

## Organizational and Funding Tools for Creative Districts

### Jamie Licko

The organizations that oversee the growth and development of creative districts are their most important advocate. When well structured, they manage to bring together the interests of a diverse group of stakeholders, strengthen a district’s competitive and economic position, and facilitate the growth of financial resources to ensure sustainability over time.

Success in building a strong organizational and financial model for a creative district requires knowing which structure works best for the local situation, and what funding might be available. This document provides some important information that can help creative districts identify what organizational and funding tools can be most helpful and useful to them in moving their creative district forward.

### Choosing an Organizational Structure that Works

There are a number of different organizational structures that can be utilized to manage districts. All have their pros and cons, but they also all have their own unique purpose. The information below categorizes the primary organizational structures available to districts into four areas – Informal, Public, Independent and Public/Private – and provides some consideration for each.

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|---|--|
| <p><b>Informal Organizations</b></p> <ul style="list-style-type: none"> <li>▪ Voluntary</li> <li>▪ No legal structure</li> <li>▪ Personal liability</li> <li>▪ Using other resources to get money</li> </ul>  | <p><b>Public Organizations</b></p> <ul style="list-style-type: none"> <li>▪ Arm of the government</li> <li>▪ Advisory to staff/elected</li> <li>▪ Ability to do things must mesh with politics</li> <li>▪ Access to outside resources limited</li> </ul>   |
| <p><b>Independent Organizations</b></p> <ul style="list-style-type: none"> <li>▪ Stand-alone, legal organization</li> <li>▪ Separate, unique identity</li> <li>▪ Legal protection</li> <li>▪ Standardized governance</li> <li>▪ Autonomy</li> <li>▪ Good opportunities to find resources</li> </ul> | <p><b>Public/Private Partnerships</b></p> <ul style="list-style-type: none"> <li>▪ Establishes a clear and formal partnership between both sectors</li> <li>▪ Responsibility/liability from both stakeholders and government</li> <li>▪ Resources and influence</li> <li>▪ Sustainability</li> </ul> |

#### ***Informal Organizations***

Informal organizations are just that – without structure. They are essentially a group of like-minded volunteers who come together for a cause. This is the place where most districts start, early in its development. There is no legal work required to put together an informal organization - just the time and commitment of volunteers and leadership to ensure that meetings happen and follow-through occurs. Because there is no legal structure, informal organizations cannot directly fundraise. Additionally, volunteers doing work for and on behalf of the organization have personal liability as projects are undertaken. Many times, informal organizations will partner with local government or independent organizations with a similar mission to undertake work and raise money. Because informal are relatively unsustainable and without legal structure, most districts mature to another structure relatively quickly.

#### ***Public Organizations***

Sometimes, the safe next step in the management of a district is to put it in the arms of the public sector with a designated committee or commission operating the creative district on behalf of the local government, This can be beneficial for many reasons:

- It can help to demonstrate public sector support for the creative district
- It provides structure to organize the creative district work without of the time, paperwork and board development required to create a stand-alone legal entity
- It gives the organization “gravitas” to “live” within the local government
- It provides security, both legally and financially
- It can create easier access to government funding

Utilizing a public organization structure, however, can have its limitations. These may include:

- It may inhibit flexibility and independence as decisions may need to be approved and/or run by local government staff and/or councils
- It can create a sense that the district is a “government program” that doesn’t require stakeholder support
- It can distance people who hesitate to participate in, or to trust, government programs.

For many communities, direct government support of the district can be very beneficial. In other communities, partnerships between autonomous, independent creative districts and local government is more viable.

***Independent Organizations***

As creative district work gains momentum and support, leaders should consider creating an independent organization. Creation of a formal, independent creative district organization means identifying which type of legal structure will work best. Unless they are already a part of local government, leaders of a creative district should first consider becoming a non-profit organization. While for-profit structures (such as Corporations or LLCs) can potentially be used, they do not provide the benefits that non-profit structures do. These are primarily tax benefits for both the organization and – in certain structures – for donors to the organization. For creative district organizations, there are two non-profit organizational structures in particular that are most commonly used. Detail on these are provided in the chart below:

| <b>TYPE</b>  | <b>PURPOSE</b>   | <b>TAX BENEFIT</b>   | <b>OTHER</b>   |
|--------------|--|--|--|
| <b>501c3</b> | <ul style="list-style-type: none"> <li>- To serve a public purpose: charitable, educational, or foundations</li> <li>- Limited grass roots lobbying</li> </ul> | <ul style="list-style-type: none"> <li>- Exempts from federal, state, local taxes</li> <li>- Contributions/member fees are tax deductible</li> </ul> | <ul style="list-style-type: none"> <li>- Highly desirable because of tax deductions</li> <li>- Most grantors require this designation</li> <li>- Designation can take longer to get/cost more</li> </ul> |
| <b>501c6</b> | <ul style="list-style-type: none"> <li>- To bring together</li> </ul>  | <ul style="list-style-type: none"> <li>- Exempt from federal taxes, but not state or</li> </ul>  | <ul style="list-style-type: none"> <li>- Provides the capability to</li> </ul>   |

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|--|--|---|---|
|  | <p>common business interests</p> <ul style="list-style-type: none"> <li>- Typically works to improve business conditions, public policy, etc.</li> </ul> | <p>local taxes</p> <ul style="list-style-type: none"> <li>- Contributions/member fees NOT tax deductible</li> </ul> | <p>respond to specific concerns and needs of members as opposed to purely charitable</p> <ul style="list-style-type: none"> <li>- Easier/cheaper to establish than 501c3</li> </ul> |
|--|--|---|---|

There are a few key differences between the two structures that should be considered when determining which is most appropriate for a creative district:

- **Ease of creation:** A 501c6 designation is generally easier, quicker and less expensive to maintain, allows more flexibility in its purpose, and therefore more flexibility to respond to a variety of creative district needs. A 501c3 can take a year or more to receive and requires organizations to clearly demonstrate their charitable purpose.
- **Tax benefit to the organization:** 501c3 organizations, once established, are exempt from paying BOTH federal, state and local taxes, where 501c6 organizations are exempt only from federal taxes.
- **Tax benefit to donors:** Contributions to 501c3 organizations are tax-deductible for donors, whereas contributions to a 501c6 are not. This status makes it a bit easier to conduct fundraising, particularly when soliciting larger contributions.

If creative districts are able to obtain 501c3 status, there is great benefit to this, though many organizations are served perfectly well by a 501c6 status. Many times a creative district organization will start out as a 501c6 and in time move towards a 501c3; and in still other cases as organizations grow and become complex, they might maintain both a 501c6 and 501c3 to help fund and coordinate different activities in an area.

Whichever type of non-profit entity creative district leadership chooses, there is benefit in having a legal entity in place as it provides structure for the organization, and security to those participating in activities as part of the organization. Specifically:

- They both require formal establishment of a board of directors, bylaws and board protocols so that there is a structure in place for making decisions and spending funds.
- They both require annual accounting and reporting, thus ensuring that their operations and spending remain mostly transparent.
- They both provide legal protection for those participating directly as part of the board. Should the organization be sued, the legal issues are organizational and do not directly affect any of the board members as individuals.

Having an independent organization can also help ensure that the creative district that may begin in passion and vision has a sustainable structure that can evolve over time. As leaders develop an organizational structure best suited to the local situation, they must remember organizational structures should be tied to organizational goals. There are times when certain structures work better than others.

### ***Public/Private Partnerships***

As districts mature, grow and delve into increasingly complex projects, they may require more complex and formalized organizational and funding structures to support them, in which case unique tools that help bring the public and private sectors together are available. These structures provide the ability for both the public and private sectors to legally and financially participate. There are three commonly used types of public/private organizations that can be very beneficial to creative district work.

- **Business Improvement Districts (BIDs)** - A BID is a special district tool that can be used to fund a wide range of special services and physical improvements within a district. BIDs create opportunities for creative districts to levy special assessments on properties within a defined geographic boundary to support enhanced services within the district. Thousands of these districts have been created worldwide to increase the competitiveness and health of commercial areas, with areas large and small using the tool to address innumerable challenges and leverage opportunities, improving the district for the betterment of the town or city as a whole.

The creation of a BID typically happens over the course of 12-18 months and requires several important steps, including:

- *Determining the study area:* BIDs can be as large or as small. but the area covered by the BID must be contiguous.
- *Engaging stakeholders to identify desired services:* BIDs can deliver a variety of special services, and are flexible in their ability to shift service delivery to meet the evolving needs of the district. BID funds cannot be used to replace existing statutory services that must be provided by local government.
- *Establishing the budget and assessment:* As the BID is being developed, the services ultimately being provided will drive how properties are assessed. BIDs are only legally assessed on commercial properties per Colorado law, although residential and non-taxable properties (e.g. property owned by governments or non-profits) will often contribute voluntarily at a rate fair to the benefit received.
- *Governing:* To ensure the best chance for success, BID governance models typically place strong authority in the hands of the private sector to establish the BID and manage the district throughout its life. To succeed, BIDs must have a suitable governance structure that contains effective checks and balances for the public sector while giving the private sector broader autonomy to manage the district in a responsive and effective way. The BID governing board is responsible for management and oversight of the BID, determining the program of work, and overseeing the budget, among other responsibilities.
- *Devising baseline service agreements:* Legally, the creation of a BID in a municipality requires that the funds generated by a district must be used to provide enhanced services above and beyond those already provided by the municipality. For that reason, it is standard practice for BIDs to develop a baseline service agreement with the municipality as part of the BID creation process. This document serves to define the level of service that the city is currently providing, and will continue to provide as part of

its municipal responsibility to taxpayers within the district. The document also establishes frequencies of service, thereby setting a baseline from which the BID funds can provide enhanced services to the district.

All of this information is then compiled in a business plan that is taken to ratepayers for support. In order for a BID to be created in Colorado, the following must occur:

- A petition must be circulated, demonstrating support from owners of personal and real property, representing more than 50% of the assessed value and acreage of the district
- A Colorado Taxpayers Bill of Rights (TABOR) vote must be held which requires owners of real and personal property and lessees and residents of commercial property within a district to approve the assessment.

There are many compelling reasons to create a BID, but what perhaps makes them especially desirable is that they provide a method for the private sector to share in and ensure that every benefactor in a district pays a “fair share” to the district’s improvement, while in turn giving them a greater role in making decisions that affect the its future.

- **Tax Increment Financing (TIF)** – TIF is a tool used to encourage the public and private sectors to make a joint investment in the development or redevelopment of an area. It works by capturing the increase in property tax revenues and/or sales tax revenues over a period of time – increases that may be generated by development and improvements to the area as well as overall value increases over time. The tax increment from a TIF district is created without raising taxes and without dipping into the tax value present at the time of adoption. TIF is most commonly utilized to promote economic development, encourage new development, eliminate blight, address environmental issues, and undertake redevelopment and adaptive reuse.

TIF districts, like BIDs, are statutory tools that require support of stakeholders and approval of the municipality. Colorado is fairly unique in that state law allows for two different applications of TIF. These include:

- **Urban Renewal Authority (URA):** A URA may be established to eliminate slummed or blighted areas within a municipality. It may clear these areas for development or redevelopment, demolish existing structures, or rehabilitate existing structures. It may also build new streets, utilities, parks, playground and other improvements. There must be a determined need for an urban renewal plan before it is adopted, and the applicable municipal governing body - . the city council - must make that determination or specific finding. While the primary benefit of a URA is the use of tax-increment financing (TIF), the power of eminent domain is also available to URAs to acquire property, when necessary, to alleviate slum and blight.
- **Downtown Development Authority (DDA):** A DDA can provide both organizational focus and financing to support improvements to an area. A DDA is funded primarily through Tax Increment Financing (TIF) funds that are reinvested in the area. If approved by the town and the voters, the DDA can also impose a special levy of up to 5 mills for DDA operations. A DDA is authorized by the city or town council and managed by a board of

directors appointed by the municipality. DDAs facilitate partnerships, joining businesses and property owners with local government. In addition, DDAs create a self-sustaining organization to champion the district for the long-term.

The two differ primarily in that a URA has the power of eminent domain, whereas a DDA does not, and a DDA has the ability to assess an additional mill levy in the defined area, whereas a URA does not. Both organizations are bodies politic and corporate, meaning they have attributes of both a political and corporate organization by law.

- **Community Development Corporations (CDCs)** – Community Development Corporations (CDCs) are growing increasingly common in this challenging economic period. These not-for-profit entities allow for multiple investors to participate in both physical development and economic development in an area. CDC's most commonly direct resources towards:
  - Tackling development or redevelopment projects that are too difficult or costly for the private sector to undertake alone
  - Providing incentives for businesses and retailers/restaurants to locate in the business district
  - Developing residential projects that are otherwise difficult to do

Among the benefits of CDCs is their 501c3 tax-exempt organizational status, meaning the public sector can easily contribute and that grant dollars are easier to access. They can be funded in a variety of ways, but generally get their resources from:

- Business/corporate donations, so those companies may get the write-off
- Banks that are required to give a portion of their revenues back to the community
- Investors looking for a write-off and a community benefit from their work
- Donors who are interested in the needs of the community
- The City, County and other governmental entities, through actual cash infusions or incentives to assist with redevelopment
- Local, national and federal grants

CDC's work very effectively and nimbly in improving an area in a variety of ways.

The best approach to figuring out an organizational and funding strategy for a creative district is to first step back and determine the overall goals for the district and the issues that must be overcome to achieve those goals. This will then guide the articulation of the mission of the district, and will help to determine which structure will be most beneficial and what funding tools might best be suited to help district leaders address goals. Setting all of this out in a district strategy or plan is the best starting place to help leaders pick the right approaches that will lead to success.

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