



## Legislation Text

---

**File #:** 20-314, **Version:** 2

---

Approval of the Proposed 2021 Operating Plan and Budget for the Briargate Center Business Improvement District and Specifically Allowing for a Temporary Increase in the Operating Mill Levy of up to 13.000 Mills

**Presenter:**

Carl Schueler, Comprehensive Planning Manager

**Summary:**

The Briargate Center Business Improvement District (BID) is a legal entity separate from the City of Colorado Springs. However, as required by State statute, it is necessary for City Council to review and approve the proposed 2021 Operating Plan and Budget for the BID.

As described below, this BID is proposing to temporarily increase its operating mill levy by 9.000 mills to a total of 13.000 mills, with a corresponding decrease in its debt service mill levy. This BID's debt service fund balance is high, and this temporary mill levy adjustment would allow part of the O&M mill levy to be used for capitalized maintenance purposes.

The recommended Council motion for approving this Operating Plan and Budget includes language highlighting the temporary nature of the authorize O&M mill levy increase.

**Background:**

The boundaries of this development-specific BID were established pursuant to an election in 2001 and approved by City Council in 2002. This BID has an elected board. The Briargate Center is also known as The Promenade Shops at Briargate. Primary services provided by the BID are the financing and maintenance of street improvements, parking areas, sidewalks, pedestrian malls, retaining walls, and common landscaping. On September 13, 2019 the Promenade Shops at Briargate was sold to HGIT Briargate, LLC.

As authorized by the District's 2019 Operating Plan and Budget, in August 2019, the District acquired the 2015, 2016, and 2018 Public Improvements, as well as the easements necessary, in exchange for the District's issuance of a Promissory Note payable to IMI, the former owner, and has since been assigned to the new Owner of The Promenade Shops at Briargate (see Financial Implications below). The District now owns all of the Public Improvements located within the common areas of The Promenade Shops at Briargate, the Public Improvements were installed at a cost of approximately \$6,196,105.

Around 2002, this BID created a special improvement district (SID) coterminous with its boundaries. This allows it to collect revenues from assessments on properties in addition to collecting property taxes. These assessments are pledged toward this BID's 2002 Special Assessment Bonds (see below).

The District's 2021 activities will consist of servicing the District's debt and maintaining and repairing the District's public improvements and engaging in business promotion activities. Approximately \$86,000 will be budgeted for promotional purposes. Expending funds for promotion of business activities within the District's boundaries is a change from 2020. All originally planned capital improvements are complete.

This Operating Plan and Budget is provided in a format consistent with the standard template approved by Council in August 2014 for these documents.

**Previous Council Action:**

City Council approved creation of this BID in 2002 (Ordinance No. 02-24) and has approved the BID Operating Plan and Budget annually since its formation. Council has also approved 2002 bond issuances as well as 2006 and 2012 bond refinances (see below). In November 2018 Council approved the issuance of a limited tax general obligation refunding loan with an estimated principal amount of \$3,544,500 (Res. 147-18). In December 2019 Council approved a resolution appointing members of the Board of Directors (Res. 139-19) until a regular election could be held in May 2020. In January 2020 the original organizing Ordinance was amended via Ord. 20-19 allowing City Council to fill vacancies on the Board of Directors by appointment until the next regular special district election. The BID's Operating Plan has been approved by Council annually.

This item was introduced in a City Council Work Session on October 12, 2020. At the Work Session Council requested confirmation as to whether the organizing operating plan or any changes thereafter specified a cap on the operating mill levy. City Staff and the BID's Counsel reviewed records and have confirmed that the approved 2007 Operating Plan and Budget increased the mill levy cap from 20 mills to 50 mills as an aggregate cap, with no explicit cap on the operating mill levy.

Staff also notes that the District has indicated it may request one additional one-year extension (with its 2022 Operating Plan and Budget) depending on fund balance and needs for additional capitalized maintenance.

**Financial Implications:**

The BID issued \$2,895,000 in Limited Tax General Obligation Bonds, Series 2002A in Special Assessment Revenue Bonds, Series 2002B and \$6,875,000 in Special Assessment Revenue Bonds, Series 2002B, for the purpose of financing the construction and/or acquisition of public improvements needed to serve the Business Area. In 2006, the BID refunded its 2002B Special Assessment Bonds through the issuance of \$7,360,000 in Special Assessment Refunding Revenue Bonds, Series 2006. In 2012, the BID refinanced its Series 2002A bonds in the form of a Series 2012A loan for \$4,335,000, of which a portion of the proceeds was used to reimburse the original developer. The District received approval from the City Council to modify/refinance this loan in November 2018 in the amount of \$3,379,500. The loan is a limited tax general obligation payable in varying amounts at the fixed rate of 4.77% per annum. The 2021 Operating Plan and Budget does not anticipate the formal issuance of any additional debt.

In accordance with the 2019 Acquisition and Reimbursement Agreement, the District issued a limited promissory note, in lieu of a subordinate limited tax general obligation note, in the amount of \$6,196,105 to IMI Colorado Springs, LLC (or its successor), in payment of the Public Improvements that were installed and conveyed to the District by IMI. The promissory note has been assigned to the

new Owner of The Promenade Shops at Briargate and is not a general obligation debt of the District; it is subject to annual appropriation and budgeting of funds and is payable only if, when, and to the extent funds are available to the District. In 2019 the District made a \$380,000 payment against this promissory note and the balance of the note as of December 31, 2019 was \$5,816,105.

The proposed total mill levy for the BID in 2021 is 39.000 mills (26.000 mills for debt service and 13.000 for operations and maintenance). This represents no change in the total mill levy from 2020, however, this is an increase to the operations mill levy of 9.000 mills and a corresponding decrease to the debt mill levy. The District's operations and maintenance mill levy will not exceed 13.000 mills during 2021 or any future years without prior City approval. To offset the increase in the District's operations and maintenance mill levy, the District intends to reduce its debt service mill levy by 9.000 mills so that the overall number of mills certified by the District in 2021 is 39.000. This is the same as in prior years. The reduction in the District's Debt Service Mill Levy will allow the District to reduce the accumulated fund balance in the Debt Service Fund, which the District advises is currently larger than necessary. The increase to the operations and maintenance mill levy will allow the District to maintain the District's public improvements and organize some business promotion activities within the District that will draw the public to The Promenade Shops at Briargate. Counsel of this BID notes that a similar request may be made in 2021 for up to one additional year. The City's Special District Policy includes a maximum allowable limit of 10.000 mills (Gallagher adjusted) for operations mill levies.

As a separate legal entity, the financial activities of the BID are separate from those of the City. The BID's financial obligations are specific to the property within the BID boundaries, and therefore do not constitute an obligation of the City.

**City Council Appointed Board/Commission/Committee Recommendation:**

The BID Board of Directors recommends City Council's approval of the 2021 Operating Plan and Budget.

**Stakeholder Process:**

N/A

**Alternatives:**

N/A

**Proposed Motion:**

Move to approve the proposed 2021 Budget and Operating Plan for the Briargate Center Business Improvement District, and specifically allowing for a temporary increase in the operating mill levy of up to 13.000 mills

N/A