

2016 OPERATING PLAN AND BUDGET

**CREEKWALK
MARKETPLACE
BUSINESS
IMPROVEMENT
DISTRICT**

City of Colorado Springs, El Paso County, Colorado

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2016
**OPERATING PLAN FOR THE
CREEKWALK MARKETPLACE BUSINESS IMPROVEMENT DISTRICT**

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Requirement for this Operating Plan The Business Improvement District Act, specifically Section 31-25-1211, C.R.S., requires that the Creekwalk Marketplace Business Improvement District (the “District”) file an operating plan and budget with the City Clerk no later than September 30 of each year.

Under the statute, the City is to approve the operating plan and budget within 30 days of the submittal of all required information.

The District will operate under the authorities and powers allowed under the Business Improvement District Act, Section 31-25-1201, et seq., Colorado Revised Statutes, as amended, as further described and limited by this Operating Plan.

B. What Must Be Included in the Operating Plan? Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, et seq., Colorado Revised Statutes, as amended, this Operating Plan specifically identifies (1) the composition of the Board of Directors, (2) the services and improvements to be provided by the District, (3) the taxes, fees, and assessments to be imposed by the District, (4) the estimated principal amount of the bonds to be issued by the District, and (5) such other information as the City may require.

This Operating Plan and any subsequent Operating Plans, that are approved by the City, will be incorporated herein by reference, and shall remain in full force and effect except as specifically or necessarily modified hereby.

C. Purposes As may be further articulated in prior year’s Operating Plans, the ongoing and/or contemplated purposes of this District for 2016 include financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts.

D. Ownership of Property or Major Assets The District will own public improvements as constructed if such improvements are not otherwise dedicated to other public entities for operation and maintenance.

E. Contracts and Agreements It is anticipated that the District will enter into various agreements as required to facilitate the funding, construction, operation and maintenance of public improvements including agreements with the proposed urban renewal entity to be formed overlapping the boundaries of the District. The District is not currently a party to any significant active contracts or agreements. The District may also enter into agreements with other districts encompassing adjacent developments in order to cooperate on infrastructure projects.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

- A. **Organization.** The Creekwalk Marketplace Business Improvement District is sought to be organized by the City of Colorado Springs, Colorado as requested in the Petition for Organization for the District.
- B. **Governance.** Pursuant to Section 31-25-1209(1)/(d), the City hereby provides for a board of directors for the District, which shall have five members. Each member shall be an elector of the District and shall be elected by the eligible electors of the District as provided by law. The City will appoint the initial board of directors for the District after which the positions on the board shall be elected starting with an election on May 3, 2016.
- C. **Current Board.** If approved by the City, the District will be managed by a Board of Directors consisting of five electors all of whom shall be voting members. The proposed Board members are:
- 1) Danny Mientka
 - 2) Rebecca Mientka
 - 3) Deirdre Aden-Smith
 - 4) Melissa Christensen
 - 5) Earl Franklin Mannon

Director and other pertinent contact information is provided in Exhibit A.

- D. **Term Limits.** At the May 3, 2016 election, a ballot question will be included to eliminate term limits,
- E. **Advisory Board.** The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. No advisory boards have yet been appointed.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District is proposed to include approximately 4.13 acres with boundaries as depicted in Exhibit C. In 2016 and subsequent years the District anticipates inclusion requests for additional property as the urban renewal boundaries are established and additional property owners participate in the District.

4. PUBLIC IMPROVEMENTS

The District will be primarily concerned with the provision of public improvements and services within the boundaries of the of the District; however, there may be instances to provide improvement or services outside of the boundaries of the District as part of the urban renewal project. The District shall have the authority to provide these improvements and services, but the revenue-raising powers of the District to recoup the costs of extraterritorial improvements and services shall be as limited by state law.

The public improvements that the District anticipates it will construct, install or cause to be constructed and installed, include those public improvements the costs of which may, in accordance with the Business Improvement District Act, Section 31-25-1201, et seq., C.R.S., lawfully be paid for by the District, including, without limitation, water services, safety protection devices, sanitation services, marketing, streetscape improvements, street improvements, curbs, gutters, culverts, drainage facilities, sidewalks, parking facilities, paving, lighting, grading, landscaping and storm and wastewater management facilities and associated land acquisition and remediation (the "Public Improvements"). The costs of such Public Improvements, including costs of design, acquisition, construction and financing, are referred to herein as the "Public Improvement Costs."

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

The District shall provide for ownership, operation, and maintenance of District facilities as activities of the District itself or by contract with other units of government or the private sector.

6. FINANCIAL PLAN AND BUDGET

1. 2016 Budget. The proposed 2016 Budget for the District is attached as Exhibit B.
2. Authorized Indebtedness. It is anticipated that the District will hold an election in May, 2016 for the purpose of authorizing debt, taxes, revenue limits, spending limits, special assessments, and such other matters as may be necessary or convenient for the implementation of Art. X., Sec. 20 of the Colorado Constitution, and the Operating Plan. The initial maximum debt authorization for the District shall be \$50,000,000.
3. Property Tax and Mill Levy Caps. The District taxing ability shall be constrained to mill levy limitations of up to 50 mills for debt service and up to 10 mills for general operations and administrative expenses due to the on-going operations and maintenance to be undertaken by the District within its boundaries.
4. District Revenues. The District anticipates developer funding for initial revenue sources and thereafter revenues derived from property taxes and potential urban renewal funds. The District may seek City approval for the use of public

improvement fees to support public improvement construction and future bonds for that purpose.

5. Existing Debt Obligations. The District has no current debt.
6. Future Debt Obligations. The District does not anticipate the issuance of any debt in 2016.
7. Other Financial Obligations. The District may enter into agreements including reimbursement or similar agreements and leases; as well as agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.
8. City Charter Limitations. In accordance with 7-100 of the City Charter, the District shall not issue any debt instrument for any purpose other than construction of capital improvements with a public purpose necessary for development. As set forth in 7-100 of the City Charter, the total debt of any proposed District shall not exceed 10 percent of the total assessed valuation of the taxable property within the District unless approved by at least a two-thirds vote of the entire City Council.
9. Non-Default Provisions. Limited tax general obligation bonds issued by the District shall be structured and/or credit enhancements provided such that the bonds cannot default as long as the District is imposing the required maximum allowed mill levy.
10. Privately Placed Debt. Prior to the issuance of any privately placed debt for capital related costs, the District shall obtain the certification of an External Financial Advisor regarding the fairness and feasibility of the interest rate and the structure of the debt.
11. The debt of the District will not constitute a debt or obligation of the City in any manner. The faith and credit of the City will not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District

7. MUNICIPAL OVERSIGHT OF DISTRICT ACTIVITIES

(a) Audit. The District agrees to submit an annual audit to the City Finance Department no later than March 1st of each year which is performed by an independent certified public accounting firm. Even if the state grants an audit exemption, the District must submit an annual audit as specified above.

(b) **SID Formation.** The District affirms that it will provide an Amended Operating Plan and seek prior approval of City Council prior to formation of any Special Improvement District within its boundaries in the future.

(c) **City Authorization Prior to Debt Issuance.** In accordance with the City's Special District Policy, and notwithstanding any statements of intent in the Budget and Operating Plan, this District shall request and obtain approval of City Council prior to issuance of any debt in accordance with the financing plan for the District as previously approved. The standards for City approval shall generally be consistency with the City's Special District Policy as it may be amended along with the most recently approved operating plan and budget and any requirements or limitations contained therein to the extent that they are consistent with the financing plans for the District.

(d) **Public Improvement Fees.** The use of a public improvement fee (PIF) may be necessary to provide necessary funding revenues for the improvements to be financed by the District. This District may utilize revenues from a new, increased or expanded PIF specifically authorized in a subsequent operating plan and budget. The imposition of a PIF and any provisions for adjustment of a PIF that have been previously approved by City Council shall not be subject to this restriction.

(e) **Condemnation.** The Colorado Revised Statutes do not authorize BIDs to use powers of eminent domain. The exercise of eminent domain authority by any City-authorized district is also specifically prohibited without express prior City Council approval.

8. 2016 ACTIVITIES, PROJECTS AND CHANGES

(a) Activities

It is anticipated that the District will primarily be engaged in the initial organization activities and cooperation with the urban renewal project for the area in its first year.

(b) Projects and Public Improvements

The District will not be undertaking any projects or public improvements in the first year.

9. DISSOLUTION

The District is anticipated to have ongoing operations and maintenance obligations that will necessitate perpetual existence. If the District no longer has such obligations the District will seek to dissolve pursuant to Colorado Revised Statutes § 31-25-1225.

10. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and

improvements to be provided by the District are those services and improvements which satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S.

EXHIBIT A
Director and Other Contact Information

BOARD OF DIRECTORS:

Danny Mientka
90 South Cascade Avenue, Suite 1500
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Rebecca Mientka
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Colorado Springs, Colorado 80903
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Melissa Christensen
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Colorado Springs, Colorado 80903
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mc.christensen03@gmail.com

DISTRICT CONTACT:

**Russ Dykstra
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Denver, Colorado 80203
303-839-3845
rdykstra@spencerfane.com**

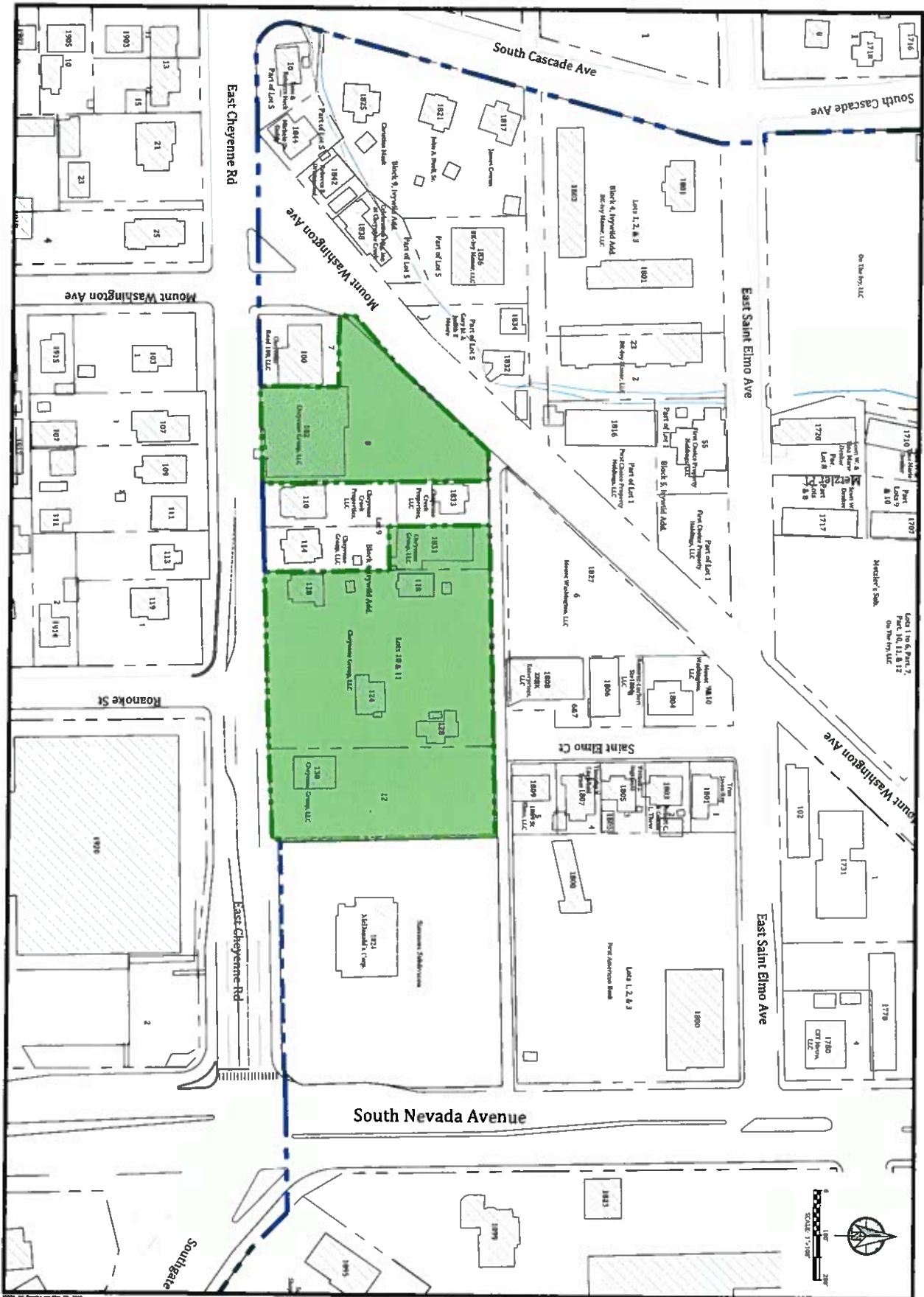
EXHIBIT B
2016 BID Budget

**Creekwalk Marketplace Business Improvement District
Forecasted 2016 Budget**

Beginning Balance	\$0.00
Revenues	
Property Taxes	\$1,000.00
Specific Ownership Taxes	\$100.00
Public Improvement Taxes	
URA - Tax Increment	
Developer Advance	<u>\$15,000.00</u>
Net Investment Income	
Total Revenues	\$16,100.00
Total Funds Available	\$16,100.00
Expenditures	
Accounting	\$1,500.00
Audit	
Contingency	
County Treasurer's Fees	\$100.00
District Management	\$1,200.00
Dues & Subscriptions	\$1,000.00
Election	\$500.00
Insurance	
Legal	\$6,000.00
Miscellaneous	<u>\$1,000.00</u>
Total Expenditures	\$11,300.00
Total Expenditures and Transfers out requiring appropriation	\$11,300.00
Ending Fund Balances	\$4,800.00
Emergency Reserve	
Total Reserve	

EXHIBIT C

District Boundary Map



Project No.	13005
Date	October 28, 2015
Project Name	Creekwalk Marketplace
Client	City of Colorado Springs
Scale	AS SHOWN
Author	JK
Check	JK
Approved	
Sheet	1

Creekwalk Marketplace
South Nevada Avenue/Tejon Street Urban Renewal Area
Business Improvement District Boundary
 Colorado Springs, Colorado


Kiowa
 Engineering Corporation
 7175 West Jefferson Avenue, Suite 1300
 Lakewood, Colorado 80235
 (303) 882-0369