

**RESOLUTION OF
THE BOARDS OF DIRECTORS OF
PODTBURG METROPOLITAN DISTRICT NOS. 1, 2, 3, 4, 5 AND 6**

2022 REGULAR SPECIAL DISTRICT ELECTION RESOLUTION

WHEREAS, the Podtburg Metropolitan District Nos. 1 – 6 (individually, the “District,” collectively, the “Districts”) were organized pursuant to Section 32-1-101 *et seq.*, C.R.S. of the Special District Act (the “Act”); and

WHEREAS, District elections to elect members to the Boards of Directors (individually, the “Board;” collectively, the “Boards”) of the District and/or to present certain ballot questions to the eligible electors of the District are governed by the Act; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the “Uniform Code”); and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S. (the “Local Government Election Code”) (the Act, Uniform Code, and Local Government Election Code are collectively referred to herein as the “Election Laws”); and

WHEREAS, each Board consists of five (5) directors offices, and of those five directors offices, two (2) directors were elected to each Board to each serve a term that expires at the next regular district election and three (3) directors were elected to each Board to each serve a term that expires in May 2023; and

WHEREAS, the next regular election for each District scheduled to be held on the Tuesday succeeding the first Monday of May, which is May 3, 2022 (the “Election”), in accordance with § 1-13.5-111(1), C.R.S.; and

WHEREAS, in accordance with Election Laws, each Board desires to call the Election for the purposes of electing two (2) directors to the Board to serve a 3-year term; and

WHEREAS, pursuant to § 32-1-804(1), C.R.S., the Boards shall govern the conduct of the Election and render all interpretations and make all decisions as to controversies or other matters arising in conducting the Election; and

WHEREAS, pursuant to § 32-1-804(2), C.R.S., all powers granted by the Boards by Part 8, Article 1 of Title 32, for the conduct of regular or special elections may be exercised in the absence of the Boards by the secretary or by an assistant secretary appointed by each Board, and the person named by each Board who is responsible for the conducting of the Election shall be the designated election official; and

WHEREAS, pursuant to § 1-13.5-108(1), C.R.S., the designated election official named by each Board shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in operation of the Code; and

WHEREAS, for purposes of the Election, each Board desires to appoint an assistant secretary, who shall be the designated election official for the Election and exercise all powers granted by each Board for the conduct of the Election; and

WHEREAS, §§ 1-13.5-501(1) & -(1.7), C.R.S., require that, between seventy-five (75) and one hundred (100) days before a regular election, the Designated Election Official shall provide public notice of a call for nominations for the election by two methods: (1) by emailing the notice to each active registered elector of the Districts as of the date that is one hundred fifty (150) days prior to the election or, if no email address is on file, by mail as provided in § 1-13.5-501(1.7), C.R.S., and (2) by any one of the following means: publication, as defined in § 1-13.5-501(2), C.R.S.; including the notice as a prominent part of an informational mailing sent by the Districts to the eligible electors of the Districts; posting the information of the official website of the Districts; or, if permitted under § 1-13.5-501(1.7)(b)(IV), C.R.S., posting the notice in at least three public places within the boundaries of the metropolitan district and in the office of the Clerk and Recorder of Larimer County; and

WHEREAS, § 1-13.5-1104(2), C.R.S. requires the Designated Election Official to supervise the distributing, handling, and counting of ballots and the survey of returns, and to take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election; and

WHEREAS, §§ 1-11-103(3) & 32-1-104(1), C.R.S. require each District to certify to the Division the results of any elections held by such District and include such District's business address, telephone number, and contact person; and

WHEREAS, § 1-13.5-513(1), C.R.S. provides that if the only matter before the electors in an election is the election of persons to office and if, at the close of business day on the sixty-third (63rd) day before the election or at any time thereafter, there are not more candidates than offices to be filled at the election, the Designated Election Official shall cancel the election and declare the candidates elected if so instructed by resolution of the governing body; and

WHEREAS, § 1-11-103(3), C.R.S. provides that if an election is cancelled pursuant to § 1-13.5-513(1), C.R.S., the Districts shall file notice and a copy of the resolution of such cancellations with the Colorado Division of Local Government (the "Division"); and

WHEREAS, each Board desires to call an election and set forth herein the procedures for conducting such election as authorized by the Election Laws.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARDS OF DIRECTORS OF PODTBURG METROPOLITAN DISTRICT NOS. 1 – 6 THAT:

1. Each Board hereby calls a regular election of the eligible electors of the District to be held on May 3, 2022 between the hours of 7:00 A.M. and 7:00 P.M. pursuant to and in accordance with the Election Laws, for the purpose of electing two (2) directors to each serve a three-year term on each Board. Such numbers may change due to one or more vacancies arising on the Boards after the adoption of this Resolution and prior to the Election. The Election shall be

conducted as an independent mail ballot election pursuant to Part 11 of the Local Government Election Code and all other relevant provisions of the Code.

2. Pursuant to § 32-1-804(2), C.R.S., the Boards hereby name Stacie Pacheco of Icenogle Seaver Pogue, P.C. as Assistant Secretary to each District for purposes of the Election, who shall be the Designated Election Official for the Election. The Designated Election Official shall act as the primary contact with the Larimer County Clerk and Recorder's office and shall be primarily responsible for ensuring the proper conduct of the Election including, but not limited to, appointing election judges as necessary, appointing the Boards of Canvassers, arranging for the required notices of the election and printing of ballots, and directing that all other appropriate actions be accomplished. The Boards hereby direct the District's General Counsel to oversee the general conduct of the Election for each District.

3. Each Board hereby directs the Designated Election Official to provide public notice of a call for nominations for the Election in accordance with the requirements of § 1-13.5-501, C.R.S., which shall include information regarding the director offices to be voted upon at the Election for each District, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the Designated Election Official, and information on obtaining an absentee ballot. The notice shall be emailed to each active registered elector of the District as specified in the registration list provided by the Larimer County Clerk and Recorder as of the date that is one hundred fifty (150) days prior to the date of the Election or, if no email address is on file, by mail as provided in § 1-13.5-501(1.7), C.R.S. In addition, public notice shall be provided by publication as defined in § 1-13.5-501(2), C.R.S.

4. Pursuant to § 1-13.5-1002(1)(b), C.R.S., applications for absentee voter's ballots may be filed at the Designated Election Official's office (at such address noted in Paragraph 5 below), between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on the Tuesday immediately preceding the Election (April 26, 2022).

5. Pursuant to § 1-13.5-303, C.R.S., any person who desires to be a candidate for the office of director in any of the Districts must file a self-nomination and acceptance form or letter, signed by the candidate and by an eligible elector of the State as a witness to the signature of the candidate, with the Designated Election Official no later than 5:00 P.M. on the day that is sixty-seven (67) days prior to the Election (February 25, 2022). On the date of signing the self-nomination and acceptance form or letter a candidate for director shall be an eligible elector of the applicable District. Pursuant to § 32-1-103(5), C.R.S., an "eligible elector" means a person who, at the designated time or event, is registered to vote in the State of Colorado and (i) who is a resident of the special district; or (ii) who, or whose spouse or civil union partner, owns taxable real or personal property situated within the boundaries of the special district, whether said person resides within the special district or not. A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district is considered an "owner" for purposes of this definition. Self-nomination and acceptance forms are available at the Designated Election Official's office located at 4724 S. Monaco St., Suite 360, Denver, Colorado 80237.

6. Pursuant to §§ 1-13.5-513(1)&(6), C.R.S., each Board hereby authorizes and directs the Designated Election Official to cancel the Election and declare the candidates elected if, at the close of business on the sixty-third (63rd) day before the Election (March 1, 2022), 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. Each Board further authorizes and directs the Designated Election Official to file cancellation notices with the Larimer County Clerk and Recorder's Office and with the Colorado Division of Local Government, to post notice of the cancellation in the office of the Designated Election Official, and to provide notice by publication of the cancellation of the election. The Designated Election Official also shall notify the candidates that the Election was cancelled and that they were elected by acclamation.

7. In accordance with §§ 1-11-103(3) & 32-1-104(1), C.R.S., the Districts direct the Designated Election Official to notify the Division of the results of any elections held by the Districts, including each District's business address, telephone number, and contact person within thirty (30) days after the Election (June 2, 2022).

8. The Designated Election Official and the officers, agents, consultants, and employees, if any, of the Districts are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

9. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Boards, the Designated Election Official, and the officers, agents, consultants, and employees, if any, of the Districts, and directed toward holding the Election for the purposes stated herein are hereby ratified, approved, and confirmed.

10. All prior acts, orders, or resolutions, or parts thereof, by the Districts in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

11. If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

12. Each District shall be responsible for the payment of any and all costs associated with the conduct of the Election, including its cancellation, if necessary, and those costs incurred pursuant to the terms and conditions of an election agreement with the County, if any.

13. This Resolution shall take effect on the date and at the time of its adoption.

[Signature Page Follows.]

Whereupon, a motion was made and seconded, and upon a majority vote, this Resolution was approved by the Board.

ADOPTED AND APPROVED THIS 24th DAY OF JANUARY, 2022.

PODTBURG METROPOLITAN DISTRICT NOS.
1, 2, 3, 4, 5 AND 6


By: Greg Podburg
Its: President

Signature Page to Podtburg Election Resolution