

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO.21-0867
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 parks and recreation 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; and

14 (11) **WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of
15 the Election.

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

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

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

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

28 Denver Parks and Recreation System Bonds

29 SHALL THE CITY AND COUNTY OF DENVER DEBT BE INCREASED \$54,070,000, WITH A
30 MAXIMUM REPAYMENT COST OF \$93,118,000, WITH NO EXPECTED INCREASE IN THE
31 CITY'S CURRENT RATE OF TAXATION FOR GENERAL OBLIGATION DEBT SERVICE BASED
32 ON THE CITY'S PROJECTED ASSESSED VALUE, THE PROCEEDS THEREOF TO BE USED
33 FOR REPAIRS AND IMPROVEMENTS TO THE DENVER PARKS AND RECREATION SYSTEM,

1 WHICH MAY INCLUDE BUT ARE NOT LIMITED TO:

- 2 • DEVELOPMENT AND CONSTRUCTION OF TWO NEW PARKS IN NORTHEAST DENVER
3 AND SOUTH DENVER, RESPECTIVELY; AND
- 4 • IMPROVEMENTS AT PARKS INCLUDING REPLACING PLAYGROUND AND
5 RECREATION EQUIPMENT, REPLACING AND RESTORING ATHLETIC FIELDS AND
6 COURTS; AND
- 7 • CRITICAL INFRASTRUCTURE IMPROVEMENTS, INCLUDING RENOVATING AND
8 BUILDING RESTROOMS, AND REBUILDING THE SWIMMING POOL AT MESTIZO-
9 CURTIS PARK;

10 BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS, NOTES, LOAN
11 AGREEMENTS OR OTHER MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS, WHICH
12 SHALL BE ISSUED OR INCURRED IN SUCH MANNER AND CONTAINING SUCH TERMS
13 NOT INCONSISTENT HEREWITH AS THE CITY MAY DETERMINE (THE EXPENDITURE OF
14 THE PROCEEDS THEREOF TO BE PUBLICLY REPORTED BY THE CITY ON AN ANNUAL
15 BASIS); AND SHALL CITY AD VALOREM PROPERTY TAXES BE INCREASED WITHOUT
16 LIMITATION AS TO RATE BUT BY NOT MORE THAN A MAXIMUM AMOUNT OF
17 \$10,005,000 ANNUALLY IN AMOUNTS SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM,
18 IF ANY, AND INTEREST ON SUCH FINANCIAL OBLIGATIONS OR TO CREATE A RESERVE
19 FOR SAME; AND SHALL THE CITY BE AUTHORIZED TO ISSUE FINANCIAL OBLIGATIONS TO
20 REFUND OR REFINANCE SUCH FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION,
21 PROVIDED THAT SUCH REFUNDING FINANCIAL OBLIGATIONS WHEN COMBINED WITH
22 OTHER OUTSTANDING FINANCIAL OBLIGATIONS AUTHORIZED IN THIS QUESTION DO NOT
23 EXCEED THE MAXIMUM PRINCIPAL LIMITS OR REPAYMENT COSTS AUTHORIZED BY THIS
24 QUESTION?

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

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

29 **Section 6.** If a majority of the votes cast on the question to authorize general obligation
30 indebtedness and the levy of ad valorem property taxes submitted at the Election shall be in favor
31 of incurring general obligation indebtedness and levying ad valorem property taxes as provided in
32 such question, the City, acting through the Mayor and City Council, shall be authorized to proceed

1 with the necessary action to incur general obligation indebtedness and levy ad valorem property
2 taxes in accordance with such question. Any authority to contract general obligation indebtedness
3 or to levy ad valorem property taxes, if conferred by the results of the Election, shall be deemed and
4 considered a continuing authority to contract the general obligation indebtedness and levy the ad
5 valorem taxes so authorized at any one time, or from time to time, and neither the partial exercise of
6 the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the
7 full authority so conferred.

8 **Section 7.** If a majority of the votes cast on the question authorize the incurrence of general
9 obligation indebtedness and levy of an ad valorem property tax as described in the question set forth
10 in Section 3 above, the City intends to issue or incur such general obligation indebtedness in the
11 approximate aggregate principal amount of \$54,070,000 to pay the costs of the certain public
12 improvements described in the election question (the "Project") including the reimbursement of
13 certain costs incurred by the City prior to the execution and delivery of such bonds, upon terms
14 acceptable to the City, as authorized in an ordinance to be hereafter adopted and to take all further
15 action which is necessary or desirable in connection therewith. The officers, employees and agents
16 of the City shall take all action necessary or reasonably required to carry out, give effect to and
17 consummate the transactions contemplated hereby and shall take all action necessary or desirable
18 to finance the Project and to otherwise carry out the transactions contemplated by the ordinance.
19 This ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the
20 meaning of Treasury Regulation § 1.150-2.

21 **Section 8.** Pursuant to Article XX of the State Constitution and the Charter, all State
22 statutes that might otherwise apply in connection with the provisions of this ordinance (including,
23 without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies or
24 conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or
25 conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article
26 XX of the State Constitution and the Charter.

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

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

1 COMMITTEE APPROVAL DATE: August 3, 2021
2 MAYOR-COUNCIL DATE: August 10, 2021, by Consent
3 PASSED BY THE COUNCIL: August 23, 2021

4 *Steve Filmer* - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

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

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kristin M. Bronson, Denver City Attorney

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