

RESOLUTION NO. 112-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AN AMENDED MODEL ANNUAL BUSINESS IMPROVEMENT DISTRICT OPERATING PLAN AND BUDGET

WHEREAS, Section 31-25-1211, C.R.S., provides that business improvement districts (each a "BID" and collectively "BIDs") shall submit and have their operating plans and budgets approved annually by City Council; and

WHEREAS, on January 24, 2006, the City passed Resolution No. 9-06 adopting a Special District Policy to be applied to districts authorized under Titles 31 and 32 of the Colorado Revised; and

WHEREAS, on August 26, 2014 the City passed Resolution 83-14 adopting a standard document template for BID operating plans and budgets (the "Model BID Operating Plan and Budget"); and

WHEREAS, the City has determined a need to further amend the Model Operating Plan and Budget to specifically address BIDs' authority to restrict an authorized permittee from carrying a concealed weapon; and

WHEREAS, the amended Model BID Operating Plan and Budget has been reviewed by the City's Special District Committee, as well as potentially concerned stakeholders, including representatives of the seventeen (17) BIDs currently active in the City; and

WHEREAS, amended Model BID Operating Plan and Budget is attached hereto and incorporated herein as Exhibit A; and

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

Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the City Council.

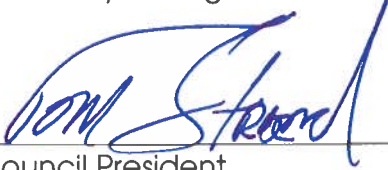
Section 2. The amended Model BID Operating Plan and Budget is hereby adopted.

Section 3. All current and future active BIDs shall submit their annual operating plans and budgets, pursuant to Section 31-25-1211, C.R.S., to the City in conformance with the amended Model BID Operating Plan and Budget for the 2022 calendar year and

for all years thereafter.

Section 4. This resolution shall be effective upon its approval by City Council.

Dated at Colorado Springs, Colorado, this 24th day of August 2021.



Council President

ATTEST:



Sarah B. Johnson, City Clerk



**[Insert year] OPERATING PLAN AND
BUDGET**

**[Insert name]
BUSINESS
IMPROVEMENT
DISTRICT**

City of Colorado Springs, El Paso County, Colorado

TABLE OF CONTENTS

PURPOSE AND SCOPE OF THIS DISTRICT 1

- A. Requirement for this [insert year] Operating Plan 1
- B. What Must Be Included in the Operating Plan? 1
- C. Purposes
- D. Ownership of Property or Major Assets
- E. Contracts or Agreements

ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS 2

BOUNDARIES, INCLUSIONS AND EXCLUSIONS 2

PUBLIC IMPROVEMENTS 2

ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE 3

FINANCIAL PLAN AND BUDGET 3

MUNICIPAL OVERSIGHT OF DISTRICT ACTIVITIES 5

[INSERT DATE] ACTIVITIES, PROJECTS AND CHANGES 5

- 1. Activities 5
- 2. Projects and Public Improvements. 5
- 3. Summary of [Insert Date] Activities and Changes.

DISSOLUTION 6

CONCLUSION 6

EXHIBIT A - Director Contact Information

EXHIBIT B - BID Budget [Insert year]

- General Fund
- Capital Projects Fund
- Debt Service Fund

EXHIBIT C – District Boundary Map

[Insert year]
OPERATING PLAN FOR THE
[Insert name] **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 [Insert name] 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 operates 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.

The District’s original [Insert year], and subsequent Operating Plans, previously approved by the City, are 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 [Insert year] include [Insert language as applicable including any operational/maintenance/marketing purposes etc. outside of routine administration and compliance]

D. Ownership of Property or Major Assets [Describe, as applicable, whether the District owns or expects to own any fee simple property or major physical assets, particularly within the applicable budget year].

E. Contracts and Agreements [Describe any significant active contracts or agreements entered into by the District particularly associated with financial obligations; contracts/agreements for routine/ongoing administration and compliance can be generalized]

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

- A. Organization. The [Insert name] Business Improvement District was organized by the City of Colorado Springs, Colorado by Ordinance No. [Insert #] on [Insert date].
- B. Governance. The District is governed by an [Insert “elected” or “appointed”] board of directors.
- C. Current Board. The persons who currently serve as the Board of Directors are:
 - 1) [Insert names]
 - 2)
 - 3)
 - 4)
 - 5)

Director and other pertinent contact information is provided in Exhibit A. [At a minimum, include names, terms and contact information for all directors as well as administrative staff, legal counsel and auditor, as applicable]

D. Term Limits. [Insert language as applicable as to whether term limits apply]

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. [Modify as applicable]

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District currently includes [or “is proposed to include”] approximately [Insert number] acres with boundaries as depicted in Exhibit C. [also refer to any prior inclusions or exclusions by year and ordinance if applicable]. In [Insert year] the District [insert “anticipates” or “does not anticipate”] inclusion or exclusion requests in the coming year. [Describe nature and justification if applicable]. [note: if boundaries are clearly delineated on the exhibit, the acreage may be omitted for existing districts].

4. PUBLIC IMPROVEMENTS

[Describe, as applicable, the general nature and extent of public improvements that are now or are anticipated to be owned, leased, financed and/or maintained by the District]

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, 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." [Delete or modify as applicable]

5. ADMINISTRATION, OPERATIONS, SERVICES AND MAINTENANCE

[Describe administrative, operational and maintenance provisions of the District; routine administrative and compliance activities may be highly generalized]

[Describe whether the District has any employees, or alternately contracts for all services]

6. FINANCIAL PLAN AND BUDGET

1. [Insert year] Budget. The [inset year] Budget for the District is attached as Exhibit B.

[Describe any major changes from the prior year's budget, if applicable]

2. Authorized Indebtedness. [Describe authorized indebtedness based on prior or contemplated TABOR elections, as applicable, and any additional limitations imposed from prior City Council approvals; specifically address any proposed requests/initiatives to increase authorizations]
3. Property Tax and Mill Levy Caps. [Address mill levy caps including their basis and potential for exceptions pertaining to Gallagher adjustments, potential for abatements and any other reasons]
4. District Revenues. [Describe the nature and extent of the revenues currently available to the District and/or anticipated in the future; Specifically identify the total property tax mill levy to be certified for the coming year, broken out by debt

service and operational levies if applicable; Address any other sources available to the District including PIF revenues or other fees if applicable]

5. Existing Debt Obligations. [Describe any existing formal debt obligation by amount and year of issuance, expected terms and interest rates citing the dates and numbers of City Council resolutions as applicable; attach most recent debt service schedules, if applicable]
6. Future Debt Obligations. [Describe the intent and expectations of the District concerning issuance of future formal debt, with a particular emphasis on the upcoming budget year]
7. Other Financial Obligations. [Describe any other significant financial obligations of the District, either existing or anticipated in the coming year, not otherwise addressed above; specifically including reimbursement or similar agreements and leases; there is no need to specifically list contracts/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.** This District will not utilize any revenues from a new, increased or expanded public improvement fee (PIF) unless specifically authorized in a subsequent operating plan and budget, or separately approved by City Council. 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.

(f) **Concealed Carry Prohibition.** Although the Colorado Revised Statutes do not currently provide this authority, in no case shall the District adopt or enact an ordinance, resolution, rule or other regulation that prohibits or restricts an authorized permittee from carrying a concealed handgun in a building or specific area under the direct control or management of the District.

8. [INSERT DATE] ACTIVITIES, PROJECTS AND CHANGES

1. Activities

[Generally describe the nature and extent of District activities contemplated for the upcoming year]

2. Projects and Public Improvements

[Describe any significant ongoing projects associated with the District including improvements to be constructed and/or financed by the district in the coming year]

3. Summary of [Insert Date) Activities and Changes from Prior Year

[Notwithstanding information provided in prior sections, briefly describe major activities anticipated for the upcoming year and highlight any significant changes from the prior year, including but not limited to:]

[Insert applicable information for each topic]

- Boundary changes:
- Changes to board or governance structure:
- Mill levy changes:
- New, refinanced or fully discharged debt:
- Elections:
- Major changes in development activity or valuation:
- Ability to meet current financial obligations:

9 DISSOLUTION

[Address the topic of potential dissolution from the perspective of Colorado Revised Statutes § 31-25-1225 including whether perpetual existence is or is not contemplated at this time]

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.

**SAMPLE EXHIBIT A [Complete and maintain as applicable]
Director and Other Contact Information**

BOARD OF DIRECTORS:

-----, President
[Insert Address]

[Insert phone, fax and e-mail]

Term: [Insert "Elected" or "Appointed"]-----; _-year term

_____, Vice President
[Insert Address]

Term: _____; _-year term

[Insert remaining contact information]

DISTRICT MANAGER:

DISTRICT CONTACT:

INSURANCE AND DIRECTORS' BONDS:

ACCOUNTANT:

AUDITOR:

STAFF:

[Insert all contact information as applicable]

EXHIBIT B

**[Insert year] BID Budget
General Fund
Capital Projects Fund
Debt Service Fund
(including taxes, fees, assessments and
estimated principal amount of bonds)**