

Resolution No. 2022-10-02

**RESOLUTION OF BOARD OF DIRECTORS
CALLING ELECTION**

WESTERLY CREEK METROPOLITAN DISTRICT

§§ 32-1-804, 1-1-111(2), 1-13.5-1103(1), and 1-13.5-513(1), C.R.S.

At a meeting of the Board of Directors (the “**Board**”) of the Westerly Creek Metropolitan District (the “**District**”), it was moved to adopt the following Resolution:

WHEREAS, the District was organized as a special district pursuant to §§ 32-1-101, *et seq.*, C.R.S. (the “**Special District Act**”); and

WHEREAS, the District is located within City and County of Denver and Adams County, Colorado (collectively, the “**County**”); and

WHEREAS, pursuant to § 32-1-804, C.R.S., the Board governs the conduct of regular and special elections for the District; and

WHEREAS, the Board anticipates holding a regular election on May 2, 2023, for the purpose of electing directors and submitting ballot issues, and desires to take all actions necessary and proper for the conduct thereof (the “**Election**”); and

WHEREAS, the Election shall be conducted pursuant to the Special District Act, the Colorado Local Government Election Code, and the Uniform Election Code of 1992, to the extent not in conflict with the Colorado Local Government Election Code, including any amendments thereto, and shall also comply with Article X, § 20 of the Colorado Constitution (“**TABOR**”), as necessary; and

WHEREAS, pursuant to § 1-1-111(2), C.R.S., the Board is authorized to designate an election official (the “**Designated Election Official**”) to exercise authority of the Board in conducting the Election; and

WHEREAS, pursuant to § 1-13.5-513(1), C.R.S., the Board can authorize the Designated Election Official to cancel the Election upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board hereby calls the Election for the purpose of electing directors. The Election shall be conducted as an independent mail ballot election in accordance with §§ 1-13.5-1101, *et seq.*, C.R.S.

2. The Board names Ashley B. Frisbie as the Designated Election Official for the Election. The Designated Election Official shall act as the primary contact with the County and shall be primarily responsible for ensuring the proper conduct of the Election.

3. Without limiting the foregoing, the following specific determinations also are made:

- a. The Board hereby directs general counsel to the District to approve the final form of the ballot to be submitted to the eligible electors of the District and authorizes the Designated Election Official to certify those questions and take any required action therewith.
- b. The Board hereby determines that: in addition to emailing to each registered elector at the email address provided by the county, or if no email is provided, by mailing to the household of each registered elector, notice of the call for nominations will be provided by 1) publication; and 2) newsletter, annual report or other emailing to the eligible electors of the District; and 3) posting on the District's website.
- c. The Board hereby directs general counsel to the District to oversee the general conduct of the Election and authorizes the Designated Election Official to take all action necessary for the proper conduct thereof and to exercise the authority of the Board in conducting the Election, including, but not limited to, causing the call for nominations; appointment, training, and setting compensation of election judges and a board of canvassers, as necessary; all required notices of election, including notices required pursuant to TABOR; printing of ballots; supervision of the counting of ballots and certification of election results; and all other appropriate actions.

4. The District shall be responsible for the payment of any and all costs associated with the conduct of the Election, including its cancellation, if permitted.

5. The Board hereby ratifies any and all actions taken to date by general counsel and the Designated Election Official in connection with the Election.

6. The Board hereby authorizes and directs the Designated Election Official to cancel the Election and to declare the candidates elected if, at the close of business on the sixty-third day before the Election, or at any time thereafter, there are not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, and so long as the only ballot questions are for the election of candidates. The Board further authorizes and directs the Designated Election Official to publish and post notice of the cancellation as necessary and file such notice and cancellation resolutions with the County Clerk and Recorder and with the Division of Local Government, as required. The Designated Election Official shall also notify the candidates that the Election was canceled and that they were elected by acclamation.

7. This Resolution shall remain in full force and effect until repealed or superseded by subsequent official action of the Board.

ADOPTED THIS 19TH DAY OF OCTOBER 2022.

WESTERLY CREEK METROPOLITAN
DISTRICT

Justin M. Ross
Justin M. Ross (Oct 24, 2022 10:57 MDT)

Officer of the District

ATTEST:

KRISTIN F ROZANSKY
KRISTIN F ROZANSKY (Nov 2, 2022 14:01 MDT)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

Megan G. Murphy
General Counsel to the District

Signature Page to Resolution Calling Election

**CANVASS BOARD'S
STATEMENT AND CERTIFICATE OF ELECTION RESULTS**

MAY 2, 2023 ELECTION

FOR WESTERLY CREEK METROPOLITAN DISTRICT

We, the undersigned members of the Canvass Board, certify, from the official abstract of votes, which are attached hereto, that the following is a true and correct statement of the results of the May 2, 2023 election for the above-named District (the "Election").

We hereby certify that the number of votes given to each candidate for the office of director of the District are as follows:

For a term until they or their successors are elected and qualified at the second regular special district election in May 2027:

Name of Candidate:	Votes Cast:
<u>JOHN WILLIAM SEWARD "JACK"</u>	<u>497</u>
<u>JOHN KARNER</u>	<u>400</u>
<u>BARBARA DORNSEIF</u>	<u>471</u>
<u>ROBERT DOUGLAS MARSH</u>	<u>593</u>
<u>MATTHEW BLACKBURN</u>	<u>471</u>
<u>BRENDAN L. LOY</u>	<u>381</u>

As required by Section 1-13.5-1306, C.R.S., the Designated Election Official ordered a recount of the votes cast in the Election, as the difference between the highest number of votes cast in the Election and the next highest number of votes cast in the Election was less than or equal to one-half of one percent of the highest number of votes cast in the election, as evidenced by the survey of returns.

A recount of the votes cast was conducted on May 17, 2023, resulting in a tie for the third director seat available.

Pursuant to Section 1-13.5-1304, C.R.S., if any two or more candidates receive an equal and highest number of votes for the same office, and if there are not enough offices remaining for all such candidates, the canvass board shall determine by lot the person who shall be elected.

The Canvass Board for the Election conducted the lot drawing on May 19, 2023. The results of the lot drawing are as attached hereto as **Exhibit A**.

**CANVASS BOARD'S
STATEMENT AND CERTIFICATE OF ELECTION RESULTS**
Westerly Creek Metropolitan District
May 2, 2023 Election

We hereby certify that the persons having been duly elected to the office of director of the District are as follows:

Name of Candidate:	Term Until:
<u>ROBERT DOUGLAS MARSH</u>	<u>May 2027</u>
<u>JOHN WILLIAM SEWARD "JACK"</u>	<u>May 2027</u>
<u>MATTHEW BLACKBURN</u>	<u>May 2027</u>

Endorsed and Subscribed this 19th day of May, 2023.

By:

, Designated Election Official/Canvasser

 (Allen Rozansky), Canvasser

Kristin F. Rozansky
Kristin F. Rozansky (May 22, 2023 09:59 MDT), Canvasser

Contact Person for the District: Megan J. Murphy, Esq.
Business Address for the District: c/o WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 E. Commons Ave. Suite 2000
Centennial, CO 80122
(p) 303-858-1800
(f) 303-858-1801

Attach the Judges' Certificate - Statement on Ballots and Judges' Abstract of Votes to the Canvass Board's Statement and Certificate of Election Results.

File with the Division of Local Government within thirty (30) days after the election.

EXHIBIT A

**WESTERLY CREEK METROPOLITAN DISTRICT
MAY 2, 2023 ELECTION**

Lot Drawing

§ 1-13.5-1304, C.R.S.

As required by Section 1-13.5-1306, C.R.S., the Designated Election Official ordered a recount of the votes cast in the May 2, 2023 Election for the Westerly Creek Metropolitan District (the "Election"), as the difference between the highest number of votes cast in the Election and the next highest number of votes cast in the Election was less than or equal to one-half of one percent of the highest number of votes cast in the election, as evidenced by the survey of returns.

A recount of the votes cast was conducted on May 17, 2023, resulting in a tie for the third director seat available.

Pursuant to Section 1-13.5-1304, C.R.S., if any two or more candidates receive an equal and highest number of votes for the same office, and if there are not enough offices remaining for all such candidates, the canvass board shall determine by lot the person who shall be elected.

For the office of Director for a term until the special district election in May 2027, for the third director seat, we hereby certify that the following person is hereby elected:

Name of Candidate:

Term Until:

MATTHEW BLACKBURN

May 2027

Lot Drawing conducted by:

Signed: *Kristin F. Rozansky*
Kristin F. Rozansky (May 22, 2023 09:35 HDT)

May 19, 2023
Date

Name: Kristin Rozansky,
Canvasser

Signed: *[Signature]*

May 19, 2023
Date

Name: Allen Rozansky,
Canvasser

Signed: *Ashley Justice*

May 19, 2023
Date

Name: Ashley B. Frisbie,
Designated Election Official

ELECTION JUDGES' ABSTRACT OF VOTES (RECOUNT)

MAY 2, 2023 ELECTION

FOR WESTERLY CREEK METROPOLITAN DISTRICT (the "District")

Ballots counted for the offices of Director of the District as follows:

Three (3) seats available for a term until they or their successors are elected and qualified at the special district election in May 2027:

Name of Candidate:	Votes Cast: (Numerical Figures)
<u>John William Seward "Jack"</u>	<u>497</u>
<u>John Karner</u>	<u>400</u>
<u>Barbara Dornseif</u>	<u>471</u>
<u>Robert Douglas Marsh</u>	<u>593</u>
<u>Matthew Blackburn</u>	<u>471</u>
<u>Brendan L. Loy</u>	<u>381</u>

Dated this 17th day of May 2023.

By: , Election Judge

, Election Judge

, Election Judge

ELECTION JUDGES' CERTIFICATE - STATEMENT ON BALLOTS (RECOUNT)

MAY 2, 2023 ELECTION

FOR WESTERLY CREEK METROPOLITAN DISTRICT (the "District")

Votes cast for the office of director of the District as follows:

For a term until they or their successors are elected and qualified at the special district election in May 2025, were as follows:

THERE ARE NO CANDIDATES FOR THIS OFFICE

For a term until they or their successors are elected and qualified at the special district election in May 2027, were as follows:

Name of Candidate:	Votes Received: (In Words and Numerical Figures)
<u>John William Seward "Jack"</u>	<u>Four Hundred Ninety Seven (497)</u>
<u>John Karner</u>	<u>Four Hundred (400)</u>
<u>Barbara Dornseif</u>	<u>Four Hundred Seventy one (471)</u>
<u>Robert Douglas Marsh</u>	<u>Five Hundred Ninety Three (593)</u>
<u>Matthew Blackburn</u>	<u>Four Hundred seventy one (471)</u>
<u>Brendan L. Loy</u>	<u>Three Hundred Eighty one (381)</u>

JUDGES' CERTIFICATE - STATEMENT ON BALLOTS

Westerly Creek Metropolitan District
May 2, 2023 Election

STATEMENT OF BALLOTS:

It is hereby identified and specified that:

Numeric Only

Number of Ballots Voted	1,035
Number of Ballots Delivered to Electors	20,047
Number of Ballots Not Delivered to Electors	110
Number of Unofficial and Substitute Ballots Voted	0
Number of Spoiled Ballots	78
Number of Ballots Returned	1,399

Certified this 17th day of May 2023.

Alison Skusem, Election Judge
Hearner Hartung Wegher, Election Judge
Gracie Deffen, Election Judge