

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2016

COUNCIL BILL NO. CB16-0341
COMMITTEE OF REFERENCE:
Business Development

A BILL

For an ordinance creating and establishing the Five Points Business Improvement District, appointing the initial members of the Board of Directors of the District, and approving the Initial Operating Plan and preliminary 2016-2017 budget therefor.

WHEREAS, the City Council of the City and County of Denver, Colorado (the “City”), has received a petition for the organization of the Five Points Business Improvement District (the “District”) within the City; and

WHEREAS, based upon the petition for organization (the “Petition”) and other evidence presented to City Council, the Petition has been signed in conformity with the Business Improvement District Act, Section 31-25-1201 et seq., C.R.S. (the “Act”), the signatures on the Petition are genuine, and the signatures of parties thereon represent the persons who own real property in the service area of the proposed District having a valuation for assessment of not less than fifty percent of the valuation for assessment of all real property in the service area of the proposed District and who own at least fifty percent of the acreage in the proposed District; and

WHEREAS, personal property is not within the boundaries of the proposed District; and

WHEREAS, the Petition sets forth, among other things:

(a) The name of the proposed District, which is to wit: “Five Points Business Improvement District”;

(b) A general description of the boundaries and service area of the proposed District which is to wit: all parcels along Welton Street beginning at the north side of 20th Street going northeast along Welton Street terminating at Downing Street and 30th Avenue. The parcel located adjacent to Welton Street on the southeast corner at Washington Street and 26th Avenue is included as part of the District. The parcels located on the southeast side of California Street between 26th and 27th Streets are also included. A map of the proposed BID boundary is attached hereto for reference. The boundaries of the BID include all properties within the service area perimeter which are classified as commercial property as defined in the Business Improvement District Act, Section 31-25-1203(2), C.R.S., all of which is located in the City and consists of approximately 42 acres, more or less (the “Service Area”). No personal property located within the Service Area will be included in the proposed District;

(c) A general description of the types of services or improvements or both to be provided by the proposed District including but not limited to the following: Any services and improvements authorized by the Act together with all duties and functions authorized by said Act. The initial services and improvements that may be furnished by the proposed

1 District include: Enhanced Maintenance (to maintain the historical character and ambience
2 along the Welton corridor), Marketing and Events (to attract more visitors, customers and
3 patrons to the Welton corridor), Physical Improvements (to create a more attractive and
4 appealing environment), Safety (to ensure a safe environment by collaborating with
5 neighborhood organizations, residents and businesses), and Advocacy on behalf of
6 property owners to promote the District and its businesses including economic development,
7 planning efforts, and promoting policies that positively affect the District;

8
9 (d) The names of three persons to represent the petitioners, who have the power to
10 enter into agreements relating to the organization of the District;

11
12 (e) A request that City Council appoint the initial members of the Board of Directors of
13 the District pursuant to Section 31-25-1209(1)(b), C.R.S.;

14
15 (f) A request that City Council consider the District's initial 2016-2017 operating plan and
16 budget for approval in accordance with Section 31-25-1211, C.R.S.;

17
18 (g) A request that City Council approve the organization of the District; and

19
20 **WHEREAS**, City Council has determined that it appears that the allegations of the Petition
21 are true; and

22
23 **WHEREAS**, City Council has determined that the types of services or improvements to be
24 provided by the proposed District are of the type which best satisfy the purposes of the Act;
25 and

26
27 **WHEREAS**, the Petition was filed with a cash deposit in such amount determined sufficient
28 to cover all municipal expenses associated with these proceedings in case the organization
29 of the proposed District is not effected; and

30
31 **WHEREAS**, the Service Area of the proposed District is entirely within the City; and

32
33 **WHEREAS**, the Service Area of the proposed District is not located within any other existing
34 business improvement district; and

35
36 **WHEREAS**, a legal description of the Service Area of the proposed District is attached
37 hereto as Exhibit A, a map of the boundaries of the Service Area of the proposed District is
38 attached hereto as Exhibit B, and said exhibits are incorporated herein by reference.

39
40 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY**
41 **OF DENVER:**

42
43 Section 1. Findings. That upon consideration of a recommendation that an ordinance be
44 enacted creating the Five Points Business Improvement District (the "District"), City Council
45 finds:

46
47 (a) Petition Filing. That the proposed District was initiated by a Petition filed in the Office
48 of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 6th day
49 of May, 2016, Filing No. 2016-0184, that the Petition was sufficient, that the allegations in

1 the Petition are true, that such Petition was determined to be in due and regular form and
2 properly executed, and that appropriate organizational fees have been paid by Petitioner;

3
4 (b) Public Hearing Set. That City Council has heretofore fixed a place and time for a
5 hearing on the Petition, which hearing has been scheduled for Tuesday, May 31, 2016 at
6 5:30 p.m., in the City Council Chambers, Room 451 of the City and County Building, 1437
7 Bannock Street, Denver, Colorado;

8
9 (c) Notice of Hearing. That the City Clerk has caused the proponents of the District to
10 make notice of such hearing to be duly published and to be duly mailed to each property
11 owner within the service area and boundaries of the proposed District, as required by
12 Section 31-25-1206, C.R.S.;

13
14 (d) Compliance with Act. Based upon the Petition and other evidence presented to City
15 Council, the Petition has been signed in conformity with the Business Improvement District
16 Act, Section 31-25-1201 et seq., C.R.S. (the "Act"), the signatures on the Petition are
17 genuine, and the signatures of parties thereon represent the persons who own real property
18 in the service area of the proposed District having a valuation for assessment of not less
19 than fifty percent of the valuation for assessment of all real property in the service area of
20 the proposed District and who own at least fifty percent of the acreage in the proposed
21 District;

22
23 (e) Operating Plan and Budget. That the 2016-2017 Operating Plan and Budget (the
24 "Operating Plan"), which document includes the District's preliminary 2016-2017 budget,
25 has been filed in the Office of the Clerk and Recorder, Ex-Officio Clerk of the City and
26 County of Denver, on the 17th day of May, 2016, Filing No. 2016-0184-001;

27
28 (f) Necessity, No Overlap. That the proposed District is lawful and necessary, should be
29 created and established, and that the proposed District does not include territory that is
30 within any other business improvement district.

31
32 Section 2. Creation. The Five Points Business Improvement District is hereby created,
33 organized, and established for the purposes and shall have the powers set forth in the Act,
34 except as otherwise modified in this Ordinance. All services and improvements provided by
35 the District shall be undertaken in accordance with the Act and the Operating Plan, as the
36 same may be amended from time to time. Any amendments to this Ordinance shall be
37 approved by City Council.

38
39 Section 3. Service Area Boundaries. The Service Area of the District is set forth in
40 Exhibit A and depicted in Exhibit B, which exhibits are attached hereto and incorporated
41 herein by reference. The District is located entirely within the City and County of Denver
42 and a general description of the Service Area is the area generally described as: all parcels
43 along Welton Street beginning at the north side of 20th Street going northeast along Welton
44 Street terminating at Downing Street and 30th Avenue. The parcel located adjacent to
45 Welton Street on the southeast corner at Washington Street and 26th Avenue is included as
46 part of the District. The parcels located on the southeast side of California Street between
47 26th and 27th Streets are also included, consisting of approximately 42 acres.

48
49 Section 4. District boundaries. The boundaries of the proposed District shall consist of all

1 “commercial property” now or hereafter located within the Service Area, as that term is
2 defined at Section 31-25-1203(2), C.R.S., but specifically excluding all taxable personal
3 property. As set forth in the Initial Operating Plan, the District may provide services and
4 improvements inside and outside of the Service Area.

5
6 Section 5. Inclusion and Exclusion. Inclusion and exclusion of property into or from the
7 District shall be completed as provided in the Act. Property located within the Service Area
8 of the District, as shown in Exhibit B attached hereto, that satisfies the definition of
9 “commercial property” set forth at Section 31-25-1203(2), C.R.S., but specifically excluding
10 taxable personal property, shall automatically be included within the District’s boundaries as
11 provided in the Act.

12
13 Section 6. Legal Status, Name. The District shall be a quasi-municipal corporation and
14 political subdivision of the State of Colorado with all powers and responsibilities thereof.
15 The District shall hereafter have the corporate name specified in the Petition: Five Points
16 Business Improvement District.

17
18 Section 7. Board of Directors, Appointed. Pursuant to Section 31-25-1209(1)(b), C.R.S.,
19 the Board of Directors of the District (the “Board”) shall consist of five (5) electors of the
20 District, appointed by the Mayor and confirmed by City Council resolution. Each member of
21 the Board shall be an elector of the District, as that term is defined at Section 31-25-
22 1203(4)(a), C.R.S. The initial members of the Board are hereby appointed and confirmed
23 (and shall take office upon qualification, including by taking the Oath of Office):

- 24 (a) Renee Cousins King
- 25 (b) Paul Books
- 26 (c) John Pirkopf
- 27 (d) Nathan Beal
- 28 (e) Carl Bourgeois

29
30
31 The terms of office will be staggered by the Board at its initial meeting to encourage
32 continuity in BID governance. Three (3) Board members shall have an initial term of three
33 (3) years and two (2) Board members shall have an initial term of four (4) years. The length
34 of the term is four (4) years. In the event director appointments are made in the middle of
35 such terms, the newly appointed director shall serve until the end of the term that he or she
36 was appointed to fill.

37
38 Section 8. Board of Directors, Procedures. In accordance with Section 31-25-1209(1)(b),
39 C.R.S., members of the Board shall serve at the pleasure of the Mayor and City Council.
40 Meetings of the Board shall be subject to the Colorado Open Meetings Law. Three (3)
41 Directors constitute a quorum. Officers of the District shall include a President, Vice-
42 President, Secretary, Assistant Secretary, and Treasurer. The Directors shall elect the
43 District’s officers. Within thirty (30) days after a vacancy occurs or as otherwise provided by
44 law, a successor shall be appointed by the Mayor and confirmed by resolution of City
45 Council.

46
47 Section 9. Board of Directors.

48
49 (a) Appointment, Oath. Within thirty (30) days of the effective date of this Ordinance, or

1 within thirty (30) days of each subsequent appointment to the Board by the City Council by
2 resolution, each member of the Board shall appear before an officer authorized to
3 administer oaths and take an oath that he or she will faithfully perform the duties of his or
4 her office as required by law and will support the constitution of the United States, the
5 constitution of the State of Colorado, and laws made pursuant thereto.

6
7 (b) Duties. The Board shall carry out the responsibilities required of such Board by the
8 Act and other applicable law. The District shall obtain the approval of the City's Manager of
9 Public Works or designee prior to the construction of District improvements in the public
10 right-of-way. The District shall comply with the applicable Rules and Regulations of the
11 City's Manager of Finance.

12
13 Section 10. Initial Operating Plan and Budget. The Initial Operating Plan, including the
14 District's preliminary 2016-2017 budget, as filed with the City Clerk in City Clerk's Filing No.
15 2016-0184-001 is hereby approved. Following a public hearing, the Board will formally
16 adopt the District's 2016-2017 budget following the effective date of this Ordinance, in
17 compliance with the Colorado Local Government Budget Law. Once formally adopted by
18 the Board, a copy of the District's 2016-2017 budget will be provided to the Managers of
19 Public Works and Finance. The budget for 2017 and subsequent years shall be
20 incorporated into the District's annual Operating Plan submitted to Denver for review and
21 approval on or before September 30th of each year (commencing with September 30,
22 2016), as required by Section 31-25-1211, C.R.S. The District is authorized to proceed with
23 an election on November 8, 2016 for any purpose authorized by the Act.

24
25 Section 11. Business Personal Property. The District shall not have the power to levy ad
26 valorem taxes against business personal property. No business personal property shall be
27 deemed to be within the boundaries of the District.

28
29 Section 12. Financial Powers, City Fees. The District shall have the power to levy taxes;
30 fix, and from time to time increase or decrease rates, tolls, and charges; accept grants, gifts
31 and other revenue allowed by the Act; and issue debt, subject to the limits and restrictions
32 on the same as set forth in its Operating Plan and electoral approval. The District shall pay
33 an annual fee as set forth in City policy unless otherwise waived by the City's Manager of
34 Finance.

35
36 Section 13. Maximum Mill Levy. The maximum mill levy, if approved by the eligible
37 electors of the District in an election conforming to Article X, Section 20 of the State
38 Constitution and other laws on November 8, 2016 or a subsequent election, will be ten (10)
39 mills assessed upon the commercial property in the District, until such time, if ever, as the
40 eligible electors of the District vote to change the maximum mill levy.

41
42 Section 14. Annual Operating Plan and Budget. The Board shall file its annual Operating
43 Plan and budget, including any proposed amendments thereto, with the Manager of Finance
44 and with the City Clerk for the approval of the City Council as provided in Section 31-25-
45 1211, C.R.S.

46
47 Section 15. Term Renewal Dissolution. The District shall exist for an initial term of ten (10)
48 years commencing on the effective date of this ordinance. At the end of the initial term, the
49 District will dissolve, unless after notice is given and publication is made substantially in the

1 manner prescribed by section 31-25-1206, and after a hearing is held by the Board to
2 evaluate the District's effectiveness, the Board determines that the District has been
3 successful. If the District is deemed successful, the Board will request that the City Council
4 renew the District by resolution at the conclusion of the initial term. However, the District
5 shall not be dissolved until it has satisfied or paid in full all of its outstanding indebtedness,
6 obligations, and liabilities, if any, or until funds are on deposit and available therefor and the
7 District has performed such tasks as are necessary to wind up its business as confirmed by
8 the City's Manager of Finance.

9
10 Section 16. Proposed Dissolution of Welton Street Pedestrian Mall Local Maintenance
11 District. All of the property contained within the Welton Street Pedestrian Mall Local
12 Maintenance District is encompassed in the District created herein; therefore, contingent
13 upon the approval of one or more ballot issues conforming to Art. X, Section 20 of the State
14 Constitution in an election to be held on November 8, 2016 by the District and final
15 determination of the results as certified by the Designated Election Official of the District, it
16 is the proponents' intention to seek City Council approval of an Ordinance dissolving the
17 Welton Street Pedestrian Mall Local Maintenance District and it will no longer exist except
18 as may be necessary to wind up business at the discretion of the Manager of Public Works
19 of the City. The District anticipates requesting that any surplus funds remaining in the
20 accounts of Welton Street Pedestrian Mall Local Improvement District shall be distributed to
21 the Five Points Business Improvement District for use within the boundaries of Welton
22 Street Pedestrian Mall Local Maintenance District. It is the intention of the District to take
23 over the maintenance responsibilities of Welton Street Pedestrian Mall Local Maintenance
24 District.

25
26 Section 17. Ratification of Past Actions. The actions of the City Clerk, petitioner, and the
27 designated election official in setting and providing public notice of the public hearing on the
28 sufficiency of the Petition, in acceptance of written designations of electors pursuant to §31-
29 25-1203(4)(a)(IV), C.R.S., and in the November 8, 2016 election and in furtherance hereof
30 are hereby ratified and confirmed.

31
32 Section 18. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, in conflict
33 with this Ordinance are hereby repealed, except that this section shall not be construed so
34 as to revive any act, order, resolution, or ordinance, or part thereof previously repealed.

35
36 Section 19. Headers. The headings on each section hereof are for convenience of
37 reference only and shall not be deemed to expand or limit the scope of any section.

38
39 Section 20. Recordation. This ordinance shall be recorded among the records of the Clerk
40 and Recorder of the City and County of Denver, State of Colorado by the City Clerk.
41

1 COMMITTEE APPROVAL DATE: May 10, 2016
2 MAYOR-COUNCIL DATE: May 17, 2016
3 PASSED BY THE COUNCIL: _____, 2016
4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2016
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2016; _____, 2016

10 PREPARED BY: Jo Ann Weinstein, Assistant City Attorney DATE: May 19, 2016

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the 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 Denver City Attorney

16 BY: _____, Assistant City Attorney DATE: _____, 2016
17

Exhibit A

Legal description of Service Area boundaries of Five Points Business Improvement District

Land Description

A parcel of land located in the Northeast Quarter of Section 34, and the Northwest Quarter of Section 35, and the Southwest Quarter of Section 26, and the Southeast Section of 27, all in Township 3 South, Range 68 West of the 6th PM, City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at the intersection of the centerline of the alley between Welton St. and Glenarm Pl. with the northeasterly right-of-way 20th St;

Thence northwesterly, along said northeasterly right-of-way, to its intersection with the centerline of the alley between Welton St. and California St.;

Thence northeasterly, along said alley centerline, to its projected intersection with the northeasterly right-of-way of Park Ave. W.;

Thence northwesterly, along said northeasterly right-of-way, to its intersection with the southeasterly right-of-way California St.;

Thence northeasterly, along said southeasterly right-of-way, to its intersection with the southwesterly right-of-way 24th St.;

Thence southeasterly, along said southwesterly right-of-way, to its intersection with the centerline of the alley between Welton St. and California St., projected southwesterly;

Thence northeasterly, along said alley centerline and its projection, to its intersection with the northeasterly right-of-way of 26th St.;

Thence northwesterly, along said northeasterly right-of-way, to its intersection with the southeasterly right-of-way of California St.;

Thence northeasterly, along said southeasterly right-of-way, to its intersection with the southwesterly right-of-way of 27th St.;

Thence southeasterly, along said southwesterly right-of-way, to its intersection with the centerline of the alley between Welton St. and California St., projected southwesterly;

Thence northeasterly, along said alley centerline and its projection, to its intersection with the southeasterly projection of the property line lying 8 feet northeasterly from, and parallel with, the southwesterly line of lot 3, block 73, Case and Eberts Addition to the City of Denver;

1 Thence northwesterly, along said property line, to its intersection with the southeasterly
2 right-of-way of California St., said point lying 8 feet northeasterly of the westernmost corner
3 of said lot 3;
4
5 Thence northeasterly and easterly, along said right-of-way of California St., to its
6 intersection with the westerly right-of-way of Downing St.;
7
8 Thence southerly, along said westerly right-of-way, to its intersection with the centerline of
9 the alley between Welton St. and Glenarm Pl., projected northeasterly;
10
11 Thence southwesterly, along said alley centerline and its projection, to its intersection with
12 the northerly right-of-way of 26th Ave.;
13
14 Thence southwesterly, crossing 26th Ave., to the intersection of the centerline of the alley
15 between Washington St. and Clarkson St. with the southerly right-of-way of 26th Ave.;
16
17 Thence southerly, along said alley centerline, to its intersection with the north line of lot 13,
18 block 2, Horner's Addition to Denver, projected easterly;
19
20 Thence westerly, along said lot line and its projection, to its intersection with the easterly
21 right-of-way of Washington St.;
22
23 Thence northerly, along said easterly right-of-way, to its intersection with the centerline of
24 the alley between Welton St. and Glenarm Pl., projected northeasterly;
25
26 Thence southwesterly, along said alley centerline and its projection, to the Point of
27 Beginning.
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Exhibit B

Map of Service Area of Five Points Business Improvement District

Five Points Business Improvement District (BID)



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