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BY AUTHORITY

ORDINANCE NO.
SERIES OF 2019

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:

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 in conjunction with the coordinated election of November 5, 2019, a proposed amendment to the Charter of the City and County of Denver creating the Department of Transportation and Infrastructure

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

Section 1. There is hereby submitted to the properly qualified and registered electors of the City and County of Denver for their approval or rejection at a special municipal election to be conducted at the same time and in conjunction with the coordinated election to be held in the City and County of Denver on November 5, 2019, a proposed amendment to the Charter of the City and County of Denver, as follows:

Effective January 1, 2020 and after publication and filing with the Secretary of State pursuant to the Constitution and laws of the State of Colorado, the following sections of Article IV of the 2002 Charter of the City and County of Denver shall be and are hereby amended to read as follows:

Part 3 of Article II shall be repealed and reenacted to read as follows:

PART 3. – TRANSPORTATION AND INFRASTRUCTURE

§ 2.3.1 - Department of Transportation and Infrastructure created.

There shall be and hereby is created a Department of Transportation and Infrastructure.

§ 2.3.2 – Manager of Transportation and Infrastructure.

The Manager of Transportation and Infrastructure (hereinafter called the "Manager") shall be the officer in full charge and control of the Department and

1 shall devote full time to the duties of the office. The Manager shall be
2 appointed by the Mayor and hold office at the pleasure of the Mayor. The
3 Manager shall be a member of the Mayor's cabinet and shall be a member of
4 the Board of Equalization.

5 **§ 2.3.3 - Powers and duties of Department of Transportation and**
6 **Infrastructure.**
7

8 The following duties and powers are hereby vested in the Department of
9 Transportation and Infrastructure.

10 (A) *General public improvements.* Management and control of the
11 designing, planning, construction, and reconstruction of all general
12 public improvements, including such remodeling thereof as requires
13 designing or structural changes, for the City and County and for all
14 departments, agencies, boards, commissions, and authorities thereof
15 except the Board of Water Commissioners and the Department of
16 Aviation. Such designing, planning, construction, reconstruction, and
17 remodeling may be performed either by the Department, under
18 contracts let by the Department, or with the permission of the
19 Manager and to the extent and in the manner provided by ordinance
20 or resolution of the Council, by any person, firm, or corporation
21 entirely at the expense of the person, firm, or corporation, all subject,
22 however, to the following limitations: No general public improvement
23 shall be designed, planned, constructed, reconstructed, or remodeled
24 without prior approval of the department, agency, board, commission,
25 or authority charged with the operation of such general public
26 improvement; no rights-of-way for streets, alleys, highways, or other
27 thoroughfares shall be established, changed, or vacated and no site
28 for any public purpose shall be accepted until first approved by
29 ordinance or resolution of the Council; the Mayor may assign to
30 another department, agency, board, commission, or authority the
31 designing, planning, construction, reconstruction, or remodeling of a
32 specific general public improvement, or part thereof, in which event
33 the department, agency, board, commission, or authority to which the
34 assignment is made shall be governed and controlled by all
35 limitations and provisions imposed on the Department of
36 Transportation and Infrastructure.

37
38 (i) All construction, reconstruction or remodeling of general
39 public improvements not performed by the Department, or
40 with the permission of the Manager and to the extent and in
41 the manner provided by ordinance or resolution of the
42 Council by a person, firm, or corporation entirely at his or
43 her, their, or its expense, shall be performed under
44 contracts let by the Department without any action of the
45 Council except in the passage of the original ordinance or
46 resolution authorizing the improvements or contracts. All
47 such contracts shall be: (1) let to the lowest, responsive,

1 qualified bidder, or if not let in that manner; (2) let through
2 a competitive selection process. All solicitations for such
3 contracts shall be advertised in an official publication or in
4 some other manner as provided by Charter or ordinance,
5 provided however, that if public advertisement is
6 impracticable, proposals shall be requested from at least
7 three (3) qualified bidders or proposers. The right to reject
8 any or all bids is reserved. No such contract for more than
9 fifty thousand dollars shall be made without a bond for its
10 faithful performance, with sufficient surety or sureties. No
11 other surety than a surety company approved by the
12 Manager and Mayor shall be accepted. Any other mode of
13 letting such contracts shall be illegal and void.

14
15 (ii) The aggregate payments under any such contract shall not
16 exceed the aggregate estimate of the City Engineer or the
17 amounts appropriated. Upon notice and for substantial
18 cause, the work under such contract may be suspended or
19 terminated forthwith by the Mayor or the Manager. Every
20 such contract shall be subject to the provisions of this
21 Charter and the provisions of any ordinance or resolution
22 authorizing the improvements or contracts.

23
24 (iii) In the letting of such contracts, the Department may
25 impose such conditions upon bidders and proposers with
26 regard to bonds and securities and such guarantees of
27 good faith and responsibility on the part of the bidders and
28 proposers for the faithful completion of the work or keeping
29 the same in repair and providing for any other material
30 matter or thing in connection therewith as may be
31 considered "in the best interests of the City and County,"
32 as the same may be defined by ordinance. In the absence
33 of an ordinance, "in the best interests of the City and
34 County" shall be determined by the Manager. The terms
35 "qualified," "responsible" and "responsive," and
36 "competitive selection process" as used in this Section,
37 may also be defined by ordinance or, in the absence of an
38 ordinance, determined by the Manager.

39
40 (iv) Upon default in the performance of any such contract, the
41 Department may advertise and let a contract for the
42 uncompleted work in like manner, without further ordinance
43 or resolution, and charge the cost thereof to the original
44 contractor upon his or her contract; and when a deficiency
45 shall in such case occur, the Manager, with the approval of
46 the mayor, may advance the amount thereof out of any
47 available fund in the City and County and recover the same
48 by suit on the original contract and bond.

49

- 1 (B) *Supervision and management of local public improvement districts.*
2 Supervision and management of all proceedings relating to local public
3 improvement districts.
4
- 5 (C) *Control of public ways, thoroughfares and other public facilities.*
6 Supervision and control of all streets, alleys, highways, thoroughfares,
7 sewers, bridges, viaducts, tunnels, off-street parking and other like
8 structures wherever located, including the supervision of lighting and all
9 facilities for the lighting thereof, to conduct traffic engineering studies of
10 pedestrian and vehicular movements thereon, to mark streets and
11 related structures and to provide, operate and maintain traffic signals
12 and controls.
13
- 14 (D) *Non-motorized transportation facilities.* Supervision and control of all
15 pedestrian facilities, bikeways, non-motorized trails and other like
16 structures, except those that are maintained and operated under the
17 authority of or by agreement with the Department of Parks and
18 Recreation.
19
- 20 (E) *Transportation services.* Planning, design, construction, maintenance
21 and operation of mass transportation systems and other public
22 transportation services, either individually or jointly with the Regional
23 Transportation District or any other public or private entity.
24
- 25 (F) *Safety programs.* Planning, design, construction, maintenance, and
26 operation of programs and public improvements related to enhancing
27 and improving the safety of all users of the right of way, including
28 pedestrians, bicyclists, and motor vehicle operators.
29
- 30 (G) *Surveying functions.* Management and control of all functions assigned
31 by general law to the County Surveyor.
32
- 33 (H) *Custody of documents.* Custody of all plats, maps, records, notes,
34 surveys, papers, files and documents heretofore or hereafter belonging
35 to the Office of the City Engineer, the Office of the County Surveyor and
36 the Department of Improvements and Parks or pertaining to surveys of
37 the City and County; provided, however, that all such documents,
38 including all private memoranda made by the City Engineer or any of his
39 or her assistants relating to surveys or to the City Engineer's data of the
40 City and County, shall remain the property of the City and County and
41 shall be transmitted in their entirety to successors in office.
42
- 43 (I) *Employment of professional and technical personnel.* In the manner and
44 pursuant to terms and conditions fixed by the Mayor and the cabinet, to
45 employ qualified professional or technical personnel for the performance
46 of the duties imposed on or the powers vested in the Department and to
47 employ such professional or technical personnel for any other
48 department, agency, board, commission or authority to which is
49 assigned any duty or power of the Department.

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(J) *Rules and Regulation.* The Council shall provide, by ordinance, for the enforcement of the rules and regulations of the Department.

§2.3.4. Division of Public Works

There shall be and hereby is created within the Department of Transportation and Infrastructure a Division of Public Works. The following duties and powers are hereby vested in the Division of Public Works.

(A) *Operation of certain municipal facilities.* Management, operation, and control of all public utilities belonging to the City and County (except the water works system and plant) and of all facilities owned by the City and County for sewage, trash, garbage, and offal disposal, and management and control of the operation, care, repair, and maintenance of all structures in which and all land on which those facilities are located and operated, except for solid or hazardous waste disposal sites under the management and control of the Manager of Public Health and Environment.

(B) *Collection of sewage, trash, garbage, offal and other offensive substances.* Management and control of the collection, removal and disposition of all sewage, trash, garbage, offal and other offensive substances either by the Department or under contracts let by the Department. For the purposes of this Section, and in the manner and pursuant to terms and conditions fixed by the Mayor and the cabinet and subject to ordinance or resolution approval by the Council, the Department may enter into such contracts as in the judgment of the Manager are to the best interests of the City and County.

(C) *Privately owned sewers.* To permit or not permit private sewers to be constructed or reconstructed and attached to municipal sewers, either temporarily or permanently; provided, however, that no expense shall be incurred by the City and County in constructing, reconstructing or maintaining such private sewers.

(D) Management and control of the designing, planning, construction, and reconstruction of the facilities described in subsection (A) of this section, in accordance with the requirements set forth in section 2.3.3 (A).

(E) Employ qualified professional or technical personnel for the performance of the duties imposed on or the powers vested in the Division by this section in accordance with the requirements set forth in section 2.3.3 (F).

1 Subsection 2.2.10 (A) shall be amended by deleting the language stricken and
2 adding the language underlined, to read as follows:

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§ 2.2.10 - Mayor's cabinet.

6 (A) The Mayor and the cabinet, which shall consist of the Manager of the
7 Department of ~~Public Works~~ Transportation and Infrastructure, the
8 Manager of the Department of Finance, the Manager of the Department
9 of Parks and Recreation, the Manager of the Department of Public
10 Health and Environment, the Manager of the Department of Safety, the
11 Manager of the Department of General Services, the Manager of the
12 Department of Human Services, the Manager of the Department of
13 Aviation, the Manager of the Department of Community Planning and
14 Development, and the City Attorney, shall formulate the general
15 administrative policies of the City and County, and each Manager and
16 Officer in its department, shall be responsible for and have full power to
17 carry out such policies.

18

19 Subsection 2.4.4 (D) shall be amended by deleting the language stricken and
20 adding the language underlined, to read as follows:

21

§ 2.4.4 - Powers and duties of Department of Parks and Recreation.

22 The following duties and powers are hereby vested in the
23 Department of Parks and Recreation.

24
25 (D) *Landscaping of public ways and thoroughfares.* Landscaping and
26 beautification, together with such horticultural maintenance as appears
27 desirable in the public interest, of suitable portions of any public ways,
28 thoroughfares, pleasure driveways and similar facilities as determined by
29 agreement with the Department of ~~Public Works~~ Transportation and
30 Infrastructure.

31
32

33 Section 7.4.6 shall be amended by deleting the language stricken and adding
34 the language underlined, to read as follows:

§ 7.4.6 - Board of Equalization.

35 There is hereby created a Board of Equalization to consist of the
36 President of Council or the President's designee, the Manager of ~~Public~~
37 ~~Works~~ Transportation and Infrastructure or the Manager's designee, the
38 Manager of Finance or the Manager's designee, the Clerk and Recorder
39 or the Clerk and Recorder's designee, and the Manager of General
40 Services or the Manager of General Services' designee, any three of
41

1 whom shall constitute a quorum for the transaction of business, to
2 perform all the duties and functions in reference to the equalization,
3 reduction, abatement and rebate of general taxes required by the
4 constitution and general laws of the State to be performed by County
5 Commissioners, except the levying of the taxes, which shall be levied by
6 the Council.

7

8 Sections 7.6.1 and 7.6.2 shall be amended by deleting the language stricken
9 and adding the language underlined, to read as follows:

10 **§ 7.6.1 - Local public improvement districts.**

11 The City and County shall have the power to contract for and make
12 local public improvements, to assess the cost thereof wholly or in part
13 upon the property especially benefited. Any procedures necessary to
14 implement this power, to the extent not governed by this Charter, shall
15 be established by ordinance. In all cases when the cost of a local public
16 improvement is to be assessed wholly or in part upon the property
17 benefited, the improvement shall be initiated and proposed by filing a
18 petition therefor with the Department of ~~Public Works~~ Transportation and
19 Infrastructure; or the Manager of ~~Public Works~~ Transportation and
20 Infrastructure, without receiving a petition therefor, may initiate and
21 propose such local public improvements. In all cases when the cost of a
22 local public improvement is to be assessed wholly or in part upon the
23 property benefited, the cost shall be assessed in proportion to benefits
24 received, subject to any provision for reduction or waiver of assessments
25 as may be provided by ordinance.

26 **§ 7.6.2 - Local maintenance districts.**

27 The City and County of Denver shall have the power to create local
28 maintenance districts, conferring special benefits upon real property
29 within such districts and general benefits to the City and County at large
30 under provisions as the City and County may by ordinance provide, for
31 the continuing care, operation, security, repair, maintenance and
32 replacement of local public improvements. The City and County shall
33 also have the power to consolidate or dissolve local maintenance
34 districts according to procedures as may be provided by ordinance. In all
35 cases when the costs of the continuing care, operation, security, repair,
36 maintenance and replacement of local public improvements are to be
37 assessed wholly or in part upon the real property benefited, the district
38 therefor shall be initiated and proposed by filing a petition therefor with
39 the Department of ~~Public Works~~ Transportation and Infrastructure; or, in
40 the alternative, the Manager of ~~Public Works~~ Transportation and
41 Infrastructure without receiving a petition therefor may initiate and
42 propose the establishment of such a District. In all cases when the costs

1 of the continuing care, operation, security, repair, maintenance and
2 replacement of local public improvements are to be assessed wholly or
3 in part upon the real property to be benefited, the costs shall be
4 assessed on said real property in proportion to the benefits received,
5 subject to any provision for reduction or waiver of assessments as may
6 be provided by ordinance.

7 Subsection 9.2.1 (B) shall be amended by deleting the language stricken and
8 adding the language underlined, to read as follows:

9 **§ 9.2.1 - Salaries and benefits of certain Charter officers set by**
10 **ordinance.**

11 The annual salaries and benefits of the following officers of the City
12 and County of Denver shall be set by ordinance as hereinafter provided:

13 (B) *Appointed Charter officers.* Manager of the Department of Public Health
14 and Environment; Manager of the Department of ~~Public Works~~
15 Transportation and Infrastructure; City Attorney; Manager of the
16 Department of Safety; Manager of the Department of Finance; Manager
17 of the Department of Parks and Recreation; Manager of the Department
18 of General Services; Manager of the Department of Human Services;
19 Manager of the Department of Aviation; Manager of the Department of
20 Community Planning and Development; Director of Excise and Licenses.

21
22 **Section 2.** The voting machines and paper ballot for said election shall carry the
23 following designation, which shall be the title and submission clause:

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27 **REFERRED QUESTION _____**

28
29 Shall the Charter of the City and County of Denver be amended to create the
30 Department of Transportation and Infrastructure, to require the department to
31 perform the powers and duties formerly performed by the Department of
32 Public Works, and to assign to the department new powers and duties in
33 regard to transportation services, transportation safety programs, and non-
34 motorized transportation facilities?

35
36
37 **Section 3.** Each elector voting at the election and wishing to vote for or against
38 the amendment shall indicate the elector’s choice by depressing the appropriate counter

1 of the voting machine which indicates the word "YES" or the word "NO", or by
2 appropriate marking upon paper ballots when used.

3 **Section 4.** The proper officials of the City and County of Denver as are charged
4 with duties relating to the election shall, before the election, issue such calls, make such
5 certifications and publications, give such notices, make such appointments, and do all
6 such other acts and things in connection with the submission of this Charter amendment
7 to the registered electors of the City and County of Denver at the election as are
8 required by the Constitution and laws of the State of Colorado and the Charter and
9 ordinances of the City and County of Denver.

10 **Section 5.** The ballots cast at such election shall be canvassed and the results
11 ascertained, determined, and certified in accordance with the requirements of the
12 Constitution and laws of the State of Colorado and the Charter and ordinances of the
13 City and County of Denver.

14 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is
15 held to be invalid or unenforceable for any reason, the validity of the remaining portions
16 of this ordinance shall not be affected.

17
18 COMMITTEE APPROVAL DATE: _____, 2019.

19 MAYOR-COUNCIL DATE: _____, 2019.
20 PASSED BY THE COUNCIL: _____ 2019

21 _____ - PRESIDENT
22 APPROVED: _____ - MAYOR _____ 2019

23 ATTEST: _____ - CLERK AND RECORDER,
24 EX-OFFICIO CLERK OF THE
25 CITY AND COUNTY OF DENVER
26

27 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2019;
28 _____ 2019

30 PREPARED BY: _____; DATE: _____

31
32 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the
33 office of the City Attorney. We find no irregularity as to form, and have no legal objection to
34 the proposed ordinance. The proposed ordinance **is not** submitted to the City Council for
35 approval pursuant to § 3.2.6 of the Charter.

1

2 City Attorney

3 BY: _____, _____ City Attorney

4 DATE: _____

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