

GARY R. WHITE
KRISTEN D. BEAR
WILLIAM P. ANKELE, JR.
JENNIFER GRUBER TANAKA
CLINT C. WALDRON
KRISTIN BOWERS TOMPKINS
ROBERT G. ROGERS

OF COUNSEL:
BLAIR M. DICKHONER



SEAN ALLEN
ZACHARY P. WHITE
CASEY K. LEKAHAL
TRISHA K. HARRIS
HEATHER L. HARTUNG
MEGAN J. MURPHY
KRISTIN J. SCHLEDORN
SILVIA FEJKA
JOHN R. SHERMAN
BRADLEY T. NEIMAN

November 6, 2017

VIA EMAIL

City of Colorado Springs
Attention: Carl Schueler, Comprehensive Planning Manager
City Administrative Building, Suite 502
cshueler@springsgov.com

**Re: Canyon Creek Metropolitan District No. 2
Board of Directors Appointments**

Mr. Schueler:

Canyon Creek Metropolitan District No. 2 (the “**District**”) was organized pursuant to the Consolidated Service Plan for Canyon Creek Metropolitan District No. 1, Canyon Creek Metropolitan District No. 2, Canyon Creek Metropolitan District No. 3 approved by the City of Colorado Springs (the “**City**”) on October 14, 2008 pursuant to Resolution No. 177-08. The District is generally located north of Ramona Avenue, south of Brookside Street, east of Nevada Avenue, and west of Cascade Avenue.

The Board of Directors of the District were qualified under a Contract to Buy and Sell Real Estate dated November 4, 2015 (the “**Contract**”). The Contract identified 132 East Navajo Avenue, Colorado Springs, Colorado 80906 as the District’s Director’s Parcel which must be within the boundaries of the District in order to properly qualify the Board of Directors.

Pursuant to an Order for Exclusion recorded July 26, 2017 at reception number 217087908, the property located at 132 East Navajo Street, Colorado Springs, Colorado 80906 was excluded from the District. This exclusion disqualified the current Board of Directors because the District’s Director’s Parcel was no longer within the boundaries of the District.

In instances where there are no duly elected directors of a metropolitan district, Colorado State Statutes permit the governing body of a municipality to appoint the board of directors from a pool of duly qualified, willing candidates. If, after a period of ten days from publication of a notice of vacancy as required by § 32-1-808(2)(a)(I), C.R.S., no qualified, eligible electors have submitted a letter of interest to be considered to fill the vacancy, and the original Board of Directors have entered into new contracts to purchase taxable property concerning a new

Director's Parcel, the original Board of Directors can become duly qualified to be appointed to the Board of the District.

“If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county or counties which approved the organizational petition may appoint all directors from the pool of duly qualified, willing candidates. The board appointed pursuant to this subsection (2.5) shall call for nominations for a special election within six months after their appointment, which special election is to be held in accordance with the provisions of section 32-1-305.5 and articles 1 to 13.5 of title 1, C.R.S.; except that the question of the organization shall not be presented at the election. In the event a district is wholly within the boundaries of a municipality, the governing body of the municipality may appoint directors.” (§ 32-1-905(2.5), C.R.S.)

A notice of vacancy was published on November 3, 2017, in *The Gazette*. Assuming no otherwise qualified eligible elector files a letter of interest on or before November 13, 2017, Sam Guadagnoli, Kathy Guadagnoli, and Mark Morley will enter into a new Agreement for Purchase and Sale of Real Estate to become qualified eligible electors of the District.

After November 14, 2017, and pursuant to § 32-1-905(2.5), C.R.S., the District is requesting the City Council adopt a resolution to appoint Sam Guadagnoli, Kathy Guadagnoli, and Mark Morley to the Board of Directors of the District upon a finding that they are the only qualified, eligible electors of the District, each is willing to serve on the Board, and failure to appoint a new board will result in the interruption of services that are being provided by the District. Within six months of their appointment, the new Board of Directors will call for nominations for a special election to be held in accordance with the provisions of § 32-1-305.5 and Articles 1 to 13.5 of Title 1, C.R.S.

The District is requesting the City Council adopt the resolution appointing the new Directors at the City Council meeting November 28, 2017 because the District must hold a public hearing to adopt a proposed budget and certify a mill levy on or before December 14, 2017 in accordance with §§ 29-1-108 and 39-1-111, C.R.S.

The next opportunity after November 28th for the City Council to adopt the resolution appointing the new Directors is December 12, 2017. This creates a challenge for the District to conduct a public hearing, adopt a proposed budget, and certify a mill levy on December 13th or December 14th. If the District does not adopt a proposed budget and certify a mill levy then the District will not be able to collect ad valorem property taxes to fund its debt payments or its operations and maintenance obligations.

Thank you for your attention to this matter, please respond to our request as soon as possible so we can make arrangements for the public hearing, budget adoption, and certification of the mill levy before December 14, 2017.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

A handwritten signature in blue ink, appearing to read "Blair M. Dickhoner", with a long horizontal flourish extending to the right.

Blair M. Dickhoner