

AGENDA
THORNTON DEVELOPMENT AUTHORITY (T.D.A.)
SPECIAL MEETING
Virtual Meeting
January 11, 2022

1. CALL TO ORDER
2. ROLL CALL OF AUTHORITY
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES – October 26, 2021
5. BUSINESS
 - A. A resolution authorizing negotiations and, if necessary, eminent domain proceedings to acquire all or a portion of certain real property located within the South Thornton Urban Renewal Area to effectuate the purposes and provisions of the South Thornton Urban Renewal Plan.
 - B. A resolution adopting the first amendment to the 2022 Budget for the Thornton Development Authority beginning January 1, 2022 and ending December 31, 2022, and appropriating the funds for expenditure in 2022 (Thornton Shopping Center, Gateway District, Bull Canal Relocation).
6. ADJOURNMENT



Agenda prepared by Kristen N. Rosenbaum, City Clerk
for Kevin S. Woods, Secretary

MINUTES
THORNTON DEVELOPMENT AUTHORITY
SPECIAL MEETING
OCTOBER 26, 2021

1. CALL TO ORDER – By Vice-Chairperson Jessica Sandgren at 8:36 p.m. in the Council Chambers of the Thornton City Hall and by way of an electronic meeting through Zoom software.
2. ROLL CALL – Those present were: Vice-Chairperson Jessica Sandgren and Commissioners Angie Bedolla, Julia Marvin, Adam Matkowsky, Sam Nizam, and Jacque Phillips. Absent – Chairperson Jan Kulmann and Commissioners David Acunto and Sherry Goodman.

STAFF MEMBERS PRESENT – Kevin Woods, City Manager; Tami Yellico, City Attorney; Joyce Hunt, Assistant City Manager; Robb Kolstad, Assistant City Manager; Jeff Coder, Deputy City Manager of City Development; Kim Newhart, Finance Director; John Cody, Economic Development Director; Erika Senna, Budget Manager; Adam Krueger, Deputy Economic Development Director; Jessica Whitney, Interim Deputy City Attorney; Tricia Hinton-Potter, Human Resources Director; Mary Kent, CMO Services Administrator; Jaylin Stotler, Community Connections Manager; Kristen Rosenbaum, City Clerk; and Lori Leppek, Agenda and Licensing Coordinator.

3. APPROVAL OF AGENDA

MOTION WAS MADE BY COMMISSIONER NIZAM AND SECONDED BY COMMISSIONER MATKOWSKY TO APPROVE THE AGENDA AS PRESENTED. MOTION PASSED UNANIMOUSLY BY A ROLL CALL VOTE OF THE AUTHORITY.

4. APPROVAL OF MINUTES – September 28, 2021

MOTION WAS MADE BY COMMISSIONER MATKOWSKY AND SECONDED BY COMMISSIONER NIZAM TO APPROVE THE SEPTEMBER 28, 2021 THORNTON DEVELOPMENT AUTHORITY MINUTES AS PRESENTED. MOTION PASSED UNANIMOUSLY BY A ROLL CALL VOTE OF THE AUTHORITY.

5. BUSINESS

- A. A resolution adopting the first amendment to the 2021 Budget for the Thornton Development Authority beginning January 1, 2021 and ending December 31, 2021, and appropriating the funds for expenditure in 2021.

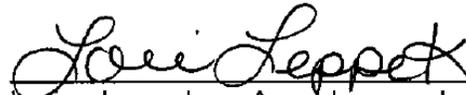
Erika Senna, Budget Manager, presented a slide and information on this item.

MOTION WAS MADE BY COMMISSIONER NIZAM AND SECONDED BY COMMISSIONER MATKOWSKY TO APPROVE A RESOLUTION ADOPTING THE FIRST AMENDMENT TO THE 2021 BUDGET FOR THE THORNTON DEVELOPMENT AUTHORITY BEGINNING JANUARY 1, 2021 AND ENDING DECEMBER 31, 2021, AND APPROPRIATING THE FUNDS FOR EXPENDITURE IN 2021. MOTION PASSED UNANIMOUSLY BY A ROLL CALL VOTE OF THE AUTHORITY.

6. ADJOURNMENT

MOTION WAS MADE BY COMMISSIONER MATKOWSKY AND SECONDED BY COMMISSIONER NIZAM TO ADJOURN THE MEETING AT 8:40 P.M. MOTION PASSED UNANIMOUSLY BY A ROLL CALL VOTE OF THE AUTHORITY.

Respectfully submitted,



Lori Leppik, Agenda and Licensing
Coordinator, for Kevin S. Woods, Secretary

ATTEST:

Chairperson at time of approval

Approved at the January 11, 2022, TDA meeting.

TDA COMMUNICATION

Meeting Date: January 11, 2022	Agenda Item: 5A	Agenda Location: Business	Goal(s):	Legal Review: <i>TJ</i>	<input type="checkbox"/> 1 st Reading <input type="checkbox"/> 2 nd Reading
Subject: A resolution authorizing negotiations and, if necessary, eminent domain proceedings to acquire all or a portion of certain real property located within the South Thornton Urban Renewal Area to effectuate the purposes and provisions of the South Thornton Urban Renewal Plan.					
Recommended by: John Cody <i>JC</i>			Approved by: Kevin S. Woods <i>KW</i>		Ordinance previously introduced by: _____
Presenter(s): Tami Yellico, City Attorney					

SYNOPSIS:

This resolution authorizes the Thornton Development Authority (TDA) to conduct good faith negotiations and make an offer of just compensation to acquire all or a portion of the Thornton Shopping Center (TSC) property. Should negotiations with the owner of the TSC property not lead to the TDA's acquisition of all or a portion of the property, the resolution also authorizes the TDA to initiate condemnation proceedings related to all or a portion of the TSC property, and prosecute the proceedings to their conclusion. Finally, this resolution further authorizes the TDA to obtain immediate possession of, or title to, all or a portion of the TSC property, if deemed necessary.

Consistent with the City Council ordinance authorizing the TDA to exercise its power of eminent domain, this resolution identifies the portion of the TSC property that does not require remediation of environmental contamination as the Phase One Property, and the portion of the TSC property that is contaminated with the dry cleaning solvent known as tetrachloroethylene (PCE) and therefore requires remediation of environmental contamination as the Phase Two Property. In accordance with City Council's authorization, the TDA may acquire the Phase One Property through eminent domain, and may complete additional due diligence efforts related to the Phase Two Property, including but not limited to, environmental testing and analysis and engaging with State officials regarding mechanisms that would limit the City's environmental liabilities under Federal and State environmental statutes, prior to acquiring the Phase Two Property through eminent domain, if at all.

RECOMMENDATION:

Staff recommends Alternative No. 1, adopt the resolution authorizing the TDA to conduct good faith negotiations and make an offer of just compensation to acquire all or a portion of the TSC property and, if necessary, exercise its power of eminent domain to acquire all or a portion of the TSC property.

BUDGET/STAFF IMPLICATIONS:

If and when the TDA proceeds with exercising its power of eminent domain, the TDA will be required to pay the property owner just compensation for acquisition of the property. The TDA also will be responsible for paying all costs and fees associated with a condemnation action in district court.

ALTERNATIVES:

1. Adopt the resolution.
2. Do not adopt the resolution.
3. Direct staff to prepare a new resolution authorizing the TDA's use of eminent domain to acquire all or a portion of the TSC property utilizing a different approach.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

Section 6.7 of the Amended and Restated South Thornton Area Urban Renewal Plan (Plan) states, in relevant part, that the TDA "may acquire property by negotiation or any other method authorized by the [Urban Renewal] Act, except that acquisition of property under the power of eminent domain must first be approved by the City Council and must comply with all other applicable legal requirements, including those required by the Act."

On December 14, 2021, City Council conducted a public hearing related to the authorization required by section 6.7 of the Plan, and adopted an ordinance on first reading authorizing the TDA to exercise its power of eminent domain to acquire all or a portion of the TSC property. On January 11, 2021, City Council adopted the ordinance on second reading.

RESOLUTION

A RESOLUTION AUTHORIZING NEGOTIATIONS AND, IF NECESSARY, EMINENT DOMAIN PROCEEDINGS TO ACQUIRE ALL OR A PORTION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE SOUTH THORNTON URBAN RENEWAL AREA TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THE SOUTH THORNTON URBAN RENEWAL PLAN.

WHEREAS, the Thornton Development Authority (TDA) is a corporate body that was established under and operates per the provisions of C.R.S. § 31-25-101 *et seq.* (Act); and

WHEREAS, the TDA has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Act; and

WHEREAS, the TDA has the specific power to acquire any interest in property by condemnation per C.R.S. §§ 31-25-105(1)(e), 31-25-105, 31-25-105.7 and 38-1-101 *et seq.*; and

WHEREAS, on October 23, 2012, City Council adopted the South Thornton Area Urban Renewal Plan (Initial Plan) after consideration of a certain conditions survey prepared by Ricker Cunningham (Blight Study); and

WHEREAS, on October 27, 2015, City Council approved an Amended and Restated South Thornton Area Urban Renewal Plan (Amended Plan) (the Initial Plan and the Amended Plan are collectively referred to hereinafter as the Plan); and

WHEREAS, in the Plan, the Thornton Shopping Center, generally located at the northeast corner of East 88th Avenue and Washington Street, and more particularly described in the legal description attached as Exhibit A (Property), is identified as a blighted property or a property within a blighted area referred to as the South Thornton Urban Renewal Area (Area); and

WHEREAS, the South Thornton Area Conditions Survey dated June 1, 2021 (Conditions Survey) determined that the Area and the Property contain factors included in the definition of “blighted area” as provided in the Act, that the Area continues to be a blighted area, and that the Property itself is blighted and is located in a blighted area; and

WHEREAS, according to the Conditions Survey, the Property contains the following factors of blight (lettering below follows the Act):

- (a) Slum, deteriorated, or deteriorating structures;
- (b) Predominance of defective or inadequate street layout;

- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Unusual topography or inadequate public improvements or utilities;
- (h) The existence of conditions that endanger life or property by fire or other causes;
- (i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;
- (j) Environmental contamination of buildings or property;
- (k.5) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements; and

WHEREAS, the Property is contaminated with a dry cleaning solvent known as tetrachloroethylene (PCE), as well as related chemicals that can result from the breakdown of PCE, including but not necessarily limited to, trichloroethylene, cis-1,2-dichloroethylene, and vinyl chloride, all of which are hazardous to human health; and

WHEREAS, the Property owner has failed to eliminate blight or remediate the environmental contamination on the Property; and

WHEREAS, the intent of the Plan is to ensure that the TDA can exercise all powers available to it for the elimination of blight in the Area, and the purpose of the Plan is to reduce, eliminate, or prevent the spread of blight; and

WHEREAS, the Plan identifies development objectives that the Plan seeks to advance, including elements of the South Thornton Revitalization Subarea Plan, which includes the “use of Urban Renewal to assist in redeveloping difficult property in the south Thornton area including the Thornton Shopping Center”; and

WHEREAS, Section 6.1 of the Plan authorizes the TDA to engage in a number of urban renewal undertakings and activities, including but not limited to, remedying blight within the Area by demolishing and clearing buildings and existing improvements, and conducting environmental contamination remediation; and

WHEREAS, Section 6.7 of the Plan authorizes the TDA to acquire property by negotiation or any other lawful method authorized by the Act, including through the exercise of eminent domain with the approval of City Council; and

WHEREAS, while the entire Property is blighted within the meaning of C.R.S. § 31-25-103(2), the portion of the Property that does not require remediation of environmental contamination is more particularly described in the legal description attached as Exhibit B (Phase One Property); and

WHEREAS, the portion of the Property that is contaminated with PCE and related chemicals, and which requires remediation of environmental contamination, is more particularly described in the legal description attached as Exhibit C (Phase Two Property); and

WHEREAS, on September 14, 2021, after conducting a public hearing on the Conditions Survey, City Council adopted Resolution C.D. No. 2021-136 accepting the Conditions Survey and made the following findings and determinations: (1) the Area, as described in the Conditions Survey, continues to be a blighted area; (2) the Property is located in a blighted area; (3) the Property itself is blighted; and, (4) the Area and the Property are appropriate for an urban renewal project; and

WHEREAS, on December 14, 2021 City Council adopted an ordinance that, based upon the evidence presented at the Public Hearing on December 14, 2021, and City Council's finding in Resolution C.D. No. 2021-136 that the Area remains blighted within the meaning of C.R.S. § 31-25-103(2), and the Property is blighted within the meaning of C.R.S. § 31-25-103(2), without regard to the economic performance of the property included within the Area, authorized the TDA to use eminent domain to acquire all or a portion of the Property utilizing a phased approach; and

WHEREAS, the urban renewal project the TDA intends to carry out on the Phase One Property after acquisition of the Phase One Property is more particularly described in the Urban Renewal Project Memorandum attached as Exhibit D; and

WHEREAS, prior to the TDA's acquisition or condemnation of the Phase Two Property, the TDA intends to complete additional due diligence efforts related to the Phase Two Property, including but not limited to, environmental testing and analysis and engaging with State officials regarding mechanisms that would limit the City's environmental liabilities under Federal and State environmental statutes, including but not limited to, the Comprehensive Environmental Response Compensation and Liability Act and the Resource Conservation and Recovery Act; and,

WHEREAS, should the TDA determine as a result of its due diligence efforts, that acquisition of the Phase Two Property is in the best interests of the City and the TDA, the urban renewal project the TDA intends to carry out on the Phase Two Property is more particularly described in the Urban Renewal Project Memorandum attached as Exhibit D; and

WHEREAS, the TDA's acquisition of all or a portion of the Property is necessary and required for public purposes to carry out the Plan; and

WHEREAS in accordance with City Council's authorization, and in furtherance of the objectives of the Plan, the TDA now desires to negotiate in good faith with and make offers of just compensation to the owner of the Property for the voluntary acquisition of all or a portion thereof, and if such negotiations for the acquisition of all or a portion of

the Property prove unsuccessful, to use eminent domain to acquire all or a portion of the Property utilizing a phased approach.

NOW, THEREFORE, BE IT RESOLVED BY THE THORNTON DEVELOPMENT AUTHORITY, AS FOLLOWS:

1. The acquisition of all or a portion of the Property described in Exhibit A is necessary for effectuation of the purposes and provisions of the South Thornton Area Urban Renewal Plan and the Amended and Restated South Thornton Area Urban Renewal Plan.
2. The acquisition of all or a portion of the Property serves the public purposes or public uses set forth in the South Thornton Area Urban Renewal Plan, the Amended and Restated South Thornton Area Urban Renewal Plan, and the Act.
3. The TDA or its staff, designees, agents, or representatives shall conduct good faith negotiations and make an offer of just compensation to acquire all or a portion of the Property following an estimate or determination of just compensation by a licensed appraiser.
4. The TDA or its staff, designees, agents, or representatives are authorized to employ all necessary persons for the purposes authorized herein, including, employment of special condemnation counsel, if necessary, and appraisers, surveyors, engineers, or other expert consultants.
5. The TDA or its staff, designees, agents, or representatives are also authorized to initiate condemnation proceedings and prosecute the proceedings to their conclusions, and may obtain immediate possession of or title to all or a portion of the Property, if deemed necessary.
6. The TDA or its staff, designees, agents, or representatives shall have the authority to amend the legal descriptions of and the interests sought in the Property as deemed necessary in the course of acquiring all or a portion of the Property, and any such amendments shall be included in the definition of the Property contained herein.
7. The City Manager, or designee, is authorized to execute and the City Clerk to attest any document necessary for the acquisition of all or a portion of the Property.

PASSED AND ADOPTED at a regular meeting of the Thornton Development Authority, on _____, 2022.

THORNTON DEVELOPMENT AUTHORITY

Jan Kulmann, Chairperson

ATTEST:

Kristen N. Rosenbaum, City Clerk

TDA COMMUNICATION

Meeting Date: January 11, 2022	Agenda Item: 5B	Agenda Location: Business	Goal(s):	Legal Review: <i>TY</i>	<input type="checkbox"/> 1 st Reading <input type="checkbox"/> 2 nd Reading
Subject: A resolution adopting the first amendment to the 2022 Budget for the Thornton Development Authority beginning January 1, 2022 and ending December 31, 2022, and appropriating the funds for expenditure in 2022 (Thornton Shopping Center, Gateway District, Bull Canal Relocation).					
Recommended by: Robb Kolstad <i>RK</i>				Approved by: Kevin S. Woods <i>KW</i>	
Presenter(s): Erika Senna, Budget Manager				Ordinance previously introduced by: _____	

SYNOPSIS:

This resolution amends the 2022 Budget for the Thornton Development Authority (TDA) and appropriates additional funding for a comprehensive, long-term risk assessment of acquiring contaminated portions of the Thornton Shopping Center, work related to the marketing and eventual sale of the Gateway District property, as well as additional funding for the Bull Canal Relocation project.

RECOMMENDATION:

Staff recommends Alternative No. 1, approval of the resolution amending the 2022 TDA Budget.

The 2022 Budget for the TDA, which authorizes expenditures of \$25,595,001, is proposed to increase by \$1,322,692. The amended budget will be \$26,917,693 and accomplishes the following:

1. Appropriate \$22,000 in the TDA South Fund to cover a comprehensive, long-term risk assessment of acquiring contaminated portions of the Thornton Shopping Center and the associated liability.
2. Appropriate \$53,000 in the TDA South Fund to fund work related to the marketing and eventual sale of the Gateway District property.
3. Appropriate \$1,120,392 in the TDA North fund to allow for completion of the Bull Canal Relocation project.

BUDGET/STAFF IMPLICATIONS:

The source of funding for the risk assessment at Thornton Shopping Center comes from unappropriated fund balance in the TDA South Fund.

The source of funding for the work related to the marketing and eventual sale of the Gateway District property comes from unappropriated fund balance in the TDA South Fund.

The source of funding for the Bull Canal Relocation project comes from unappropriated fund balance in the TDA North Fund.

ALTERNATIVES:

1. Approve the resolution amending the 2022 TDA Budget.
2. Do not approve the resolution amending the 2022 TDA Budget.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

The City Council established, by ordinance, the TDA in September 1981. In 2012, the City approved the South Thornton Urban Renewal Plan dated October 2012 to assist with the redevelopment of certain properties in South Thornton, including the Thornton Shopping Center. The 2022 TDA Budget was adopted on September 28, 2021 by Resolution TDA No. 2021-002.

R E S O L U T I O N

A RESOLUTION ADOPTING THE FIRST AMENDMENT TO THE 2022 BUDGET FOR THE THORNTON DEVELOPMENT AUTHORITY BEGINNING JANUARY 1, 2022 AND ENDING DECEMBER 31, 2022, AND APPROPRIATING THE FUNDS FOR EXPENDITURE IN 2022 (THORNTON SHOPPING CENTER, GATEWAY DISTRICT, BULL CANAL RELOCATION).

WHEREAS, the Thornton Development Authority (TDA) adopted a Budget for the 2022 fiscal year; and

WHEREAS, the City approved the South Thornton Urban Renewal Plan dated October 2012 to assist with the redevelopment of certain properties in South Thornton, including the Thornton Shopping Center; and

WHEREAS, the TDA desires to amend the Budget to appropriate additional funds to cover costs associated with a risk assessment at Thornton Shopping Center, marketing and preparation for eventual sale of the Gateway District property, as well as additional funds to cover the cost of relocating the Bull Canal.

NOW, THEREFORE, BE IT RESOLVED BY THE THORNTON DEVELOPMENT AUTHORITY OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. That the 2022 TDA budget is as follows:

Fund	2022 Budget	2022 Amended Budget	Change
Thornton Development Authority			
TDA South Fund	\$325,096	\$400,096	\$ 75,000
TDA North Fund	20,983,440	22,103,832	1,120,392
TDA 144th Fund	4,286,465	4,286,465	-
Total All Funds	\$25,595,001	\$26,790,393	\$1,195,392

2. These funds are hereby appropriated as described above.
3. The appropriations for capital projects shall not lapse at year-end but continue until the project is completed or cancelled.
4. The City Manager, or designee, acting as Secretary to the TDA, is authorized to execute all Contracts, Change Orders and such documents as may be required to implement the Budget stated above. The City Manager is further authorized to transfer funds as needed between budget items in order to satisfactorily complete these projects.

PASSED AND ADOPTED at a special meeting of the Thornton Development Authority of the City of Thornton, Colorado, on _____, 2022.

THORNTON DEVELOPMENT AUTHORITY

Jan Kulmann, Chairperson

ATTEST:

Kristen N. Rosenbaum, City Clerk