

ORDINANCE NO. 1946

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN APPROVING CREATING AND ESTABLISHING THE GOLDEN DOWNTOWN DEVELOPMENT AUTHORITY AND DETERMINING ORGANIZATIONAL ASPECTS OF THE GOLDEN DOWNTOWN DEVELOPMENT AUTHORITY

WHEREAS, the City of Golden, Colorado (the "City"), is a municipal corporation duly organized and existing as a home rule city under Article XX of the Colorado Constitution and under the Charter, as from time to time amended, of the City (the "Charter"); and

WHEREAS, all legislative powers possessed by the City, conferred by Article XX of the Colorado Constitution, except as limited by the Charter or otherwise existing by operation of law, are vested in the Council of six Councilors and the Mayor, also known as the City Council (the "City Council"); and

WHEREAS, the funding for the Golden Urban Renewal Authority, formed in 1989, will expire upon the payment of 2014 property and sales taxes in 2015 which will result in an absence of long-term, dedicated funding to continue to maintain the amenities, levels of service, and beautification, and continue projects to redevelop and revitalize the City's downtown as have existed over the past two decades; and

WHEREAS, by Resolution No. 2204, dated August 16, 2012, the City Council established the Downtown Development Task Force (the "Task Force") made up of downtown property owners, business owners, and residents to study the creation of a downtown development authority and make recommendations to the City Council; and

WHEREAS, the Task Force has considered and evaluated various legal entities to finance and oversee future downtown projects and has recommended that the City Council approve, create and establish a downtown development authority in the City; and

WHEREAS, based upon the Task Force's recommendation and other evidence presented at the public hearing, the City Council hereby determines that it is prudent and necessary to establish the Golden Downtown Development Authority (the "Authority") which will promote the public health, safety, prosperity, security and general welfare in order to halt or prevent deterioration of property values or structures within the downtown, will halt or prevent the growth of blighted areas within the downtown and will assist in the development and redevelopment of the downtown and in the overall planning to restore or provide for the continuance of the health of the downtown, and that it will be of special benefit to the properties within the boundaries of the Authority; and

WHEREAS, the City Council hereby determines and establishes the Authority and the boundaries of the Authority and, pursuant to Part 8 of Article 25 of Title 31, Colorado Revised Statutes ("C.R.S.") (the "Downtown Development Authority Act" or "Act") and the Charter as applicable, subject to approval by the qualified electors (as that term is defined in the Act) at an election to be held pursuant to the Act, and to that end, has concurrently herewith approved in Ordinance No 1947, for submittal to the qualified electors (as that term is defined in the Act) of the area described herein at the election to be held on November 5, 2013 in the City, the ballot questions set forth therein; and

WHEREAS, in 1984, the City Council adopted several ordinances with the intent of establishing, organizing and submitting the question of creation of a downtown development authority to the qualified

electors; however, such downtown development authority was never formed, has no board, never incurred debt, and is inactive, and which, for the avoidance of doubt, the City Council hereby wishes to terminate and states that, consistent with the Act, there shall be only one downtown development authority within the City which shall be the Authority established by this Ordinance; and

WHEREAS, the Board of the Authority (as defined herein) may, with approval of the City Council, adopt within the downtown development area, a plan of development, as modified from time to time ("Plan of Development"), for public facilities and other improvements to public or private property of all kinds, including, but not limited to, removal, demolition, site preparation, renovation, repair, remodeling, construction, reconstruction or other changes in existing buildings and facilities or new buildings and facilities which may be necessary or appropriate to the execution of any such plan which in the opinion of the Board will aid and improve the downtown development area; and

WHEREAS, the Authority shall only be authorized to act pursuant to a Plan of Development after approval of the City Council.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. The above recitals are incorporated by reference in this Ordinance and such recitals constitute findings in support of the following ordaining sections.

Section 2. Subject to the canvassing of returns of the election authorized by Ordinance No. 1947, if a majority of the qualified electors voting on the question set forth in Section 3 of Ordinance No. 1947, cast ballots in favor of the question submitted, then and only then shall there hereby be created and established pursuant to the Downtown Development Authority Act, a downtown development authority in an area of the City described herein to be known as the "Golden Downtown Development Authority."

Section 3. The Authority shall be located within the city limits of the City of Golden, Colorado, in an area whose boundaries are described on Exhibit "A" attached hereto and incorporated herein by reference.

Section 4. The Authority shall be a body corporate with all the purposes and powers now or hereafter authorized by the Downtown Development Authority Act, except or as specifically limited in any Plan of Development approved by the City Council, and all additional and supplemental powers necessary or convenient to carry out and effectuate the purposes and provisions of the Downtown Development Authority Act and such other powers and authority as specifically stated in any Plan of Development approved by the City Council.

Section 5. If authorized in a Plan of Development approved by the City Council, the Authority or the City on behalf of and for use by the Authority, and as a voter-approved revenue change, is authorized to collect and retain, in the year established in the Plan of Development, and in all subsequent years thereafter, whatever amount is collected annually from any revenue sources including, but not limited to, taxes received as described in Sections 31-25-807(3), 31-25-816, and 31-25-817, C.R.S., and fees, rates, tolls, rents, charges, grants, contributions, loans, income, or other revenues imposed, collected, or authorized as described in Section 31-25-808, C.R.S., or otherwise, by law to be imposed or collected by the Authority or by the City on behalf of and for use by the Authority, and such revenues shall be collected and spent without regard to any

spending, revenue-raising, or other limitation contained within Article X, Section 20 of the Colorado Constitution, or any other law and without limiting in any year the amount of other revenues that may be collected and spent by the Authority and the City on behalf of the Authority.

Section 6. The Board of the Authority may adopt a Plan of Development which, upon approval of the City Council, provides for tax increment financing from property tax and sales tax, or both, as authorized by Section 31-25-807(3), C.R.S. This Ordinance shall not be construed to prevent the creation of new urban renewal areas subject to tax increment financing under the Colorado Urban Renewal Law after the effective date of this ordinance within or overlapping the boundaries of the Authority.

Section 7. If a majority of the qualified electors voting on the question set forth in Section 6 of Ordinance No 1947 cast ballots in favor of the question submitted, commencing in 2014 for collection in 2015, the City may impose an ad valorem mill levy not exceeding five (5) mills on all real and personal property within the boundaries of the Authority and for the Authority, to be used for the purpose of paying the Authority's operations, maintenance and other expenses, as allowed by Sections 31-25-807(3), 31-25-808, 31-25-816, and 31-25-817, C.R.S., and as otherwise allowed by law.

Section 8. The Authority shall be subject to the following laws, as may be amended from time to time:

- (a) The Colorado Open Records Act, Part 2 of Article 72 of Title 31, C.R.S.
- (b) The Colorado Open Meetings Law, Part 4 of Article 6 of Title 24, C.R.S.
- (c) The Local Government Budget Law of Colorado, Part 1 of Article 1 of Title 29, C.R.S.
- (d) The Local Government Uniform Accounting Law, Part 5 of Article 1 of Title 29, C.R.S.
- (e) The Local Government Audit Law, Part 6 of Article of Title, 29 C.R.S.
- (f) The Authority shall be a "Public Entity" as defined by the Colorado Governmental Immunity Act, Article 10 of Title 24, C.R.S.
- (g) The Golden Municipal Code and the Charter, as amended.
- (h) Other applicable law.

Section 9. The Finance Department of the City on behalf of the Authority shall annually submit a budget to the City Manager for administrative review in accordance with the policies of the City no later than October 1st of each year before the budget is submitted to the City Council for approval pursuant to 31-25-816, C.R.S. The Finance Department of the City on behalf of the Authority shall maintain accounting records and records of transactions for the Authority. The Finance Department of the City on behalf of the Authority shall invest any funds not required for immediate disbursement in legal investments for public funds authorized by the City's investment policies or pursuant to Colorado statute and to deposit any funds not required for immediate disbursement in any depository authorized pursuant to the City's investment policies or pursuant to Colorado statute.

Section 10. The operations of the Authority shall be principally funded from the following, if authorized in any Plan of Development:

- (a) Donations to the Authority for the performance of its functions;
- (b) Moneys borrowed and to be repaid from other funds received under the authority of the Downtown Development Authority Act;
- (c) Tax increment funds as defined in Section 31-25-807(3), C.R.S., if a Plan of Development is adopted which provides for such tax increment funding;
- (d) Fees, rates, tolls, rents, charges, grants, contributions, loans, income or other revenues imposed, collected or authorized by law to be imposed or collected by the Authority or by the City on behalf of and for use by the Authority pursuant to an approved Plan of Development;
- (e) Proceeds of an ad valorem tax of up to five (5) mills on the valuation for assessment of properties within the boundaries of the Authority; and
- (f) Such other sources as may be approved by the City Council of the City.

Section 11. Any City ordinance by which bonds are issued by the City on behalf of the Authority, pursuant to the Downtown Development Authority Act, shall specify the maximum net effective interest rate of such bonds.

Section 12. The Authority shall be organized as follows:

(a) The Authority shall have a board comprised of seven (7) members, all of whom, except for any member of the City Council, must be "qualified electors" of the Authority, as defined in Section 31-25-802(9), C.R.S. ("Board"), appointed by the Mayor and confirmed by a majority of the City Council. Consistent with Sections 31-25-805 and 31-25-806, C.R.S., the Board of the Authority shall be constituted as follows:

- i. One (1) member shall be a member of the City Council; and
- ii. Six (6) members who are residents, landowners or business lessees within the boundaries of the Authority.

(b) The initial terms of the Board members shall be as follows:

- i. The member from the City Council shall serve at the pleasure of the City Council;
- ii. The terms of two members shall expire on June 30, 2015;
- iii. The terms of two members shall expire on June 30, 2016; and
- iv. The terms of two members shall expire on June 30, 2017.

(c) After the initial terms of the Board have expired, the terms of all members appointed to the Board, except the member from the City Council, shall expire four years from the expiration date of the terms of their predecessors. After notice and an opportunity to be heard, an appointed member of the Board may be removed for cause by the City Council. Board

members shall hold office until their successor has been appointed and qualified by the Mayor and confirmed by a majority of the City Council.

- (d) The term "business" shall include a for profit business or a nonprofit business. An officer or director of a corporation having a place of business within the boundaries of the Authority shall be eligible for appointment to the Board. A manager, agent, or employee, all as defined in Section 7-90-102, C.R.S., of an entity having its place of business within the boundaries of the Authority shall be eligible for appointment to the Board. No officer or employee of the City, except the member from the City Council, shall be eligible for appointment to the Board.
- (e) The Board shall adopt and promulgate rules governing its procedures, including election of officers, and these rules shall be filed in the office of the Clerk. The Board shall hold regular meetings in the manner provided in the rules of the Board. Special meetings may be held when called in the manner provided in the rules of the Board. Notice of meetings of the Board shall be in accordance with the Colorado Open Meetings Law. All meetings of the Board shall be open to the public except as allowed under the Colorado Open Meetings Law.
- (f) Members of the Board shall serve without compensation, but they may be reimbursed for actual and necessary expenses.

Section 13. The Authority shall, to the extent permitted and within the limitations of the Colorado Governmental Immunity Act, indemnify and defend each director, officer, and employee of the Authority in connection with any claim or actual or threatened suit, action, or proceeding in which he or she may be involved in his or her official capacity by reason of his or her being or having been such director, officer, or employee, or by reason of any action or omission by him or her in any such capacity.

Section 14. Additional property may be included within the boundaries of the Authority subject to City Council approval, as provided in Section 31-25-822, C.R.S., as it may be amended.

Section 15. All actions not inconsistent with the provisions of this Ordinance heretofore taken by the members of the City Council and the officers and employees of the City and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 16. If any one or more sections or parts of this Ordinance shall be judged unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, it being the intention of the City Council that the various provisions hereof are severable. If any individual tract of land included within the area described in Section 3 of this Ordinance is determined by a court of competent jurisdiction to be excluded from the Authority, should the formation of the same be authorized by the qualified electors, such determination shall not affect, impair, or invalidate the inclusion of the remaining area described in Section 3 of this Ordinance in the Authority, it being the intention of the City Council that the inclusion of the separate tracts of land described herein be severable.

Section 17. If, and to the extent that the City previously established a Downtown Development Authority by virtue of ordinances adopted in 1984, that Downtown Development Authority is hereby dissolved pursuant to Section 31-25-803, the City Council finding that there is no outstanding debt associated therewith.

Section 18. This Ordinance shall become effective when the City determines that a majority of the qualified electors voting on the question set forth in Section 3 of Ordinance No. 1947 has cast ballots in favor of the question submitted.

Section 19. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

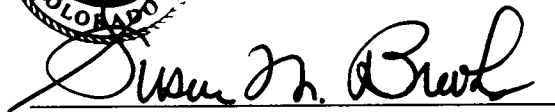
Section 20. The City Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relationship to the legislative object sought to be obtained.

Introduced, read, passed and ordered published the 13th day of June, 2013.


Passed and adopted upon second reading and ordered published this 11th day of July, 2013.




Marjorie N. Sloan
Mayor


Susan M. Brooks, MMC
City Clerk

Approved as to form:


David S. Williamson
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular business meeting of the City Council of said city, held on the 13th day of June, 2013, and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held on the 11th day of July, 2013, and the said proposed ordinance was read on second reading. The ordinance was passed by the City Council and ordered published in the aforesaid newspaper, as the law directs on the 11th day of July, 2013.

Witness my hand and official seal of the City of Golden, Colorado, this 12th day of July, 2013.



ATTEST:

Susan M. Brooks, MMC, City Clerk of
the City of Golden, Colorado

EXHIBIT "A"

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN SECTIONS 27, 28, 33, AND 34, TOWNSHIP 3 SOUTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 14 OF WELCH'S ADDITION TO GOLDEN; THENCE WESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF 20TH STREET A DISTANCE OF 592 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY EXTENTION OF THE WESTERLY RIGHT-OF-WAY LINE OF THE PLATTED ALLEY WITHIN BLOCK 24 OF SAID WELCH'S ADDITION TO GOLDEN; THENCE NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 366 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAYLINE OF 19TH STREET; THENCE WESTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 220 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF WASHINGTON AVENUE; THENCE NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 732 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 17TH STREET; THENCE WESTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 366 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF ARAPAHOE STREET; THENCE NORTHERLY ALONG SAID LINE A DISTANCE OF 1,098 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 14TH STREET; THENCE WESTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 100 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY EXTENTION OF THE WESTERLY LINES OF LOTS 11 AND 2 OF BLOCK 33 OF SOUTH GOLDEN SUBDIVISION; THENCE NORTHERLY ALONG SAID WESTERLY LINES A DISTANCE OF 366 FEET, MORE OR LESS TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 13TH STREET; THENCE WESTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 266 FEET, MORE OR LESS TO A POINT ON THE WESTERLYRIGHT-OF-WAYLINE OF CHEYENNE STREET; THENCE NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 732 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 11TH STREET; THENCE WESTERLY ALONG SAID SOUTHERLY LINE A DISTANCE OF 366 FEET, MORE OR LESS TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF ILLINOIS STREET; THENCE NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 817 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE ALLEY WITHIN BLOCK K OF BARBER'S ADDITION TO GOLDEN; THENCE EASTERLY ALONG SAID NORTHERLY LINE AND THE NORTHERLY LINE OF THE ALLEYS WITHIN BLOCKS A, 30, AND 29, A DISTANCE OF 948 FEET, MORE OR LESS TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE NORTH-SOUTH ALLEY WITHIN BLOCK 29; THENCE NORTHERLY ALONG THE WESTERLY LINES OF THE NORTH-SOUTH ALLEYS WITHIN BLOCKS 29 AND 22 A DISTANCE OF 346 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE EAST WEST ALLEY

WITHIN BLOCK 22; THENCE WESTERLY ALONG SAID SOUTHERLY LINE AND THE SOUTHERLY LINE OF THE ALLEY WITHIN BLOCK 21 OF SAID BARBER'S ADDITION TO GOLDEN, A DISTANCE OF 582 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CHEYENNE STREET; THENCE NORTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 386 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE ALLEY WITHIN BLOCK 1 OF SAID BARBER'S ADDITION TO GOLDEN; THENCE EASTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINES OF THE ALLEYS WITHIN BLOCKS C AND 20 OF SAID BARBER'S ADDITION TO GOLDEN, A DISTANCE OF 432 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ARAPAHOE STREET; THENCE SOUTHERLY ALONG SAID EASTERLY LINE A DISTANCE OF 10 FEET, MORE OR LESS, TO A POINT ON THE CENTERLINE OF THE VACATED ALLEY WITHIN BLOCK 19 OF SAID BARBER'S ADDITION TO GOLDEN; THENCE EASTERLY ALONG THE CENTERLINE OF SAID VACATED ALLEY A DISTANCE OF 150 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF LOT 1, MALTESE MINOR REPLAT OF LOTS 1, 2, 3, 10, 11, AND 12 IN BLOCK 19; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOT 1 AND ITS NORTHERLY EXTENSION AND ALONG THE WESTERLY LINE OF THE ALLEY IN BLOCK 12, A DISTANCE OF 582 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 6TH STREET; THENCE EASTERLY ALONG SAID NORTHERLY LINE A DISTANCE OF 380 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY LINE OF THE ALLEY IN BLOCK 13 EXTENDED; THENCE SOUTHERLY ALONG SAID EASTERLY LINE A DISTANCE OF 366 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 7TH STREET; THENCE EASTERLY ALONG SAID LINE AND ALONG THE NORTHERLY LINE OF THAT VACATED PORTION OF 7TH STREET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 28; THENCE EASTERLY ALONG SAID NORTH LINE TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF VACATED EAST STREET; THENCE SOUTHERLY ALONG SAID EASTERLY LINE TO THE WESTERLY CORNER BETWEEN LOTS 3 AND 4 OF BLOCK B, BUSH AND FISHER ADDITION TO GOLDEN; THENCE EASTERLY ALONG THE LINE BETWEEN SAID LOTS 3 AND 4 A DISTANCE OF 140 FEET, MORE OR LESS TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF ARCHER STREET; THENCE SOUTHERLY ALONG SAID WESTERLY LINE A DISTANCE OF 416 FEET, MORE OR LESS TO THE EASTERLY CORNER OF THE LINE BETWEEN LOT 5 AND 6 OF BLOCK 14 OF SAID BUSH AND FISHER ADDITION TO GOLDEN; THENCE WESTERLY ALONG SAID LINE A DISTANCE OF 140 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF EAST STREET; THENCE SOUTHERLY ALONG SAID EASTERLY LINE TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF VACATED 11TH STREET; THENCE WESTERLY ALONG SAID NORTHERLY LINE A DISTANCE OF 366 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OFFORD STREET; THENCE SOUTHERLY ALONG SAID EASTERLY LINE A DISTANCE OF 3,360 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.