

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2014

COUNCIL BILL NO. 14-0116
COMMITTEE OF REFERENCE:
4 Government and Finance

5 A BILL

6
7 **For an ordinance concerning TABOR emergency reserves, and in connection**
8 **therewith amending Section 20-22 of the Denver Revised Municipal Code to allow**
9 **for the designation of the value of City-owned property to fulfill all or a portion of**
10 **the constitutional reserve requirement; transferring monies from the TABOR**
11 **Amendment Reserve and appropriating these monies for the Central Denver**
12 **Recreation Center; and amending the components of the City’s TABOR**
13 **emergency reserve for fiscal year 2014.**
14

15 **WHEREAS**, Article X, Section 20 (5) of the Colorado Constitution (“TABOR”) requires
16 the City to maintain a reserve of three percent of its “fiscal year spending,” as defined by
17 TABOR, and to utilize the reserve for declared emergencies only; and

18 **WHEREAS**, via Ordinance No. 649, Series 2005 and Ordinance No. 577, Series 2008, codified
19 at section 20-22 of the Denver Revised Municipal Code, the City has previously set forth its
20 procedures for complying with the TABOR emergency reserve requirement through the annual budget
21 process; and

22 **WHEREAS**, since 2001 the State of Colorado has annually met its TABOR emergency reserve
23 requirement by designating the value of state-owned properties to fulfill a portion of the requirement, a
24 practice that was upheld by the Denver District Court in the case of *Bruce v. State of Colorado*,
25 10CV2425, by order of the court entered on July 20, 2011.

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

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30 **Section 1.** Section 20-22, D.R.M.C., is hereby amended by adding the language underlined, to
31 read as follows:

32 **Sec. 20-22. Implementation; constitutional emergency reserve.**

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35 (a) The manager of finance and other officers of the city are hereby
36 empowered to take those steps necessary for implementation of this article.

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2 (b) (1) Beginning with the budget for fiscal year 2006, any budget proposed
3 by the mayor and adopted by the council shall specifically designate assets of the
4 city sufficient to comply with the emergency reserve requirement imposed by Article
5 X, Section 20(5) of the Colorado Constitution, the value of which shall equal three (3)
6 percent of the city's projected fiscal year spending as defined by Article X, Section
7 20(2)(e) of the Constitution. Assets reflected in any or all of the following balances or
8 funds may constitute all or a portion of the emergency reserve as designated in the
9 budget:

10 a. The projected year-end closing balance for the general fund, as required by
11 section 7.1.4 of the Charter.

12 b. The two-percent general fund contingency, as required by section 7.1.4 of the
13 charter.

14 c. The planned fleet replacement fund.

15 d. Any other reserve or contingency fund created by the city for a specific purpose,
16 from which the city may tend to draw funds in the event of an emergency.

17 e. Any other reserve or contingency fund created by the city for the specific purpose
18 of complying with Article X, Section 20 (5) of the Constitution, including the value of
19 any real property assets purchased from any such fund to the extent permitted by the
20 ordinance creating the fund.

21 f. The insured value of any city-owned real property identified by the mayor in the
22 budget ; provided, however, in order to qualify as a component of the emergency
23 reserve,

24 (i) The title to the property must be sufficiently unencumbered and the
25 conveyance of the property must not be subject to any other legal restriction
26 that would prevent the property from being readily liquidated for fair market
27 value in the event of a declared emergency;

28 (ii) To the extent the property is currently serving any essential city purpose, the
29 property is capable of being sold and leased back to the city in the event of a
30 declared emergency.

1 (2) Any assets designated in the budget as constituting a portion of the city's
2 emergency reserve shall not be utilized except upon a declaration of an emergency
3 by the mayor and the city council as contemplated by Article X, Section 20 of the
4 Constitution and the satisfaction of any other requirement of the charter or
5 ordinances governing the liquidation of assets or expenditure of the money in
6 question.

7 (3) Any unused emergency reserve designated pursuant to this section may
8 apply to the next year's reserve.

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10 **Section 2.** In accordance with Section 20-22, D.R.M.C., the following assets were designated
11 by the mayor to serve as the city's TABOR Emergency Reserve for fiscal year 2014 and approved by
12 the city council in the adoption of the 2014 budget:

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14	TABOR Reserve Special Revenue Fund	\$21,618,000
15	TABOR Reserve Real Estate Special Revenue Fund*	12,500,000
16	Human Services Restricted Fund Balance	<u>2,000,000</u>
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18	Total	\$36,118,000

19 *Reflecting the value of the real property known as Market Street Station, purchased from this
20 fund.

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22 The city's fiscal year 2014 TABOR Emergency Reserve is hereby amended to reflect the following
23 components:

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25	TABOR Reserve Special Revenue Fund	\$ 0
26	TABOR Reserve Real Estate Special Revenue Fund*	12,500,000
27	Human Services Restricted Fund Balance	2,000,000
28	City-owned property at 200 W. 14 St. ("Permit Center")	12,100,000
29	City-owned property at 3815 Steele St. 30 (East Side Human Services Center)	<u>11,000,000</u>
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32	Total	\$37,600,000

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1 **Section 3.** There is hereby authorized the transfer of cash in the amount of \$21,600,000 from the
2 TABOR Amendment Reserve, Accounting Number 11817-2500000, to the Capital Improvements and
3 Capital Maintenance Fund, Accounting No. 31000.

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5 **Section 4.** From the Capital Improvements and Capital Maintenance Fund, Accounting No.
6 31000, out of monies not otherwise appropriated and in addition to any supplemental appropriations or
7 rescissions, there is hereby appropriated to the appropriation accounts hereinafter designated the
8 amount of money following each such designation, to be expended for the purposes and upon the
9 authorizations in said Ordinance set forth:

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11	<u>ACCOUNTING</u>		<u>EXPENDING</u>	
12	<u>NUMBER</u>	<u>APPROPRIATION ACCOUNT</u>	<u>AUTHORITY</u>	<u>AMOUNT</u>
13				
14	34061-5011102	New Facilities Construction	Manager of Public Works	
15		For: RI822, Central Denver Rec Center		\$21,600,000

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18 The New Facilities Construction Capital Projects Fund is hereby established in the Capital
19 Improvements and Capital Maintenance Fund, No. 31000, which is set forth and described in Section
20 20-18 of the Revised Municipal Code of the City and County of Denver. The appropriation is for the
21 planning, design, and construction of a new Central Denver Recreation Center located on the corner
22 of Josephine Street and Colfax Avenue.

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Section 5. The Manager of Finance of the City and County of Denver is hereby authorized to and directed to make such book and record entries and to do such other things as may be necessary to accomplish the purposes of this Ordinance.

COMMITTEE APPROVAL DATE: February 19, 2014.

MAYOR-COUNCIL DATE: February 25, 2014.

PASSED BY THE COUNCIL _____, 2014

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____, 2014

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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____, 2014; _____, 2014

PREPARED BY: Tom Migaki and Kelly Greunke, Budget and Management Office;

DATE: February 27, 2014

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

D. Scott Martinez, City Attorney

BY: _____, _____ City Attorney DATE: _____, 2014