

2020 OPERATING PLAN AND BUDGET

BARNES & POWERS

SOUTH BUSINESS

IMPROVEMENT

DISTRICT

City of Colorado Springs, El Paso County, Colorado

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2020
OPERATING PLAN FOR THE
BARNES & POWERS SOUTH 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 Barnes & Powers South 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 2004 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 years’ Operating Plans, the ongoing and/or contemplated purposes of this District for 2020 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. Specific improvements and services provided by the District include parking facilities, roadways, lighting, driveways, public utilities and landscaping consistent with prior years’ activities.

D. *Ownership of Property or Major Assets.*

The District owns limited sanitary storm drainage facilities.

E. *Contracts and Agreement.*

Pursuant to an Intergovernmental Agreement, dated November 30, 2011, with Barnes & Powers North Business Improvement District, the intergovernmental expenditures represents transfers to Barnes & Powers North Business Improvement District to provide joint funding for the overall administrative and operating costs for the District and payment of capital infrastructure.

2. ORGANIZATION AND COMPOSITION OF THE BOARD OF DIRECTORS

A. *Organization.*

The Barnes & Powers South Business Improvement District was organized by the City of Colorado Springs, Colorado by Ordinance No. 04-50 on April 27, 2004.

B. *Governance.*

The District is governed by an elected board of directors.

C. *Current Board.*

The persons who currently serve as the Board of Directors are:

Timothy Seibert, President
Christopher S. Jenkins, Vice-President
David D. Jenkins, Secretary
Frederick A. Veitch, Treasurer
Delroy L. Johnson, Assistant Secretary

Director and other pertinent contact information are provided in **EXHIBIT A**.

D. *Term Limits.*

The District's election in May 2012 included a ballot question to eliminate term limits pursuant to Article 18, Section 11 of the Colorado Constitution. The question passed.

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 to date.

3. BOUNDARIES, INCLUSIONS AND EXCLUSIONS

The District map is depicted in **EXHIBIT C**. The District does not anticipate inclusion or exclusion requests in the coming year.

4. PUBLIC IMPROVEMENTS

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 improvements or services outside of the boundaries of the District as development and completion of existing projects occurs in 2020. 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. *2020 Budget.*

The 2020 Budget for the District is attached as **EXHIBIT B**.

2. *Authorized Indebtedness.*

At an election held on May 4, 2004, the voters approved general obligation indebtedness of \$3,000,000 for street improvements, \$2,500,000 for parking facilities, and \$6,500,000 for refinancing of District debt. The voters also approved an annual increase in taxes of \$11,000, at a mill levy rate not to exceed one mill for general operation and maintenance. The election also authorized the District to retain all revenues without regard to the limitations contained in Article X, Section 20 of the Colorado constitution. On November 1, 2005, the District's electors authorized additional indebtedness of \$400,000 for water and \$125,000 for sanitary sewer and storm drainage. As set forth in the District's 2004 Operating Plan, the City has limited the amount of debt to be issued to a total of \$2,200,000 in the authorized voted categories, without future approval by the City. No additional debt authorizations are contemplated in 2020.

3. ***Property Tax and Mill Levy Caps.***
The mill levy limitations in the original Operating Plan (being fifty (50) mills for debt service and one (1) mill for general operations and administrative expenses) remain unchanged.
4. ***District Revenues.***
See 2020 budget attached hereto as **EXHIBIT B**.
5. ***Existing Debt Obligations.***
The District issued \$835,000 Limited Tax General Obligation Bonds, Series 2007 to acquire capital improvements in place that were built by the developer as contemplated in the 2007 Operating Plan. The City approved the 2007 bond issue by Resolution No. 68-07. Following the issuance of its Series 2007 bonds, the District has remaining debt authorization. The majority of the real property within the boundaries of the District has been conveyed to Costco Wholesale Corporation.

In 2011, in order to complete the acquisition, development, construction and installation of certain storm sewer, street safety related improvements approved in the 2004 Election and to repay certain costs advanced by the developer for the organization of the District and administration of construction and bond requirements, the District issued its Taxable Subordinate Limited Tax General Obligation Bond, Series 2011, in the initial aggregate amount of \$73,549 (the "2011 Bonds"). As required by the District's 2011 Operating Plan, the issuance of the 2011 bonds was approved by Resolution 108-11 of the City Council.
6. ***Future Debt Obligations.***
In accordance with the City's Special District Policy, the 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 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.
7. ***Other Financial Obligations.***
No other financial obligations of the District are anticipated in the coming year.
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, the 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 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.*

The 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.

8. 2020 ACTIVITIES, PROJECTS AND CHANGES

1. Activities.

The District does not anticipate additional infrastructure work for commercial development in 2020, and has no specific plan at this time.

2. Projects and Public Improvements.

The District does not presently anticipate funding the design, installation or acquisition of additional public improvements during 2020. If the District acts to fund additional improvements during calendar year 2020, an amendment to this Operating Plan will be sought in accordance with the provisions of Section 31-25-1211, C.R.S.

3. Summary of 2020 Activities and Changes from Prior Year.

The District's activities will focus on district administration and payment of its bonds.

Boundary changes: Not anticipated for the upcoming year.

Changes to board or governance structure: Not anticipated for the upcoming year.

Mill levy changes: Mill levies remain the same for the upcoming year.

New, refinanced or fully discharged debt: Not anticipated for the upcoming year.

Elections: May 5, 2020 Regular Election.

Major changes in development activity or valuation: Not anticipated for the upcoming year.

Ability to meet current financial obligations: See 2020 Budget attached as **EXHIBIT B.**

9. DISSOLUTION

The District may be dissolved under the conditions of Section 31-25-1225, C.R.S. Perpetual existence 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.

EXHIBIT A

Director and Other Contact Information
BARNES & POWERS SOUTH BUSINESS IMPROVEMENT DISTRICT

BOARD OF DIRECTORS:

NAME & ADDRESS	POSITION	TERM(S)	PHONE #/E-MAIL
Timothy Seibert Nor'wood Development Group 111 South Tejon, Suite 222 Colorado Springs, CO 80903	President	2018-2020	(w) 719-593-2600 (f) 719-633-0545 tseibert@nor-wood.com
Christopher S. Jenkins Nor'wood Development Group 111 South Tejon, Suite 222 Colorado Springs, CO 80903	Vice President	2012-2016; 2016-2020	w) 719-593-2600 (f) 719-633-0545 chrisjenkins@nor-wood.com
David D. Jenkins Nor'wood Development Group 111 South Tejon, Suite 222 Colorado Springs, CO 80903	Secretary	2012-2016; 2016-2020	(w) 719-593-2600 (f) 719-633-0545 ddj@nor-wood.com
Frederick A. Veitch Nor'wood Development Group 111 South Tejon, Suite 222 Colorado Springs, CO 80903	Treasurer	2010-2014; 2014-2018; 2018-2022	(w) 719-593-2600 (f) 719-633-0545 fveitch@nor-wood.com
Delroy L. Johnson Nor'wood Development Group 111 South Tejon, Suite 222 Colorado Springs, CO 80903	Assistant Secretary	2013-2014; 2014-2018; 2018-2022	(w) 719-593-2600 (f) 719-633-0545 djohnson@nor-wood.com

DISTRICT CONTACT:

Delroy L. Johnson, Assistant Secretary
Nor'wood Development Group
111 South Tejon, Suite 222
Colorado Springs, CO 80903
(w) 719-593-2600
(f) 719-633-0545
djohnson@nor-wood.com

DISTRICT MANAGER:

Josh Miller
CliftonLarsonAllen LLP
8390 East Crescent Parkway, Suite 600
Greenwood Village, CO 80111
(w) 303-779-5710
(f) 303-779-0348
josh.miller@claconnect.com

ACCOUNTANT:

Carrie Bartow, CPA
CliftonLarsonAllen LLP
102 South Tejon, Suite 350
Colorado Springs, CO 80903
(w) 719-635-0300 x 77839
(f) 719-473-3630
carrie.bartow@claconnect.com

AUDITOR:

BiggsKofford, PC
630 Southpointe Court, Suite 200
Colorado Springs, CO 80906
719-579-9090
(f) 719-576-0126

INSURANCE AND BONDS:**STAFF:**

T. Charles Wilson Insurance Service 384 Inverness Parkway Centennial, CO 80112 303-368-5757	N/A
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EXHIBIT B

2020 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