

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2012

COUNCIL BILL NO. CB12-0534
COMMITTEE OF REFERENCE:
Business, Workforce & Sustainability

A BILL

For an ordinance creating and establishing the Federal Boulevard Business Improvement District, appointing the initial members of the Board of Directors of the District, and approving the Initial Operating Plan and preliminary 2013 Budget therefore.

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

WHEREAS, the City Council of the City and County of Denver, Colorado (the "City"), has received a petition for the organization of the Federal Boulevard Business Improvement District within the City (the "District"); and

WHEREAS, based upon the petition for organization (the "Petition") and other evidence presented to 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 or personal 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 and personal 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, the Petition sets forth, among other things:

(a) The name of the proposed District, which is to wit: "Federal Boulevard Business Improvement District";

(b) A general description of the boundaries and service area of the proposed District which is to wit: the area generally described as the area along the Federal Boulevard Corridor in Denver that encompasses both sides of Federal Boulevard Avenue from West 22nd to West 27th Avenues, along Eliot Street between West 24th and West 26th Avenues, and West 25th Avenue from Federal to Eliot.

A map of the proposed District service area boundary is attached hereto for reference as Exhibit A, all of which is located in the City and consists of approximately 31.12 acres, more or less (the "Service Area"). The boundaries of the District include all properties within the Service Area which are classified as commercial property as defined in the Business Improvement District Act, Section 31-25-1203(2), C.R.S. As of the current time, the proposed District boundaries are depicted on Exhibit A

1 attached hereto for reference ("District Boundaries").

2 (c) A general description of the types of services or improvements or both to be provided by
3 the proposed District;

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

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

8 (f) A request that Council consider the District's initial operating plan and 2013 budget for
9 approval in accordance with Section 31-25-1211, C.R.S.;

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

11 **WHEREAS**, Council has determined that it appears that the allegations of the Petition are true;
12 and

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

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

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

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

21 **WHEREAS**, a legal description of the Service Area of the proposed District is attached hereto
22 as Exhibit B, a map of the boundaries of the Service Area of the proposed District is attached hereto
23 as Exhibit A, and a map of the current boundaries of the proposed District is depicted on Exhibit A,
24 and said exhibits are incorporated herein by reference.

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

27 **Section 1. Findings.** That upon consideration of a recommendation that an ordinance be
28 enacted creating the Federal Boulevard Business Improvement District (the "District"), Council finds:

29 (a) Petition Filing. That the proposed District was initiated by a Petition filed in the Office of
30 the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 29th day of June,
31 2012, City Clerk Filing No. 12-499, that the Petition was sufficient, that the allegations in the Petition
32 are true, that such Petition was determined to be in due and regular form and properly executed, and

1 that appropriate organizational fees have been paid by Petitioner;

2 (b) Public Hearing Set. That City Council has heretofore fixed a place and time for a
3 hearing on the Petition, which hearing has been scheduled for August 6, 2012 at 5:30 p.m., in the City
4 Council Chambers, Room 450 of the City and County Building, 1437 Bannock Street, Denver,
5 Colorado, and such hearing date is not less than twenty (20) days or more than forty (40) days after
6 the filing of the Petition;

7 (c) Notice of Hearing. That notice of such hearing has been duly published and the
8 proponents of the District, on behalf of the City Clerk, have mailed notice of such hearing to each
9 property owner within the Service Area and boundaries of the proposed District, as required by
10 Section 31-25-1206, C.R.S, and affidavits of such mailing and publication have been presented to the
11 City Clerk;

12 (d) Operating Plan and Budget. That the 2013 Operating Plan and Budget (the "Initial
13 Operating Plan"), which document includes the District's preliminary 2013 budget, has been filed in the
14 Office of the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 29th day of
15 June, 2012, City Clerk Filing No. 12-499, and the same, as amended, has been reviewed and
16 approved by the Manager of Public Works;

17 (e) Necessity, No Overlap. That the proposed District is lawful and necessary, should be
18 created and established, and that the proposed District does not include territory that is within any
19 other business improvement district.

20 **Section 2. Creation.** The Federal Boulevard Business Improvement District is hereby
21 created, organized, and established for the purposes and shall have the powers set forth in the Act,
22 except as otherwise modified in this Ordinance. All services and improvements provided by the District
23 shall be undertaken in accordance with the Act and the Initial Operating Plan, as the same may be
24 amended from time to time, and the annually approved Operating Plans and Budgets. Any
25 amendments to this Ordinance shall be approved by City Council.

26 **Section 3. Boundaries.** The Service Area of the District is set forth in Exhibit B and depicted
27 in Exhibit A, which exhibits are attached hereto and incorporated herein by reference. The District is
28 located entirely within the City and County of Denver and the Service Area is generally described as:
29 the area along the Federal Boulevard Corridor in Denver that encompasses both sides of Federal
30 Boulevard Avenue from West 22nd to West 27th Avenues, along Eliot Street between West 24th and
31 West 26th Avenues, and West 25th Avenue from Federal to Eliot, consisting of approximately 31.12
32 acres. The boundaries of the proposed District, currently consisting of approximately 10.52 acres as

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

5 **Section 4. Inclusion and Exclusion.** Inclusion and exclusion of property into or from the
6 District shall be completed as provided in the Act. Property located within the Service Area of the
7 District, as shown in Exhibit A attached hereto, that satisfies the definition of "commercial property" set
8 forth at Section 31-25-1203(2), C.R.S., but specifically excluding taxable personal property, shall
9 automatically be included within the District's boundaries as provided in the Act.

10 **Section 5. Legal Status, Name.** The District shall be a quasi-municipal corporation and
11 political subdivision of the State of Colorado with all powers and responsibilities thereof. The District
12 shall hereafter have the corporate name specified in the Petition: Federal Boulevard Business
13 Improvement District.

14 **Section 6. Board of Directors, Appointed.** Pursuant to Section 31-25-1209(1)(b), C.R.S., the
15 Board of Directors of the District (the "Board") shall consist of five (5) electors of the District, appointed
16 by the Mayor and confirmed by City Council resolution. Each member of the Board shall be an elector
17 of the District, as that term is defined at Section 31-25-1203(4)(a), C.R.S. The initial members of the
18 Board are hereby appointed and confirmed (and shall take office upon qualification, including by taking
19 the Oath of Office):

- 20 (a) Marshall Vanderburg-Five Year Term
- 21 (b) Howard Gerelick-Five Year Term
- 22 (c) David Jensen-Four Year Term
- 23 (d) Luis Gilbert Vasquez-Four Year Term
- 24 (e) David L. Berton-Four Year Term

25 **Section 7. Board of Directors, Procedures.** In accordance with Section 31-25-1209(1)(b),
26 C.R.S., members of the Board shall serve at the pleasure of the Mayor and City Council. Meetings of
27 the Board shall be subject to the Colorado Open Meetings Law. Three (3) Directors constitute a
28 quorum and an affirmative vote of three (3) Directors is required for District action. Officers of the
29 District shall include a Chairperson and President, Vice-President, Secretary, Assistant Secretary, and
30 Treasurer. The Directors shall elect the District's officers. Within thirty (30) days after a vacancy
31 occurs or as otherwise provided by law, a successor shall be appointed by the Mayor and confirmed
32 by resolution of City Council.

1 **Section 8. Board of Directors.**

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

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

12 **Section 9. Initial Operating Plan and Budget.** The Initial Operating Plan, including the
13 District's preliminary 2013 budget, as filed with the City Clerk in City Clerk's Filing No. 12-499 is hereby
14 approved. The Board will formally adopt the District's 2013 budget following the effective date of this
15 Ordinance, in compliance with the Colorado Local Government Budget Law. Once formally adopted
16 by the Board, a copy of the District's 2013 budget will be provided to the Managers of Public Works
17 and Finance. The budgets for 2014 and subsequent years shall be incorporated into the District's
18 annual Operating Plan submitted as provided in Section 12 hereof for review and approval on or
19 before September 30th of each year (commencing with September 30, 2013), as required by Section
20 31-25-1211, C.R.S. The District is authorized to proceed with an election on November 6, 2012 for
21 any purpose authorized by law.

22 **Section 10. Business Personal Property.** The District shall not have the power to levy ad
23 valorem taxes against business personal property. No business personal property shall be deemed to
24 be within the boundaries of the District.

25 **Section 11. Financial Powers, City Fees.** The District shall have the power to levy taxes; fix,
26 and from time to time increase or decrease rates, tolls, and charges; accept grants, gifts and other
27 revenue allowed by the Act; and issue debt after providing notice to the Managers of Finance and
28 Public Works, and providing such Managers with their requested documentation, subject to the limits
29 and restrictions on the same as set forth in its Operating Plan or Amended Operating Plan as
30 approved by City Council, and electoral authorization. The District shall pay an annual fee as set forth
31 in City policy unless otherwise waived by the City's Manager of Finance.

32 **Section 12. Annual Operating Plan and Budget.** The Board shall file its annual Operating

1 Plan and budgets, including any proposed amendments thereto, with the Manager of Finance and with
2 the City Clerk for the approval of the City Council as provided in Section 31-25-1211, C.R.S.

3 **Section 13. Ratification of Past Actions.** The actions of the City Clerk and petitioners involved
4 in setting and providing public notice of the public hearing on the sufficiency of the Petition, and in
5 furtherance hereof are hereby ratified and confirmed.

6 **Section 14. Repealer.** All acts, orders, resolutions, ordinances, or parts thereof, in conflict
7 with this Ordinance are hereby repealed, except that this section shall not be construed so as to revive
8 any act, order, resolution, or ordinance, or part thereof previously repealed.

9 **Section 15. Headers.** The headings on each section hereof are for convenience of reference
10 only and shall not be deemed to expand or limit the scope of any section.

11 COMMITTEE APPROVAL DATE: July 25, 2012

12 MAYOR-COUNCIL DATE: July 31, 2012

13 PASSED BY THE COUNCIL: _____, 2012

14 _____ - PRESIDENT

15 APPROVED: _____ - MAYOR _____, 2012

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

19 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2012; _____, 2012

20 PREPARED BY: Jo Ann Weinstein, Assistant City Attorney DATE: July 26, 2012

21 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
22 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
23 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
24 3.2.6 of the Charter.

25 Douglas J. Friednash, City Attorney for the City and County of Denver

26 BY: _____, Assistant City Attorney DATE: _____, 2012