

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. 413
COMMITTEE OF REFERENCE:
4 FINANCE

5 A BILL

6
7 For an ordinance establishing a new dedicated property tax at the rate of 2.5 mills in
8 support of capital maintenance, subject to the approval of the voters at a special
9 municipal election to be held on November 6, 2007, and dedicating certain revenues
10 from existing City and County property taxes to capital projects in lieu of employee
11 occupational privilege tax revenues and business occupational privilege tax revenues
12 formerly dedicated to such purposes.
13

14
15 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

16
17 **Section 1.** Subject to approval of the voters of the referred ballot question set forth in Section
18 7 of this ordinance, Chapter 53 of the Denver Revised Municipal Code shall be amended by the
19 addition of a new Article XV, to read as follows:
20

21 **ARTICLE XV.**

22 **DEDICATED PROPERTY TAXES FOR CAPITAL PROJECTS**

23
24 **53-540 Mill levies for capital maintenance and capital improvements.**

25
26 (a) *Purpose.* The intent of this section is to provide a reliable and stable source of
27 funding for the City's critical, ongoing need for investment in its capital infrastructure. In
28 particular, the purpose of this section is provide for the implementation of the voter
29 approved property tax increase for capital maintenance at the special municipal election
30 conducted on November 6, 2007, whereby the City and County of Denver has been
31 authorized to impose an additional ad valorem property tax at the rate of 2.5 mills, and to
32 dedicate the revenue derived from this tax for the sole purpose of funding capital
33 maintenance. Furthermore, the purpose of this section is to dedicate a portion of the city's
34 pre-existing property tax revenue stream to capital maintenance and improvements in lieu of
35 funding that has heretofore been transferred to the Capital Projects Fund from the employee

1 occupational privilege tax and the business occupational privilege tax.

2
3 (a) *Dedicated mill levy increase for capital maintenance.* For 2007 property taxes collected
4 in 2008, and for each fiscal year thereafter, the city shall assess, in addition to any and
5 all other city and county ad valorem property tax levies, an levy at the rate of 2.5 mills
6 on all taxable property in the City and County of Denver. The revenue derived from said
7 levy shall be credited to the Capital Projects Fund, Fund No. 31000 of the Fund Plan as
8 set forth in section 20-18 and used exclusively for capital maintenance as defined in
9 section 20-16.

10 (b) *Dedicated portion of mill levy for capital projects generally.* For 2007 property taxes
11 collected in 2008, and for each fiscal year thereafter, the city shall dedicate a portion of
12 the property tax revenues derived from its general fund mill levy to the Capital Projects
13 Fund, Fund No. 31000 of the Fund Plan as set forth in section 20-18. The portion of the
14 property tax revenue to be dedicated to capital projects shall equal \$21.5 million dollars,
15 increased in 2008 and each subsequent fiscal year by the rate of “inflation” and “local
16 growth” as these terms are defined in Section 20(2)(f) and (g) of Article X of the
17 Colorado Constitution.

18
19 **Section 2.** Section 20-16, D.R.M.C., concerning definitions applicable to the Fiscal Code, shall
20 be amended by deleting the language stricken in subsection (5), and adding a new subsection (5.5), to
21 read as follows:

22
23 **Sec. 20-16. Definitions.**

24
25 When used in connection with the internal financial affairs of the city in this
26 article, in other sections of the Code, or in other ordinances, executive orders, or
27 fiscal rules, unless the context clearly requires a different meaning, the following
28 terms shall have the meanings herein set forth:

29
30 (5) *Capital improvement* means the acquisition of real property or any interest
31 therein to be used in conjunction with the construction or acquisition of buildings or other
32 structures; the improvement to, construction or acquisition of buildings or other
33 structures of a permanent nature; the acquisition of equipment that is or will become
34 permanently attached to, or a functional part of, real property or any interest therein, or

1 of any building or structure; the permanent improvement or betterment (~~as distinguished~~
2 ~~from ordinary repair or other maintenance~~) of real property, or any interest therein, or of
3 any building or structure; but not any acquisition, construction, or expenditure required
4 for, or in connection with, local public improvements except to the extent that the cost
5 thereof is not assessed upon the property especially benefited; payment of the costs or
6 expenses of planning or engineering, or both, of any survey or study concerning, or with
7 reference to, any program or plan for capital improvements, or for expenditures for
8 capital improvements.

9
10 (5.5) Capital maintenance means the periodic restoration, rehabilitation, refurbishment,
11 or replacement of an existing capital improvement (as distinguished from ordinary repair
12 or other routine maintenance).

13
14 **Section 3.** Account Number 31000 of the Fund Plan, Section 20-18, D.R.M.C., concerning the
15 Capital Improvements Fund, shall be amended by deleting the language stricken and adding the
16 language underlined to read as follows:

17
18 **Sec. 20-18. Fund Plan**

19
20 *30000 Capital Project Funds* --To account for financial resources segregated for the
21 ~~acquisition of major capital facilities~~ capital improvements and capital maintenance
22 (other than those financed by special assessment and enterprise funds).

23
24 *Fund Number: 31000*

25
26 *Name of fund:* Capital improvements and capital maintenance fund.

27
28 *Source of funds:* ~~The employee occupational privilege tax, the business occupational~~
29 ~~privilege tax~~ Dedicated capital improvement and capital maintenance property taxes
30 as provided in section 53-540, and moneys received into the treasury that are derived
31 from the sale of real property or any interest therein, from the proceeds of
32 settlements or awards resulting from insurance claims made by the city for loss or
33 injury sustained to real property, or any interest therein, or to equipment that is or will
34 become permanently attached to or a functional part of real property, unless such

1 moneys are apportioned by ordinance to some other fund; and transfers by
2 ordinance of surplus and unused moneys from other funds; investment earnings from
3 capital improvements fund balances; and refunds.

4
5 *Purpose of expenditures:* The acquisition of real property or any interest therein, the
6 construction or other acquisition of buildings or other structures, the acquisition of
7 equipment that is or will become permanently attached to or a functional part of real
8 property or any interest therein or of any building or structure, the acquisition of
9 chattels, or personal property required to render real property or any interest therein
10 or any building or structure initially operable for the purpose for which it was acquired
11 or constructed, the permanent improvement or betterment (~~as distinguished from~~
12 ~~ordinary repair or other maintenance~~) of real property, or any interest therein, or of
13 any building or structure; and capital maintenance; but not any acquisition,
14 construction or expenditure required for or in connection with local public
15 improvements except to the extent that the cost thereof is not assessed upon the
16 property especially benefitted; payment of the costs or expenses of planning or
17 engineering or both of any survey or study concerning or with reference to any
18 program or plan for capital improvements or for expenditures for capital
19 improvements, and allocations of emergency reserves.

20
21 *Expending authority:* By appropriations.

22
23 **Section 4.** Account Number 97000/282220 of the Fund Plan, Section 20-18,
24 D.R.M.C., concerning the Unapportioned Occupational Head Tax account, shall be
25 amended by deleting the language stricken and adding the language underlined to read as
26 follows:

27
28 **Sec. 20-18 Fund Plan**

29 *97000 Treasurer's Group of Accounts*—To account for the cash receipts and
30 investment activities of the treasurer of the city.

31
32 *Account Number: 97000/282220*

33
34 *Name of account:* Unapportioned occupational (head) tax.

1
2 *Source of funds:* Business and employee occupational privilege taxes collected and
3 awaiting apportionment, earnings thereon, and transfers authorized by ordinance.
4

5 *Disposition of funds:*
6

7 a. As required, of only those revenues raised at the rate of four dollars (\$4.00) each
8 month from the business occupational privilege tax and at the rate of five dollars and
9 seventy-five cents (\$5.75) each month from the employee occupational privilege tax,
10 allocation and transfer to the appropriate account of any trust fund created by the
11 manager of revenue pursuant to authorization by ordinance for the payment of any
12 interest and principal due on excise tax revenue bonds or excise tax revenue refunding
13 bonds, or to make the required deposits to any reserve or other similar account
14 established by ordinance authorizing the issuance of such excise tax revenue bonds or
15 excise tax revenue refunding bonds, after the manager's having first considered and
16 applied to the servicing and payment of such excise tax revenue and excise tax revenue
17 refunding bonds and required reserve, those funds available for such purposes in the
18 facilities development admission tax account of the fund plan, section 20-18 of the Code;
19

20 ~~b. Quarterly, after allocation and transfer of such amounts as set forth in a. above,~~
21 ~~allocation and transfer of fifty (50) percent of the proceeds received during the quarter~~
22 ~~less any head taxes transferred to pay principal and interest on excise tax revenue or~~
23 ~~excise tax revenue funding bonds to the capital improvements fund;~~
24

25 ~~e. b.~~ Quarterly, after allocation, apportionment, and transfer as set forth in a. ~~and b.~~
26 above, the remaining amount of employee occupational privilege tax and business
27 occupational privilege tax shall be transferred to the general fund;
28

29 ~~d. c.~~ Quarterly, before allocation, apportionment, and transfer as set forth in a. ~~b., and~~
30 ~~e. and b.~~ above, refunds as required under the employee occupational privilege tax
31 article and the business occupational tax article.
32

33 *Disbursing authority:* Manager of revenue finance.
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Section 5. Section 53-238, D.R.M.C., concerning the purpose of the employee occupational privilege tax, is hereby amended by deleting the language stricken, to read as follows:

Sec. 53-238. Purpose of tax.

The council declares hereby that the purpose of the levy of the tax imposed by this article is for the raising of funds (a) ~~for the planning or design for, and the replacement, expansion, acquisition, construction, installation, repair or improvement of city facilities and equipment~~ and for the servicing and retirement of revenue bonds and revenue refunding bonds, except airport revenue bonds, issued for the financing of, in whole or in part, or related to, repair or improvement of city facilities and equipment or to make required deposits to any reserve or other similar account established by the manager of revenue pursuant to the ordinance authorizing the issuance of such bonds; and (b) for the general welfare and operation of the city; and in accordance with this purpose, all of the proceeds of the tax shall be placed in the unapportioned occupational (head) tax account of the fund plan, section 20-18 of the Code, to be allocated, transferred and disbursed by the manager in accordance with the provisions therein made.

Section 6. Section 53-293, D.R.M.C., concerning the purpose of the business occupational privilege tax, is hereby amended by deleting the language deleted, to read as follows:

Sec. 53-293. Purpose of tax.

The council declares hereby that the purpose of the levy of the tax imposed by this article is for the raising of funds (a) ~~for the planning or design for, and the replacement, expansion, acquisition, construction, installation, repair or improvement of city facilities and equipment~~ and for the servicing and retirement of revenue bonds and revenue refunding bonds, except airport revenue bonds, issued for the financing of, in whole or in part, or related to repair or improvement of, city facilities and equipment or to make required deposits to any reserve or other similar account established by the

1 manager of revenue pursuant to the ordinance authorizing the issuance of such bonds;
2 and, (b) for the general welfare and operation of the city; in accordance with this purpose,
3 all of the proceeds of the tax shall be placed in the unapportioned occupational (head)
4 tax account of the fund plan, section 20-18 of the Code, to be allocated, transferred and
5 disbursed by the manager in accordance with the provisions therein made.
6
7

8 **Section 7.** Pursuant to § 8.2.3 of the Charter, the City Council hereby calls a special
9 municipal election to be conducted on November 6, 2007 and coordinated with the regular
10 biennial school district election occurring on said date. In accordance with § 3.3.6 of the
11 Charter and Article X, Section 20 of the Colorado Constitution, the tax increase set forth in
12 Section 1 of this ordinance shall be submitted to a vote of the registered electors of the City
13 and County of Denver at said election. Each elector voting at said election and desirous of
14 voting for or against the tax increase shall cast a vote as provided by law either “Yes” or
15 “No” on the proposition:
16

17 **Referred Question _____**
18

19 **Capital Maintenance Mill Levy**
20

21 SHALL CITY AND COUNTY OF DENVER TAXES BE INCREASED BY \$ 27.5
22 MILLION ANNUALLY BEGINNING IN 2008, AND BY WHATEVER ADDITIONAL
23 AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM AN AD VALOREM TAX
24 ASSESSED AT THE RATE OF 2.5 MILLS ON ALL TAXABLE PROPERTY WITHIN
25 THE CITY AND COUNTY FOR THE SOLE PURPOSE OF FUNDING THE
26 RESTORATION, REHABILITATION, REFURBISHMENT, OR REPLACEMENT OF
27 THE CITY’S CAPITAL INFRASTRUCTURE, INCLUDING PARKS, PUBLIC WORKS,
28 BUILDINGS, AND OTHER PUBLIC FACILITIES AND IMPROVEMENTS, AND
29 SHALL THE REVENUES FROM THESE INCREASED TAXES BE COLLECTED

1 AND SPENT IN EACH FISCAL YEAR BY THE CITY AND COUNTY OF DENVER
2 WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER
3 LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO
4 CONSTITUTION OR ANY OTHER LAW?

5 The proper officials of the City and County of Denver as are charged with duties relating to the election
6 shall, before the election, issue such calls, make such certifications, and publications, give such
7 notices (including, without limitation, the notice required by Art. X, §20(3)(b) of the Colorado
8 Constitution), make such appointments, and do all such other acts and things in connection with the
9 submission of this question to the registered electors of the City and County of Denver at the election
10 as are required by the constitution and laws of the state of Colorado and the Charter and ordinances of
11 the City and County of Denver. The ballots cast at such election shall be canvassed and the results
12 ascertained, determined, and certified in accordance with the requirements of the Constitution and
13 laws of the State of Colorado and the Charter and ordinances of the City and County of Denver.
14

15 **Section 8.** Subject to the approval of the voters as provided in Section 7 of this Ordinance, this
16 ordinance shall be effective January 1, 2008 and shall govern 2007 property taxes collected in 2008.
17

18
19 COMMITTEE APPROVAL DATE: August 1, 2007

20 MAYOR-COUNCIL DATE: August 7, 2007

21 PASSED BY THE COUNCIL _____ 2007

22 _____ - PRESIDENT

23 APPROVED: _____ - MAYOR _____ 2007

24 ATTEST: _____ - CLERK AND RECORDER,
25 EX-OFFICIO CLERK OF THE
26 CITY AND COUNTY OF DENVER
27

28 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 20067 _____ 2007

29
30 PREPARED BY: David W. Broadwell, Assistant City Attorney; DATE: August 2, 2007
31

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

1 3.2.6 of the Charter.

2

3 City Attorney

4 BY: _____, _____ City Attorney

5 DATE: _____

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