

ORDINANCE NO. 4944

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO ELLENSBURG BUSINESS DEVELOPMENT AUTHORITY DOING BUSINESS AS "CENTERFUSE", REPEALING ORDINANCE 3895, CODIFIED AS CHAPTER 1.62 "BUSINESS DEVELOPMENT AUTHORITY" OF THE ELLENSBURG CITY CODE, AND DISSOLVING THE ELLENSBURG BUSINESS DEVELOPMENT AUTHORITY.

WHEREAS, the Ellensburg Business Development Authority ("EBDA") was established in 1993 with the adoption of Ordinance 3895 by the City Council of the City of Ellensburg ("City") and codified in chapter 1.62 of the Ellensburg City Code ("ECC"), as amended by Section 1 of Ordinance 4203; and

WHEREAS, the EBDA adopted Resolution 2019-2 on January 9, 2019, approving its continued operation doing business as "CenterFuse" (the EBDA and CenterFuse referred hereafter in the singular as "the EBDA"); and

WHEREAS, the EBDA obtained a loan from the Community Economic Revitalization Board in 2000 to allow for the construction of a "business incubator" building which was constructed on property owned by Kittitas County, Parcel No. 955272, and included direct and indirect financial contributions from the City and Kittitas County; and

WHEREAS, the EBDA, City and Kittitas County entered into an Interlocal Agreement ("ILA") on January 23, 2013 to extend the EBDA's jurisdiction to the City's Urban Growth Area, and the ILA provides it shall terminate upon the termination of the EBDA's existence; and

WHEREAS, the City, the EBDA, and Kittitas County have collectively met and agreed that dissolution of the EBDA is warranted to allow it to adapt its organizational structure to better align with its current strategic goals by being merged with the Kittitas County Chamber of Commerce; and

WHEREAS, the EBDA has provided services to the City through a professional services agreement for a number of years, which have included the promotion of economic development, business recruitment and retention, property management of the city's former business incubator and providing a physical presence and point of contact for business and industry interested in relocation or establishment in Ellensburg, and the City provided notice pursuant to the EBDA on July 26, 2024 that it was terminating the current agreement effective August 31, 2024; and

WHEREAS, the EBDA entered into a Memorandum of Understanding ("MOU") with the Chamber on June 6, 2024, whereby the parties agreed the EBDA would be merged and integrated into the Chamber's organization, with an effective date coinciding with the effective date of this Ordinance; and

WHEREAS, the EBDA adopted Resolution 2024-04 at its August 14, 2024 meeting, which authorized its Executive Director to take all necessary actions to effectuate the dissolution of the EBDA, as further specified in Resolution 2024-04; and

WHEREAS, the EBDA, in addition to disposing of its assets as set forth herein, will transfer all of its public records, as defined in Chapter 42.56 RCW, to the City as part of the dissolution process; and

WHEREAS, following a duly noticed public hearing held during a regularly scheduled Ellensburg City Council Meeting on September 16, 2024, the Ellensburg City Council voted to repeal Chapter 1.62 of the Ellensburg City Code by the required two-thirds majority of the Council;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. The “Whereas” provisions set forth above are hereby incorporated in this Ordinance as findings in support of the actions authorized in this Ordinance.

Section 2. Dissolution of EBDA. The City Council make the affirmative finding that dissolution of the EBDA created by Ordinance 3895 and codified as Chapter 1.62 of the Ellensburg City Code, as last amended by Ordinance 4750, is warranted and shall be and is hereby dissolved. Ordinance 3895 together with the Charter of the EBDA, as of the effective date provided in Section 7 of this Ordinance, is repealed in its entirety.

Section 3. Disposition of EBDA Assets. All assets of the EBDA, including but not limited to real and personal property, leasehold interests, bank, savings and investment accounts, shall be transferred to the City upon adoption of this Ordinance. Thereafter, the assets may be allocated to the City and/or disposed of in such a manner to be in the City’s best interests as determined by the City Manager, subject to City Council or other approval as required by local, state or federal law.

Section 4. Authorization of the City Manager. The City Manager or their designee is authorized to prepare, execute, and have executed, all documents necessary to facilitate the filing of Articles of Dissolution with the State of Washington in accordance with the requirements of RCW 24.03A.910, including but not limited to, obtaining a Tax Clearance Certificate for the EBDA as required under RCW 82.32.260. The City Manager, or their designee, shall also have full authority to exercise all powers necessary to continue the operation of those facilities of the EBDA which shall devolve back to the possession and control of the City or transfer assets of the EBDA to third parties as a result of this dissolution and in accordance with Ordinance No. 3985 and the Charter and proper provision has been made for the disposition of all EBDA assets in compliance with all local, state and federal laws and regulations.

Section 5. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 6. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 7. Effective Date. This ordinance shall be in force five (5) days after its passage, approval, and publication and shall take effect upon conclusion of the transfer of all assets from the EBDA to the City, or by November 30, 2024, whichever occurs first. Thereafter, the City Clerk shall provide notice of the effective date pursuant to state law and to other persons requested by the EBDA to be notified of the dissolution.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 7th day of October, 2024.


MAYOR

ATTEST:


CITY CLERK

Approved as to form:


CITY ATTORNEY

Publish: 10-10-2024

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4944 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4944 was published as required by law.


BETH LEADER