

~~{Insert year}~~2017-2018 OPERATING  
PLAN AND BUDGET

~~{Insert name}~~SW

DOWNTOWN

BUSINESS

IMPROVEMENT

DISTRICT

City of Colorado Springs, El Paso County, Colorado

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~~[Insert year]~~2017-2018  
**OPERATING PLAN FOR THE**  
~~[Insert name]~~SW DOWNTOWN 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]~~SW Downtown 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],~~This Operating Plan and any subsequent Operating Plans, ~~previously~~ approved by the City, ~~are~~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~~this Operating ~~Plans~~Plan, 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]~~2017-2018 to 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** ~~[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]~~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** ~~[Describe]~~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 ~~entered into by the District particularly associated with financial obligations; contracts/ agreements for routine/ongoing administration and compliance can be generalized~~. 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 ~~{Insert name}~~SW Downtown Business Improvement District ~~was~~is sought to be organized by the City of Colorado Springs, Colorado ~~by Ordinance No. {Insert #} on {Insert date}~~as requested in the Petition for Organization for the District.
- B. Governance. ~~The District is governed by an {Insert "elected" or "appointed"} board of directors.~~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 November 7, 2017.
- C. Current Board. ~~The persons who currently serve as the~~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) ~~{Insert names}~~Jeffrey A. Finn
  - 2) Christopher S. Jenkins
  - 3) David D. Jenkins
  - 4) Delroy L. Johnson
  - 5) Russell T. Tutt IV

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}~~At the November 7, 2017 election, a ballot question will be included to eliminate 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]~~67.8 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]~~In 2017 and 2018 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]~~requests in the coming years as development and platting within the District occurs.

### 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 District will be primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances to provide improvement or services outside of the boundaries of the District as part of the 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, 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]~~The District shall provide for ownership, operation, and maintenance provisions of the District; routine administrative and compliance activities may be highly generalized]District facilities as activities of the District itself or by contract with other units of government or the private sector.

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

## 6. FINANCIAL PLAN AND BUDGET

1. ~~Insert year~~2017-2018 Budget. The ~~inset year~~2017-2018 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}~~It is anticipated that the District will hold an election in November 7, 2017 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 \$220,000,000.
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}~~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. ~~{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}~~The District anticipates developer funding for initial revenue sources and thereafter revenues derived from property taxes. 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. ~~{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}~~The District has no current debt.
6. Future Debt Obligations. ~~{Describe the intent and expectations of the The District concerning issuance of future formal debt, with a particular emphasis on the upcoming budget year}~~does not anticipate the issuance of any debt in 2017 or 2018.
7. Other Financial Obligations. ~~{Describe any other significant financial obligations of the~~The District may enter into agreements, 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/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~~consistent 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~~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 ~~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~~PIF.

(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. ~~[INSERT DATE]~~2017-2018 ACTIVITIES, PROJECTS AND CHANGES

### 1. Activities

~~[Generally describe the nature and extent of]~~It is anticipated that the District will primarily be engaged in the initial organization activities ~~contemplated for the upcoming year]~~for the area in its first year and improvements planning in 2018.

### 2. Projects and Public Improvements

~~[Describe]~~The District will not be undertaking any ~~significant ongoing~~ projects ~~associated with the District including or public~~ improvements ~~to be constructed and/or financed by the district~~ in the ~~coming~~upcoming year ~~]~~and second year.

### 3. Summary of ~~[Insert Date]~~2017-2018 Activities and Changes from Prior Year

~~[Notwithstanding information provided in prior sections, briefly describe]~~The District does not anticipate any 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:** In 2017 and 2018 the District anticipates inclusion requests in the coming years as development and platting within the District occurs

**Changes to board or governance structure:** 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 November 7, 2017.

**Mill levy changes:** N/A

**New, refinanced or fully discharged debt:** Not anticipated

**Elections:** November 7, 2017 Special Election

**Major changes in development activity or valuation:** Not anticipated

**Ability to meet current financial obligations:** The District anticipates developer funding for initial revenue sources and thereafter revenues derived from property taxes. The District may enter into agreements and leases for ongoing services for general operations and maintenance of the District.

## **99. 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]~~ — 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.

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

**BOARD OF DIRECTORS:**

~~-----, President [Insert phone, fax and e-mail]  
[Insert Address]~~

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

~~\_\_\_\_\_, Vice President  
[Insert Address]~~

~~Term: \_\_\_\_\_; \_\_ year term~~

~~[Insert remaining contact information]~~

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**DISTRICT MANAGER:**

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**INSURANCE AND DIRECTORS' BONDS:**

**ACCOUNTANT:**

**AUDITOR:**

**STAFF:**

~~{Insert all contact information as applicable}~~

**EXHIBIT B**

~~[Insert year]~~2017-2018 BID Budget  
General Fund  
~~Capital Projects Fund~~  
~~Debt Service Fund~~  
~~(including taxes, fees, assessments and~~  
~~estimated principal amount of bonds)~~

**EXHIBIT C**

**District Legal Description and Boundary Map**

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