

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

**[Insert name]  
BUSINESS  
IMPROVEMENT  
DISTRICT**

City of Colorado Springs, El Paso County, Colorado

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[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., C.R.S. , 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**

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 PROPERTY OWNERSHIP AND MAINTENANCE**

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

[Describe properties that are now, or are anticipated to be owned, leased or maintained by the District]

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

#### **6. FINANCIAL PLAN AND BUDGET**

A. ***[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]

B. ***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. Refer to Exhibit E if included]

C. ***Maximum Debt and Operating Mill Levies***

[Address mill levy caps including their basis and potential for exceptions pertaining to Gallagher adjustments, potential for abatements and any other reasons.]

- D. ***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]
- E. ***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]
- F. ***Future Debt Obligations***  
[Describe the intent and expectations of the District concerning issuance of future Debt, with a particular emphasis on the upcoming budget year]
- G. ***Developer Funding Agreements***  
Developer Funding Agreements entered into by this District shall be limited to a term of no greater than twenty (20) years, from the time of the first such agreement, after which time any remaining balances must be either converted to Debt or shall no longer be considered an obligation of the District. The Interest Rate on any Agreements initially entered into, or with additional costs added to after January 1, 2023, shall not exceed the Index Rate plus 400 basis points, and interest shall only accrue on the principal balance. [Describe all such agreements including the year the agreement was first established, the current interest rate, and current balances with interest]
- H. ***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 leases; there is no need to specifically list contracts/agreements for ongoing services such as legal, administration, compliance, budget, audit, etc.]
- I. ***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.
- [Optional Language. The information in Exhibit E is provided to support issuance of Debt consistent with this Charter limitation, by City Council resolution with at least a two-thirds vote of the entire City Council approving this Operating Plan, without the need for separate Council authorization]

- J. ***Limited -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.
  
- K. ***Privately Placed Debt and Related Party 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. The Interest Rate for Related Party Privately Placed Debt shall not exceed the Index Rate by more than 400 basis points. Related Party Privately Placed Debt shall not be issued with an optional call date of greater than five (5) years from the date of issuance.
  
- L. ***End User Fee Limitation***  
The District shall not impose an End User Fee for the purpose of servicing District Dept without prior approval of City Council.
  
- M. ***Debt Not an Obligation of the City***  
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.
  
- N. ***Land Development Entitlements***  
The District shall not issue Debt, enter into any other Long Term Financial Obligation or certify a Debt Mill Levy unless a Land Development Entitlement has been approved for the Property.

## **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 or Authority 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 this or 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***

The District shall not 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 as provided in C.R.S. § 18-12-214.

G. ***Eligible Expenses or Costs for Reimbursement***

In addition to any limits or prohibitions contained in Colorado Revised Statutes, the District shall not issue debt for or otherwise fund any costs or expenses not allowed for by the Special District Policy.

H. ***Intergovernmental Agreements***

[List and summarize all existing and anticipated District IGAs including their general scope and purposes]

- I. ***Overlapping Districts***  
[List and generally describe any overlapping Districts including their purposes, interrelationships, respective mill levies and overall levies for any Combinations of Districts].

## **8. [INSERT DATE] ACTIVITIES, PROJECTS AND CHANGES**

- A. ***Activities***  
[Generally describe the nature and extent of District activities contemplated for the upcoming year]
- B. ***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]
- C. ***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. DISCLOSURE AND COMMUNICATION**

The District shall maintain a website that includes content similar to that required for metropolitan districts by Colorado Revised Statutes § 32-1-104.5 and as required by Section K of the Special District Policy, to the extent this content is applicable to BIDs. [Include a link here and note if this site is provided for a Combination of Districts]

## **10. 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]

## **11. 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]

**EXHIBIT C**  
**District Boundary Map**

## **EXHIBIT D**

### **Terms and Definitions**

The following terms and definitions from the City of Colorado Springs Special District Policy are specifically incorporated for use in this Operating Plan and Budget.

- a. Authority-** An entity with separate legal powers or authorities, created by intergovernmental agreement (IGA) between or among Districts, or between or among one or more Districts, and another governmental entity.
- b. City-** The City of Colorado Springs, acting legislatively through its City Council or administratively through its mayor or chief of staff consistent with Colorado Revised Statutes and the City Charter.
- c. Combination of Districts-** Any combination of Metropolitan Districts, BIDs and/or GIDs that overlay each other that are organized by petition of a property developer that are specific to property within a single development project and do not serve any property outside of that project such as regional service district or non-developer controlled existing district.
- d. C.R.S-** Colorado Revised Statutes
- e. Debt-** Any bond, note debenture, contract or other multiple year financial obligation of a District which is payable in whole or in part from, or which constitutes an encumbrance on, the proceeds of ad valorem property tax or End User Debt Service Fee imposed by the District, or pledged for the purposes of meeting the obligation.
- f. Debt Mill Levy-** For the purpose of this Policy and its associated plans the debt mill levy is that portion of the overall mill levy of the District, pledged, dedicated or otherwise used to repay formally issued Debt or long terms.
- g. Developer Funding Agreements-** Short or long-term obligations of Districts entered into between Districts and developers related to advancement of reimbursement of Public Improvements or operations and maintenance costs. Such agreements may or may not accrue interest, but do not qualify as formally issued Debt as defined under this Policy or under TABOR.
- h. District –** This \_\_\_\_\_ Business Improvement District
- i. End User-** A property owner anticipated to be have long term, multi-year responsibility for the tax and/or fee obligations of a District. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an end user. A master property developer or business entity that constructs homes or commercial structures for occupancy or ownership primarily by third parties, is not an end user.
- j. End User Debt Service Fees-** Any fees, rates, tolls or charges assessed or pledged or otherwise obligated to End Users by a District for the payment of Debt. End User Debt Service Fees are not intended to include public improvement fees (PIFs) if authorized by this Operating Plan and Budget. .
- k. External Financial Advisor-** A consultant that: (1) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and

insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place (also known as the Redbook); and (3) is not an officer of the Districts.

- l. Index Interest Rate-** The AAA 30-year MMD (Municipal Market Data) index interest rate.
- m. Interest Rate-**The annual rate of charge applied to Debt or other District financial obligations
- n. Land Development Entitlement** – A City-approved master plan, concept plan or other more detailed land use plan, zoning or combinations thereof, applicable to a substantial proportion of the property to be included in District and sufficient to support the need for the District along with relevant public improvements financing assumptions and proposed limits.
- o. Maximum Debt Mill Levy-** The maximum mill levy a District or Combination of Districts is permitted to impose for the payment of Debt. For the purpose of this Policy, a mill levy certified for contractual obligations is part of the Maximum Debt Mill Levy.
- p. Maximum Operating Mill Levy-** The maximum mill levy a District or Combination of Districts is permitted to impose for operating and maintenance expenses.
- q. Mill Levy Adjustment** -Any statutory, legislative or constitutional changes that adjust or impact that assessed or actual valuation of property or the assessment ratio pursuant to which taxes are calculated
- r. Model BID Operating Plan and Budget-** The most recent version of the template for BID Operating Plans and Budgets adopted in accordance with this Policy.
- s. Planning and Community Development Department Director-** The Director of the Colorado Springs Planning and Community Development Department or other position which may be established for the purpose of administering this Policy, or their designee.
- t. Policy or Special District Policy** -The City's adopted Special District Policy as may be amended from time to time.
- u. Privately Placed Debt-** Debt that is not marketed to multiple independent accredited investors as defined in Rule 501(a) promulgated under the Securities Act of 1933 by a registered bond underwriter or placed directly with a chartered lending institution or credit union.
- v. Public Improvements** – Any capital or site improvements, (or directly related planning or engineering costs) legally determined to be eligible for ownership, maintenance and/or financing by a District in accordance with the applicable State statutes.
- w. Related Party Privately Placed Debt** - Privately Placed Debt that is or will be placed with and directly held by a party related to the issuing District.



## **EXHIBIT E [Optional]**

### **[Summary of Public Improvements and Financial Plan Supporting a City Council Authorization to Issue Debt in conformance with 7-100 of the City Charter]**

[The following financial information is provided support issuance of Debt by this District in excess of 10 percent of the total assessed valuation of the taxable property within the District subject to approval of this Operating Plan and Budget by resolution of least a two-thirds of the entire City Council.]

[Include the following information:

- i. Any financial or Public Improvements information required by Section 31-25-1211 C.R.S. precedent to the creation of this BIDs.
- ii. Estimates of the total Public Improvements costs used to support the proposed Total Debt Issuance Limitation(s), broken out by categories of improvements, and with graphic depictions of the location of major improvements. Any contingencies, costs of Debt issuance, or inflation assumptions reflected in these estimates, should be clearly articulated.
- iii. A financing plan that projects Public Improvements and development phasing, along with initial and good faith assumptions for the amount and potential timing of future debt issuances, based on anticipated District revenues. (It is recognized that financial projections will be uncertain based on market and economic contingencies, particularly for longer term development projects).
- iv. Operating plans for newly developing areas shall specifically address the potential vulnerability of the development forecasts to market downturns, particularly at the early stages of the forecast period.]