

CITY OF CENTRAL, COLORADO

ORDINANCE 23-12

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

WHEREAS, the City of Central (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 City’s Home Rule Charter (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 four Aldermen and the Mayor, also known as the City Council (the “City Council”); and

WHEREAS, based upon evidence presented at public hearings, the City Council hereby determines that it is prudent and necessary to establish the City of Central 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; 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 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. 23-13, for submittal to the qualified electors (as that term is defined in the Act) of the area described herein at a special election to be held on November 7, 2023, in the City, the ballot questions set forth therein; and

WHEREAS, the Board (as defined herein) of the Authority 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 such Plan of Development by the City Council.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO THAT:

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

Section 2. Creation of Authority. Subject to the canvassing of returns of the election authorized by Ordinance No. 23-13, if a majority of the qualified electors voting on the question set forth in Section 3 of Ordinance No. 23-13, 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 “City of Central Downtown Development Authority.”

Section 3. Boundaries of Authority. The Authority shall be located within the city limits of the City of Central, Colorado, in an area whose boundaries are described as follows:

The boundaries of the Authority are generally similar to those of the Central City Business Improvement District (CCBID), and consist of multiple parcels located within the Historic Commercial Core, the Gregory Gulch Mixed-Use area, and the Hillside Commercial and Parkway Commercial areas, as those areas are shown and designated in the City of Central’s Comprehensive Plan. The boundaries of the Authority are shown with specificity in the Authority boundary map, a copy of which is attached to this Ordinance as ATTACHMENT A, and is incorporated herein by reference.

Section 4. Powers of Authority. 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. Revenues and Expenditure of Authority. 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, proceeds of any agreements or contracts, 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. Tax Increment Financing. 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, 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. Approval of Mill Levy. If a majority of the qualified electors voting on the question set forth in Section 5 of Ordinance No. 23-13 cast ballots in favor of the question submitted, commencing in 2023 for collection in 2024, the City shall impose an ad valorem mill levy of five (5) mills on all taxable real and personal property within the boundaries of the Authority and for the Authority, to be used for any lawful purpose, as allowed by Sections 31-25-808, 31-25-816, and 31-25-817, C.R.S., and as otherwise allowed by law.

Section 8. Laws Applicable to Authority. The Authority shall be subject to the following Colorado statutes, as may be amended from time to time:

- (a) The Colorado Open Records Act, Part 2 of Article 72 of Title 24, 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 1 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 City of Central Municipal Code and the Charter, as amended.
- (h) Other applicable law.

Section 9. Accounting for Authority. The City Manager or his or her designee on behalf of the Authority shall annually submit a budget to the City for administrative review in accordance with the policies of the City no later than November 15 of each year before the budget is submitted to the City Council for approval pursuant to 31-25-816, C.R.S. The City Manager or his or her designee on behalf of the Authority shall maintain accounting records and records of transactions for the Authority. The City Manager or his or her designee 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. Funding of Authority's Operations. 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 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. Maximum Net Effective Interest Rate. Any City ordinance or resolution 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. Organization of Authority. The Authority shall be organized as follows:

- (a) The Authority shall have a board comprised of five (5) 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. Four (4) 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, 2024; and
 - iii. The terms of two members shall expire on June 30, 2025.
- (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. A manager, as defined in Section 7-90-102, C.R.S., an agent, or an employee of an entity, as defined in Section 7-90-102, C.R.S., 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. Indemnifications. 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. Inclusion of Additional Property. 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.

Section 15. Ratification of Previous Actions. 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. Severability. 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. Effective Date of Ordinance. 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. 23-13 has cast ballots in favor of the question submitted.

Section 18. Repealer. 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 19. Healthy, Safety, and Welfare. 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 AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 15th day of August, 2023, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Jeremy Fey, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 5th day of September, 2023.

CITY OF CENTRAL, COLORADO

Jeremy Fey, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 17, 2023.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on September 7, 2023.

ATTACHMENT A

Authority Boundary Map
(Central City DDA)
(attached, one (1) page)