

ORDINANCE NO. 17-27

AN ORDINANCE EXCLUDING CERTAIN PROPERTY
FROM THE BOUNDARIES OF THE INTERQUEST NORTH
BUSINESS IMPROVEMENT DISTRICT

WHEREAS, City Council received a Petition for Exclusion (the "Petition") filed pursuant to C.R.S. § 31-25-1220 for the exclusion of certain property described in the Petition attached and made a part of this Ordinance as Exhibit "A" (the "Property") from the Interquest North Business Improvement District ("District"); and

WHEREAS, in accord with the law, a public notice of the Petition has been given and published in the Colorado Springs Daily Transcript, calling for a public hearing on the exclusion request set forth in the Petition, proof of publication for which is attached and made a part of this Ordinance as Exhibit "B"; and

WHEREAS, City Council has conducted a Public Hearing and heard all persons having objections to the exclusion of the Property from the District; and

WHEREAS, the Property sought to be excluded from the District is located entirely within the City of Colorado Springs, El Paso County, Colorado, and does not include property within any other county or within any other incorporated city, town, or city and county.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. City Council finds and determines that it has jurisdiction in this matter pursuant to the Business Improvement District Act, Part 12 of Article 25 of Title 31, C.R.S.

Section 2. City Council finds and determines that the change in boundaries of the Interquest North Business Improvement District as proposed in the Petition does not adversely affect the District.

Section 3. Pursuant to C.R.S. § 31-25-1220, City Council grants the Petition and orders the exclusion of the Property from the boundaries of the District.

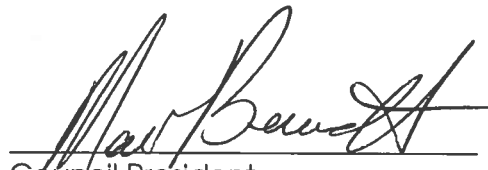
Section 4. The City Clerk is directed to file a certified copy of this Ordinance with the County Clerk and Recorder of El Paso County, Colorado.

Section 5. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 6. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance shall be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this 14th day of March, 2017.

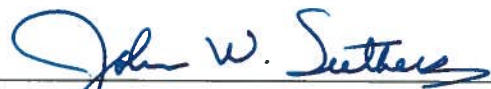
Finally passed: March 28th, 2017



Council President

Mayor's Action:

- Approved on March 29, 2017.
- Disapproved on _____, based on the following objections:



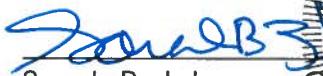
Mayor

Council Action After Disapproval:


- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:



Sarah B. Johnson, City Clerk



PETITION FOR EXCLUSION OF PROPERTY
From
INTERQUEST NORTH BUSINESS IMPROVEMENT DISTRICT

TO: City Council, City of Colorado Springs, Colorado.

The undersigned, Interquest Marketplace, LLC, a Colorado limited liability company, hereby respectfully petitions the City Council of the City of Colorado Springs in accordance with the provisions of Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described property from the Interquest North Business Improvement District (the "District").

The undersigned hereby requests that the herein described property on Exhibit A, which attached hereto and incorporated herein (the "Property") be excluded from said District and that an Ordinance be adopted by the City Council excluding said property from said District, and that from and after the entry of such Ordinance, said property shall not be liable for assessments and other obligations of said District.

The undersigned represents to the City Council that it is the owner of the property. The undersigned represents that no other persons, entity or entities own an interest in the Property except the Bondholder, Enterprise Fund No. 6, LLC, a Colorado limited liability company (the "Bondholder"). The undersigned has obtained consent to the exclusion from Bondholder. A copy of which is attached hereto as Exhibit B.

Acceptance of the Petition shall be deemed to have occurred at that time when the City Council sets the date for the public hearing for the consideration of the Petition.

The undersigned agrees that it shall pay in full the fees and costs incurred by the City and the District for the publication of the notice of the hearing on exclusion, publication of the ordinance approving the exclusion (if any), filing and recording fees, and all other costs of exclusion of the property from said District, whether or not such exclusion is approved.

The legal description of said property situate in the County of El Paso, State of Colorado, is attached hereto as Exhibit A.

This is a verified petition.

Petitioner: Interquest Marketplace, LLC

By: 

Name: David D. Jenkins

Title: Manager

Petitioner's

Street Address:

111 S. Tejon Street, Suite 222
Colorado Springs, CO 80903

DN 1568705.1

Exhibit A

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 6th day of January, 2017,
by David D. Jenkins as Manager of Interquest
Marketplace, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission Expires: 10-24-2017



Loretta D. Jibreen
Notary Public

EXHIBIT A
Petition for Exclusion
Legal Description
Interquest North Business Improvement District

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF SECTION 20, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: A PORTION OF THE EASTERLY BOUNDARY OF THE UNITED STATES AIR FORCE ACADEMY AS RECORDED IN BOOK 0-2 AT PAGE 84, BEING MONUMENTED AT THE SOUTHERLY END (THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20) BY A 2-1/2 INCH ALUMINUM SURVEYORS CAP STAMPED "CCES LLC PLS 30118" AND AT THE NORTHERLY END BY 3-1/2" BRASS CAP IN CONCRETE LS 6786 USAF, IS ASSUMED TO BEAR N00°15'03"W A DISTANCE OF 699.09 FEET.

COMMENCING AT THE SOUTHEASTERLY CORNER TRACT H AS PLATTED IN MARKETPLACE AT INTERQUEST FILING NO. 2, RECORDED UNDER RECEPTION NO. 208712788 RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF VOYAGER PARKWAY AS DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 98091346 SAID POINT BEING THE POINT OF BEGINNING;

THENCE S00°03'04"E, ON SAID WESTERLY RIGHT OF WAY LINE AND THE WESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 83 DESCRIBED IN A DOCUMENT RECORDED IN BOOK 1982 AT PAGE 416, A DISTANCE OF 599.37 FEET TO A POINT ON CURVE;
THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S34°48'43"W HAVING A DELTA OF 34°25'11" A RADIUS OF 33.00 FEET AND A DISTANCE OF 19.82 FEET TO A POINT OF TANGENT;
THENCE N89°38'28"W, A DISTANCE OF 35.91 FEET TO A POINT OF CURVE;
THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 41°28'11" A RADIUS OF 203.00 FEET AND A DISTANCE OF 146.93 FEET TO A POINT OF TANGENT;
THENCE S48°53'21"W, A DISTANCE OF 221.18 FEET TO A POINT OF CURVE;
THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 41°28'11" A RADIUS OF 220.00 FEET AND A DISTANCE OF 159.23 FEET TO A POINT OF TANGENT;
THENCE N89°38'28"W, A DISTANCE OF 238.56 FEET;
THENCE N00°21'32"E, A DISTANCE OF 808.00 FEET TO A POINT ON THE SOUTHERLY OF RIGHT OF WAY LINE OF NEW LIFE DRIVE AS PLATTED IN SAID MARKETPLACE AT INTERQUEST FILING NO. 2;

THENCE ON SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES:

1. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N02°20'28"E, HAVING A DELTA OF 26°18'12" A RADIUS OF 740.00 FEET AND A DISTANCE OF 339.72 FEET TO A POINT OF REVERSE CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 23°55'32", A RADIUS OF 660.00 FEET AND A DISTANCE OF 275.60 FEET;
3. N89°57'47"E, A DISTANCE OF 39.00 FEET TO THE NORTHWESTERLY CORNER OF SAID TRACT H;

THENCE ON THE WESTERLY AND SOUTHERLY BOUNDARY OF SAID TRACT H THE FOLLOWING FIVE (5) COURSES;

1. S00°02'13"E, A DISTANCE OF 12.00 FEET;
2. N89°57'47"E, A DISTANCE OF 29.81 FEET;
3. S45°00'00"E, A DISTANCE OF 24.98 FEET;
4. S00°03'04"E A DISTANCE OF 57.00 FEET;
5. N89°56'56"E, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING

CONTAINING A CALCULATED AREA OF 13.151 ACRES.

DEDICATION:

EXHIBIT B
Petition for Exclusion
Bondholder's Consent

CONSENT OF BONDHOLDER
\$6,500,000 Interquest North Business Improvement District
Limited Tax General Obligation Bond, Series 2010

THE UNDERSIGNED (the "Bondholder"), in connection with execution and issuance by the Interquest North Business Improvement District (the "BID") of the \$6,500,000 Limited Tax General Obligation Bond, Series 2010 (the "2010 Bond"), hereby consents, agrees, and represents as follows (capitalized terms used herein and not defined shall have the meanings ascribed thereto by the resolution approving the 2010 Bond by the BID, adopted on December 1, 2010 by the BID):

1. As of the date hereof, the Bondholder is the registered owner of 100% of the 2010 Bond.

2. The Bondholder consents and agrees to the following:

(a) Interquest Marketplace is in the process of excluding certain property from the BID, more particularly described in Exhibit A, hereinafter referred to as the "Property"; and

(b) Bondholder desires to provide its consent to the exclusion of the Property; and

(c) Bondholder desires to waive any future or present indebtedness or encumbrances on the Property.


3. Bondholder has been provided and received such documents and other information as it has requested in connection with the consent and agreement herein, and hereby conditionally agrees to the exclusion of the Property from further encumbrances of the 2010 Bond.

4. The undersigned is duly authorized by all applicable laws, rules, regulations, and corporate documents to make the agreements and representations contained herein.

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Dated as of the 5th day of Oct, 2015.

ENTERPRISE FUND NO. 6, a Colorado limited liability company

By: 

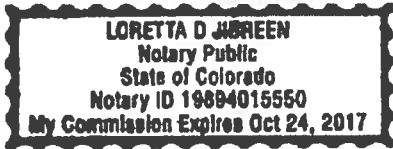
By: David D Jenkins, Manager

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 5th day of Oct, 2015, by David D Jenkins, Manager of Enterprise Fund No. 6, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission Expires: 10 24 2017



Loretta D Jibreen
Notary Public

EXHIBIT A

**LEGAL DESCRIPTION: INTERQUEST NORTH BUSINESS IMPROVEMENT
DISTRICT EXCLUSION 2017**

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CONTAINING A CALCULATED AREA OF 13.151 ACRES.

DEDICATION:

AFFIDAVIT OF PUBLICATION

**STATE OF COLORADO
COUNTY OF EL PASO**

I, Mary Heifner, being first duly sworn, deposes and says that she is the Legal Sales Representative of THE COLORADO SPRINGS GAZETTE, LLC., a corporation, the publishers of a daily public newspaper, which is printed and published daily in whole at the city of Colorado Springs in the County of El Paso, and the State of Colorado, and which is called The Gazette; that a notice of which the annexed is an exact copy, cut from said newspaper, was published in the regular and entire editions of said newspaper 1 time(s) to wit, February 10, 2017

That said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of at least six consecutive months next prior to the first issue thereof containing this notice; that said newspaper has a general circulation and that it has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879 and any amendment thereof, and is a newspaper duly qualified for the printing of legal notices and advertisement within the meaning of the laws of the State of Colorado.


Mary Heifner
Legal Sales Representative

Subscribed and sworn to me this February 10, 2017, at said City of Colorado Springs, El Paso County, Colorado. My commission expires October 24, 2020.


Lori A. Curry
Notary Public

The Gazette

**LORI CURRY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164040549
MY COMMISSION EXPIRES 10/24/2020**

NOTICE OF EXCLUSION

NOTICE IS HEREBY GIVEN that there has been filed with the City Council of the City of Colorado Springs, a petition praying for the exclusion of certain lands from the Interquest North Business Improvement District.

1. The name and address of the petitioner and the description of the property mentioned in such petition is as follows:
Owner: Interquest Marketplace, LLC
Address: 111 S. Tejon Street, Suite 222
Colorado Springs, Colorado 80903
Description: A parcel of land being a portion of Section 20, Township 12 South, Range 68 West of the Sixth Principal Meridian, El Paso County, Colorado, and is generally bounded by Voyager Parkway on the east, Interquest Parkway on the south, the extension of New Life Drive on the north, and Federal Drive on the west; containing a calculated area of 13.181 acres. Also known as: Interquest at Marketplace Filing No. 9

A full legal description can be provided upon request.

2. The prayer of the petition is that the above property be excluded from the Interquest North Business Improvement District.

Accordingly, notice is hereby given to all interested persons to appear at the public hearing before the City Council of the City of Colorado Springs, to be held on the third floor of City Hall, 107 N. Nevada Avenue, Colorado Springs, Colorado, El Paso County, Colorado, on Tuesday, the 14th day of March, 2017, at 1:00 p.m. and show cause in writing, if any they have, why such petition should not be granted. The failure of any person in the existing District to file a written objection shall be taken as an assent on their part to the exclusion of the area described in this notice.

**CITY OF COLORADO
SPRINGS, COLORADO**
By: /s/ Sarah Johnson, City Clerk

Published in Colorado Springs Gazette
February 10, 2017

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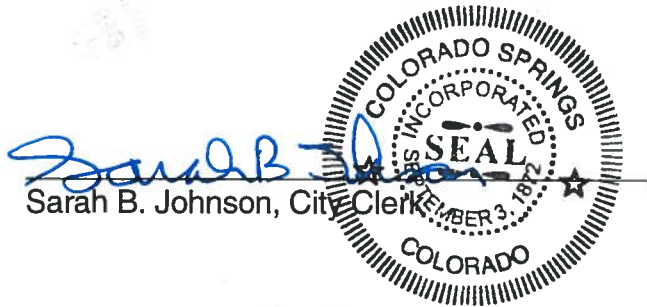
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CITY OF COLORADO SPRINGS, COLORADO

By: /s/ Sarah Johnson
City Clerk

I HEREBY CERTIFY, that the foregoing ordinance entitled “AN ORDINANCE EXCLUDING CERTAIN PROPERTY FROM THE BOUNDARIES OF THE INTERQUEST NORTH BUSINESS IMPROVEMENT DISTRICT” was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on March 14th, 2017; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 28th day of March, 2017, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 30th day of March, 2017.



Sarah B. Johnson, City Clerk

1st Publication Date: March 17th, 2017

2nd Publication Date: April 5th, 2017

Effective Date: April 10th, 2017

Initial: SBJ
City Clerk