligation
9 indebtedness and the levy of ad valorem property taxes submitted at the Election shall be in favor
10 of incurring general obligation indebtedness and levying ad valorem property taxes as provided in
11 such question, the City, acting through the Mayor and City Council, shall be authorized to proceed
12 with the necessary action to incur general obligation indebtedness and levy ad valorem property
13 taxes in accordance with such question. Any authority to contract general obligation indebtedness
14 or to levy ad valorem property taxes, if conferred by the results of the Election, shall be deemed and
15 considered a continuing authority to contract the general obligation indebtedness and levy the ad
16 valorem taxes so authorized at any one time, or from time to time, and neither the partial exercise of
17 the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the
18 full authority so conferred.

19 **Section 7.** If a majority of the votes cast on the question authorize the incurrence of general
20 obligation indebtedness and levy of an ad valorem property tax as described in the question set forth
21 in Section 3 above, the City intends to issue or incur such general obligation indebtedness in the
22 approximate aggregate principal amount of \$104,040,000 to pay the costs of the certain public
23 improvements described in the election question (the "Project") including the reimbursement of
24 certain costs incurred by the City prior to the execution and delivery of such bonds, upon terms
25 acceptable to the City, as authorized in an ordinance to be hereafter adopted and to take all further
26 action which is necessary or desirable in connection therewith. The officers, employees and agents
27 of the City shall take all action necessary or reasonably required to carry out, give effect to and
28 consummate the transactions contemplated hereby and shall take all action necessary or desirable
29 to finance the Project and to otherwise carry out the transactions contemplated by the ordinance.
30 This ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the
31 meaning of Treasury Regulation § 1.150-2.

32 **Section 8.** Pursuant to Article XX of the State Constitution and the Charter, all State
33 statutes that might otherwise apply in connection with the provisions of this ordinance (including,

1 without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies or
2 conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or
3 conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article
4 XX of the State Constitution and the Charter.

5 **Section 9.** If any section, paragraph, clause or provision of this ordinance shall for any
6 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section,
7 paragraph, clause or provision shall in no manner affect any remaining provisions of this ordinance.

8 **Section 10.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed
9 to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance
10 or part of any ordinance heretofore repealed.

11 COMMITTEE APPROVAL DATE: August 3, 2021

12 MAYOR-COUNCIL DATE: August 10, 2021, by Consent

13 PASSED BY THE COUNCIL: August 23, 2021 _____

14 *Steve Gilmore* - PRESIDENT

15 APPROVED: _____ - MAYOR _____

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

19 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

20 PREPARED BY: Bradley T. Neiman, Assistant City Attorney DATE: August 12, 2021

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

25 Kristin M. Bronson, Denver City Attorney

26 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Aug 12, 2021