

RESOLUTION NO. 2019-120

A RESOLUTION APPOINTING DIRECTORS TO THE BOARD OF DIRECTORS OF THE CASTLEVIEW METROPOLITAN DISTRICT NO. 2

WHEREAS, Castleview Metropolitan District No. 2 (the “**District**”) is a special district located wholly within the boundaries of the Town of Castle Rock; and

WHEREAS, the Town Council of the Town of Castle Rock (the “**Town Council**”) approved the Consolidated Amended and Restated Service Plan for Castleview Metropolitan District No. 1 and Service Plan for Castleview Metropolitan District No. 2, pursuant to Resolution No. 2018-76 dated August 21, 2018, (the “**Service Plan**”); and

WHEREAS, the Town Council is authorized to appoint individuals to a district’s board of directors if the district’s board of directors is vacant and the failure to appoint a new board will result in the interruption of services that are provided by the district, pursuant to § 32-1-109(2.5), C.R.S.; and

WHEREAS, due to a transfer of ownership of property within the District, the Board of Directors of the District (the “**Board**”) was inadvertently vacated and is currently vacant; and

WHEREAS, pursuant to Section 32-1-808(2)(a)(I), C.R.S., a notice of vacancy was published in the *Douglas County News-Press* on October 31, 2019, providing notice that any qualified eligible elector of the District desiring to be considered for appointment to the Board should file a letter of interest with the District no later than 5:00 p.m. on November 11, 2019; and

WHEREAS, a District representative has informed the Town that no qualified, eligible electors submitted a letter of interest; and

WHEREAS, the Town Council has received requests for appointment to the District’s board of directors from qualified individuals within the District (***Exhibit 1***); namely Harvey Alpert, Tanya Alpert, Michael Alpert, Neill Alpert and Rodney Alpert (the “**Proposed Directors**”); and

WHEREAS, subsequent to the publication and provisions of Sections 32-1-103(5)(a) and (b), C.R.S., the Proposed Directors have been qualified as eligible electors of the District; and

WHEREAS, the Proposed Directors are each willing to serve on the Board; and

WHEREAS, the failure to appoint directors to the Board will result in the interruption of services that are being provided and will be provided by the District; and

WHEREAS, the Town Council finds that appointment of the Proposed Directors will facilitate the District’s compliance with local government laws, and allow the District to resume services as contemplated by the District’s service plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

1. Necessity of Appointment. The Town Council determines that failure to appoint qualified individuals to the board of directors for the District will result in the continued interruption of District services and the continued District noncompliance with certain state laws pertaining to local governments.

2. Appointment of Directors. Town Council, in accordance with § 32-1-905(2.5), C.R.S., hereby appoints the following qualified eligible electors to service on the Board:

Harvey Alpert	Appointed to fill vacancy and to serve until the next regular election described in Section 3 herein.
Tanya Alpert	Appointed to fill vacancy and to serve until the next regular election described in Section 3 herein.
Michael Alpert	Appointed to fill vacancy and to serve until the next regular election described in Section 3 herein.
Neill Alpert	Appointed to fill vacancy and to serve until the regular election described in Section 3 herein.
Rodney Alpert	Appointed to fill vacancy and to serve until the regular election described in Section 3 herein.

3. Election. The District's board of directors shall hold the regular special district election on May 5, 2020, to elect directors pursuant to the Special District Act, Article 1 of Title 32, C.R.S., the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S.; and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S.

4. Effect. This Resolution shall take effect immediately upon its passage

" **PASSED, APPROVED AND ADOPTED** this 5th day of February, 2019 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney

TO: THE TOWN COUNCIL FOR THE TOWN OF CASTLE ROCK, COLORADO

PETITION FOR APPOINTMENT OF BOARD MEMBERS

IN RE THE ORGANIZATION OF THE CASTLEVIEW METROPOLITAN DISTRICT NO. 2,
TOWN OF CASTLE ROCK, COLORADO

COMES NOW, Harvey Alpert, Tanya Alpert, Michael Alpert, Neill Alpert and Rodney Alpert, each eligible electors (collectively, the “Petitioner”) of the Castleview Metropolitan District No. 2 (the “District”), by and through the undersigned counsel, hereby petitions the Town Council of the Town of Castle Rock, Colorado (“Town Council”) to appoint five Board members to the District’s Board of Directors (the “Board”).

AS GROUNDS THEREFORE, Petitioner states as follows:

1. The Town Council approved the Consolidated Amended and Restated Service Plan for Castleview Metropolitan District No. 1 and Service Plan for Castleview Metropolitan District No. 2 on August 21, 2018 (the “Service Plan”).

2. The District is an existing special district formed under and governed by what is known as the Special District Act, Sections 32-1-101, *et seq.*, C.R.S.

3. The District is located entirely within the Town of Castle Rock, State of Colorado and was organized for the purpose of financing and constructing certain public improvements pursuant to its Service Plan.

4. The District is governed by a five member Board of Directors. Currently all five seats on the Board of Directors are vacant.

5. Purchase and Sale Agreements requiring the Purchaser to pay property taxes were recently entered into by and between the Seller and the following individuals, each of whom are registered to vote in the State of Colorado:

- a. Harvey Alpert
- b. Tanya Alpert
- c. Michael Alpert
- d. Neill Alpert
- e. Rodney Alpert

6. Section 32-1-808(2)(a)(I), C.R.S., permits an individual to be qualified as an eligible elector if a vacancy exists on the board of directors of a special district and, within ten days of

the publication of notice of such vacancy, no otherwise qualified eligible elector files a letter of interest in filling such a position with the board.

7. A Notice of Vacancy was submitted to be published in the *Douglas County News Press* on October 31, 2019, and as of November 11, 2019, no otherwise qualified eligible electors have filed a letter of interest in filling such vacant positions. A copy of the proof of publication for the Notice of Vacancy is attached hereto as **Exhibit A** and incorporated herein by this reference.

8. Pursuant to Section 32-1-905, C.R.S., the Town Council has jurisdiction to appoint individuals to serve on the Board of Directors from a pool of duly qualified and willing candidates.

9. The following five individuals are duly qualified and willing to serve on the District's Board of Directors: Harvey Alpert, Tanya Alpert, Michael Alpert, Neill Alpert and Rodney Alpert.

10. Harvey Alpert is registered to vote in the State of Colorado. Mr. H. Alpert is qualified to serve on the Board by being obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the District. His address is as follows:

9335 E. Harvard Avenue
Denver, Colorado 80231

11. Tanya Alpert is registered to vote in the State of Colorado. Ms. Alpert is qualified to serve on the Board by being obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the District. Her address is as follows:

30 Cherry Hills Farm Drive
Englewood, Colorado 80113

12. Michael Alpert is registered to vote in the State of Colorado. Mr. Alpert is qualified to serve on the Board by being obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the District. His address is as follows:

30 Cherry Hills Farm Drive
Englewood, Colorado 80121

13. Neill Alpert is registered to vote in the State of Colorado. Mr. N. Alpert is qualified to serve on the Board by being obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the District. His address is as follows:

8101 E. Dartmouth Avenue, Unit #78
Denver, Colorado 80231

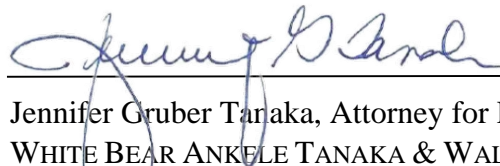
14. Rodney Alpert is registered to vote in the State of Colorado. Mr. R. Alpert is qualified to serve on the Board by being obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the District. His address is as follows:

45418 Coal Creek Drive
Parker, Colorado 80138

15. Because each of the above-named individuals are registered to vote in the State of Colorado, and are obligated to pay taxes under a contract to purchase taxable property situated in the boundaries of the District, or are the spouse or civil union partner of an individual with such tax obligations, each individual is an eligible elector of the District and eligible to serve on the Board.

WHEREFORE, Petitioner respectfully requests the Town Council to hear this Petition at a duly called public meeting and adopt a resolution to appoint the above-named individuals upon the finding that they are the only qualified, eligible electors of the District, each is will to serve on the Board, and failure to appoint a new Board of Directors will result in the interruption of services that are being provided by the District.

Respectfully submitted this 21st day of October, 2019.



Jennifer Gruber Tanaka, Attorney for Petitioners
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