

ORDINANCE NO. 2820

APPROVING EXPANSION OF THE BOUNDARIES
FOR THE GRAND JUNCTION, COLORADO
DOWNTOWN DEVELOPMENT AUTHORITY

RECITALS:

The Grand Junction, Colorado, Downtown Development Authority (the Authority) has adopted a Plan of Development for the boundaries of the Authority and the plan and boundaries were initially approved by the Grand Junction, Colorado, City Council (the Council) on December 16, 1981.

Since that time, several individuals, pursuant to section 31-25-822, 12 (a) C.R.S., as amended, and Article X of the Authority's Plan of Development have petitioned for inclusion within the boundaries of the Authority, and the boundaries of the Authority have been expanded by the Council by Ordinances No. 2045, 2116, 2382, 2400, 2425, and 2470;

The Board of Directors of the Authority has reviewed and approved current petitions of several individuals requesting inclusion into the Authority's boundaries; and requests Council approval to expand the Authorities boundaries to include these properties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO, that

1. The Council finds the existence of blight within the Authority within the meaning section 31-25-802(1.5), as amended, C.R.S.

2. The Council hereby finds and determines that the approval of the expansion of boundaries for the Downtown Development Authority Plan of Development as shown on the attached Exhibit 1, will serve as public use; will promote the health, safety, prosperity, security and general welfare of the inhabitants of the City and of its central business district; will halt or prevent the deterioration of property values or structures; will halt or prevent the growth of blighted areas; will assist the City and the Authority in the development and redevelopment of the district, and in the overall planning to restore or provide for the continuance of the economic health; and will be of specific benefit to the property to be included within the amended boundaries of the Authority.

3. The expansion of the Authority's boundaries, as shown in the attached Exhibit 1, are hereby approved by the Council and incorporated into the Plan of Development as previously amended and the Authority is authorized to undertake development projects as described in the Plan.

4. The County Assessor shall certify the valuation for assessment of the new property included as of the date of the last certification, and the City Finance Director shall certify the sales tax receipts for the properties for the twelve (12) months prior to the inclusion of such property.

5. If any provision of this ordinance is judicially adjudged invalid or unenforceable, such judgment shall not affect the remaining provisions hereof, it being the intention of the City Council that the provisions hereof are severable.

INTRODUCED on first reading this 15th day of March, 1995.

PASSED and ADOPTED this 5th day of April, 1995.

Attest:

/s/ R.T. Mantlo

President of the Council

/s/ Stephanie Nye
City Clerk

EXHIBIT 1

Expanding the boundaries of the Grand Junction Downtown Development Authority.

The boundaries of the Authority shall be expanded to include the following properties into the Plan of Development area within which tax increment financing is used.

| | <u>Tax Parcel #</u> | <u>Legal Description</u> |
|----|---------------------|-------------------------------------------------------------------------|
| 1. | #2945-143-41-004 | Blk 149 lots 28-30 inclusive, plus west portion lot 27 to railroad spur |
| 2. | #2945-144-17-005 | Blk 106, lots 11 and 12 |
| 3. | #2945-143-06-001 | Lots 1 & 2, blk 83, Grand Junction |
| 4. | #2943-144-04-006 | Lots 13 & 14, Blk 85, City of Grand Junction |
| 5. | #2945-144-04-015 | Lots 11 & 12, Blk 85, Grand Junction, Sec 14, 1S 1W |
| 6. | #2945-142-36-013 | Lot 21 & E 1/2 of Lot 22, Blk 56, Grand Junction |
| 7. | #2945-143-47-002 | Lot 2 D & RGW RAILROAD SUBDIVISION FILING FIVE SEC 14, 1S 1W |
| | #2945-143-48-001 | LOT 1 FIL 7 D & RGW RAILROAD MINOR SUB SEC 14, 1S 1W |

MEMORANDUM

TO: CITY MANAGER MARK ACHEN
CONTROLLER RANDY BOOTH
DIRETOR OF DOWNTOWN DEVELOPMENT AUTHORITY BARB
CREASMAN
DIRETOR OF FINANCE AND ADMINISTRATIVE SERVICES RON
LAPPI
CITY ATTORNEY DAN WILSON
DEPUTY ASSESSOR, BARB BUTLER

FROM: ASSISTANT CITY ATTORNEY JOHN SHAVER

DATE: MAY 23, 1995

SUBJECT: DOWNTOWN DEVELOPMENT AUTHORITY BOUNDARY/TIF AMENDMENTS

DISCUSSION: At the April 19, 1995 regular meeting of the Grand Junction City Council, proposed Ordinance 2830 was considered on second reading. Testifying in support of the Ordinance, Executive Director of the Downtown Development Authority Barbara Creasman stated that passage of the Ordinance would amend the area of the Authority and expand the tax increment financing district within the DDA. The matter was discussed among the City Council and upon motion by Councilman Maupin the Ordinance was passed and ordered published. Following the Council meeting City Attorney Dan Wilson asked that research be conducted on the legal effect of the adoption of the ordinance amending the DDA boundary. Also included in his research request was that I confirm or deny that the amendment of the Authority's boundary also amended the tax increment financing district.

ISSUE: Does the amendment of the boundary of a Downtown Development Authority ("DDA"), created in accordance with and pursuant to § 31-25-801, *et. seq.*, C.R.S., also amend the boundary in which tax increment financing is utilized for the funding of development and redevelopment within a tax increment financing district ("TIF")?

ANALYSIS: § 31-25-807, C.R.S. [a section of the DDA Act], provides that a special fund may be created for receipt of that portion of the ad valorem and municipal sales tax revenue produced from a designated area within a Downtown Development Authority. That area is known as the "plan of development area."

Funds derived from the annual incremental increase in property tax revenues and a portion of any annual incremental increase in sales tax revenues, calculated with reference to a base year within the plan of development area for the DDA, are received and administered by the City as "TIF" funds.

The Grand Junction City Council created a TIF fund by its resolution in December 1981. That same resolution adopted by reference the DDA Plan of Development which document designates

and describes a plan of development area in which tax increment
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financing would be used. The Plan of Development (the "Plan") at Section X provides that future amendment of the Plan and the Downtown Development District should be accomplished according to §§ 31-25-807 and 822, C.R.S., and Section X of the Plan.

Section (X) (C) (3) (h) of the Plan states that:

"Each inclusion, at the time a petition is considered by the Authority Board of Directors, should be designated for inclusion as:

- 1) A Commercial Renovation District;
- 2) An inclusion to the Plan of Development area within which tax increment financing is utilized under this Plan of Development;
- 3) An inclusion without designation, which inclusion may become a part of a future Plan of Development area."

§ 31-25-807 3(a), C.R.S., provides that tax increment funds are to be collected "upon taxable property within the boundaries of the plan of development area (emphasis added)." In order for the amendment to the DDA boundary, approved in Ordinance 2830, to lawfully amend and include the statutory authority for the collection of tax increments, the law requires that the plan of development area must be amended as well.

§ 31-25-807 4(c), C.R.S., establishes that the City Council must hold a public hearing on a substantial modification of an approved plan. Amendment of the boundaries of a plan of development area is a substantial modification and has historically been reviewed by the Grand Junction Planning Commission pursuant to § 31-25-807 4(b), C.R.S., prior to consideration by the City Council. See, also City Council Resolutions 20-90, 28-83 and 35-82.

Therefore, it is my opinion that in order for the area recently annexed into the DDA to also be included into the tax increment finance collection and utilization area of the DDA, additional actions, consistent with the Plan and § 31-25-807, C.R.S., are required.

Specific questions do remain which are beyond the scope of this research memorandum. Those questions, which the Authority may desire to commend to its legal counsel, are:

- 1) Is the recent amendment of the DDA boundary within the area of the Plan of Development as approved in December 1981 or as amended?
- 2) Has School District 51 consented to the amendment of the tax increment financing area?

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3) Have other effected governmental entities consented to the amendment of the tax increment financing area?

Mesa County, the Grand Junction Drainage District, the Colorado River Conservation District, and the Mesa County Library District are the other ad valorem taxing entities whose interests are affected.

4) How is the base for purposes of the property tax increment being calculated? As an average or per individual parcel or in accordance with some other calculation?

CONCLUSION: The procedures for amendment and inclusion of property within a Downtown Development Authority and a tax increment financing district with an Authority are not the same. While the recent annexations to its district have been successfully accomplished, inclusion of additional properties into the TIF area requires the additional legal procedures described above.