

RESOLUTION OF THE BOARD OF DIRECTORS
OF BANNING LEWIS RANCH METROPOLITAN DISTRICT NO. 5
CONCERNING REGULAR ELECTION TO BE HELD MAY 8, 2012
(MAIL BALLOT ELECTION)

WHEREAS, regular elections are to be held on the Tuesday succeeding the first Monday of May in every even-numbered year, for the purpose of electing members to the Board of Directors of the Banning Lewis Ranch Metropolitan District No. 5 ("District"); and

WHEREAS, three (3) four-year terms for Director shall be open at the regular election held on May 8, 2012, by the District; and

WHEREAS, a designated election official shall be appointed by the Board of Directors to be responsible for conducting the election;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Banning Lewis Ranch Metropolitan District No. 5 of El Paso County, Colorado:

1. That a regular election to be conducted by mail ballot be called and held within the District on Tuesday, the 8th day of May 2012, at which election the electors shall vote for three (3) Directors;

2. That the terms of office for Greg Barbuto, Erena Cassiani, and Mindy Renee Foltz shall expire following the regular election to be held on the 8th day of May 2012;

3. That Susan Schledorn with Grimshaw & Haring, P.C. is hereby appointed to serve as the Designated Election Official for the conduct of the election and is directed by the Board of Directors to certify the ballot content not later than March 9, 2012, and file with the Colorado Secretary of State no later than March 14, 2012, a written plan for the conduct of the election;

4. That pursuant to the provisions of Section 1-5-208, C.R.S., as amended, if the only matter before the eligible electors is the election of persons to office and if, at the close of business on the sixty-third day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the Designated Election Official is authorized to cancel the election and by resolution declare the candidates elected. If the election is canceled, the Board of Directors shall: (a) provide notice by publication of the cancellation of the election; (b) post a copy of the published notice at the polling place, in the office of the Designated Election Official, and in the office of the clerk and recorder for each county in which the District is located; (c) file a copy of the published notice with the Division of Local Government. The Board of Directors shall notify the candidates that the election was canceled and that they were elected by acclamation. If the election is canceled, the canvass board will not meet, and the Designated Election Official shall note the

cancellation on the certified statement of results and shall indicate which candidates were elected by acclamation;

5. That the election shall be held and conducted in accordance with the uniform Election Code of 1992, as amended and supplemented by Const. Colo. Art. X, Sec 20, the Current Rules and Regulations Governing Election Procedures of the Secretary of State of the state of Colorado, and Title 32, Article 1, Part 8, Colorado Revised Statutes, and other relevant Colorado and federal law (collectively, hereafter all such law and rules shall be referred to as the "Relevant Law");

6. That the ballot depository and walk-in voting location shall be 1700 Lincoln Street, Suite 3800, Denver, Colorado, which walk-in voting location is not within the boundaries of the District. It is hereby determined that there is no public location available within the boundaries of the District for a walk-in voting place and that it is necessary to use the private location outside of the District's boundaries as designated above. The walk-in voting location shall also be the walk-in voting place for disabled electors and for eligible electors not residing within the District;

7. That the walk-in voting location shall be open during regular business hours no sooner than 22 days before the election day nor later than 7:00 p.m. on election day for the purpose of handling replacement ballots and receiving ballots;

8. That a nomination for Director to serve for any designated vacancy shall be made by written self-nomination and acceptance form or letter and filed with the Designated Election Official not less than sixty-seven (67) days prior to the date of said election and that an affidavit of intent to be a write-in candidate for Director to serve for any designated vacancy shall be filed with the Designated Election Official not less than sixty-four (64) days prior to the date of said election;

9. That pursuant to Section 32-1-804.1, C.R.S., as amended, the Designated Election Official shall provide notice by publication in the Daily Transcript, a newspaper published in the county which has general circulation within the District, of a call for nominations for the election. The notice shall contain all the information required by Section 32-1-804.1, C.R.S., as amended, and appear at least once in the newspaper not less than seventy-five (75) days nor more than ninety (90) days before the regular special district election;

10. That pursuant to Section 1-6-105, C.R.S., as amended, the Designated Election Official shall appoint election judges no later than forty-five (45) days before the election. The election judges shall be eligible electors of the District or registered electors of the State of Colorado, shall attend a school of instruction conducted by the Designated Election Official not more than thirty-two (32) days prior to the election date, and each shall receive \$_____ for his/her services;

11. That pursuant to Section 1-5-303(1), C.R.S., no later than the 40th day preceding the date of the election, the Designated Election Official shall order from the County Clerk and Recorder in El Paso County, a complete copy of the list of the registered electors of each general election precinct which is located within the county and is involved in the election, to be certified by the Clerk and Recorder and provided to the Designated Election Official no later than the 30th day preceding the election, and shall request that a supplemental list of the eligible electors who have become eligible since the earlier list be certified by the Clerk and Recorder and provided to the Designated Election Official no later than the 20th day preceding the election. Such request to the Clerk shall include notice that the election is being conducted by mail ballot;

12. That pursuant to Section 1-5-304(1), C.R.S., no later than the 40th day preceding the date of the election, the Designated Election Official shall order from the County Assessor in El Paso County, a complete copy of the list of all recorded owners of real and personal property within the special district, to be certified by the Assessor and provided to the Designated Election Official no later than the 30th day preceding the election, and shall request that a supplemental list of all recorded owners of real and personal property who have become eligible since the earlier list be certified by the Assessor and provided to the Designated Election Official no later than the 20th day preceding the election. Such request to the Assessor shall include notice that the election is being conducted by mail ballot;

13. That no person will receive a ballot in this election unless the person is an eligible elector of the District in which such person desires to vote, as defined in Section 32-1-103(5), Colorado Revised Statutes. Any person who qualifies as an eligible elector pursuant to Section 32-1-103(5)(a)(II) shall be mailed a packet containing a ballot, secrecy sleeve, instructions for voting, and a return envelope as provided in Section 1-7.5-107(3)(a), C.R.S. The Designated Election Official is responsible for the mailing of the ballot packets and the election judges shall allow eligible electors the right to vote, and endeavor to prevent persons who are not eligible electors from voting, as provided by the Relevant Law;

14. That the return envelope for the mail ballot shall contain the substance of the forms provided in Sections 32-1-806(2), 1-7-103, 1-7-104, and 1-7-110, C.R.S. Each eligible elector shall be required to complete and execute the affidavit on the return envelope as to his or her qualifications for voting before the ballot is counted;

15. That the poll book is the master list of all eligible electors to whom ballots are sent and reflects all activity for each eligible elector (it tracks walk-in, replacement, and absent voter balloting). The poll book shall be kept by the Designated Election Official and election judges. The poll book is created by combining the list of registered voters with the list of verified property owners, and adding to that a list of the walk-in voters (including name, address, birth date, ballot number, and a notation that voter registration and property ownership/residency was verified) whose qualifications were verified at the time that they walked in and voted;

16. That pursuant to Section 1-10-201, C.R.S., as amended, the Designated Election Official shall appoint no later than fifteen (15) days prior to the election, at least one member of the Board of Directors of the District and at least one eligible elector of the District who is not a member of the Board to assist the Designated Election Official in the survey of returns. The persons so appointed and the Designated Election Official shall constitute the Board of Canvassers for the election.

17. That pursuant to Section 1-5-205, C.R.S., as amended, the Designated Election Official shall provide notice of the election by publication in the Daily Transcript, a newspaper published in the county which has general circulation within the District. The notice shall appear once with the publication not less than twenty (20) days prior to the election date. A copy of the notice shall be posted at least ten (10) days prior to the election and until two (2) days after the election in a conspicuous place in the office of the Designated Election Official and in the office designated in the written plan for the conduct of the election. At the time that the notice by publication is made, the Designated Election Official shall also mail a copy of the notice of the election to the office of the Clerk and Recorder of El Paso County, in which the District is located;

18. That if an eligible elector wishes the ballot mailed to a place other than his or her address of record, a request for an application for a mail-in ballot may be made to the Designated Election Official. An application for a mail-in ballot may be made in writing or by telefax, using the application form furnished by the Designated Election Official, or in the form of a letter which includes the applicant's name, signature, residence address, address other than residence address where ballot will be mailed, and date of birth. Applications for a mail-in ballot shall be made to the Designated Election Official for Banning Lewis Ranch Metropolitan District No. 5, c/o Grimshaw & Haring, P.C., 1700 Lincoln Street, Denver, Colorado 80203, telephone (303) 839-3800 not earlier than January 1, 2012, nor later than 4:00 p.m. on the Friday immediately preceding the election. Pursuant to Section 32-1-805, C.R.S., if the District is a metropolitan district and meets the stated criteria in Section 32-1-805(5)(c), C.R.S., the Designated Election Official shall mail a mail-in ballot to each eligible elector on the voter registration list as supplied by the county clerk and recorder for the election who has applied for permanent mail-in voter status. Pursuant to Section 32-1-805(5)(b.5), C.R.S., if the District is a metropolitan district with ten thousand or more registered electors, the Board hereby instructs the Designated Election Official to mail a mail-in ballot to each eligible elector on the list provided pursuant to Section 32-1-805(5)(a), C.R.S. Mail-in ballots shall be in the hands of the Designated Election Official not later than the hour of 7:00 p.m. on the day of the election;

19. That requests for replacement ballots may be made in writing or by mail. Requests for replacement ballots may also be by telefax or by telephone followed by an original, written request, and no replacement ballot shall be assigned until the original, written request is received by the Designated Election Official. A sworn statement specifying the reason for requesting the replacement ballot must be signed by the eligible elector and presented to the election judge no later than 7:00 p.m. on election

day. The replacement mail ballot package shall not be transmitted unless the sworn statement requesting the replacement ballot is received on or before election day. A replacement ballot may be transmitted directly to the applicant at the Designated Election Official's office or the office designated in the written plan for conduct of the election, or may be mailed to the eligible elector at the address provided in the application. If the ballot is returned by mail, the sworn statement must be included in the return envelope with the marked ballot;

20. That immediately after the closing of the polls, the Judges shall complete the process of verifying the information on the return envelopes, open all return envelopes found to be in compliance and deposit each ballot in the ballot box, open the ballot box, count the ballots cast, and promptly thereafter, certify the returns. The returns of said election shall be canvassed by the canvass board no later than seventeen days after the election and the results declared at said meeting of the canvass board. The meeting to canvass and declare the results shall be held at a time and place as determined by the Designated Election Official;

21. That the Designated Election Official shall file within 30 days after the election, the results of election, including the business address, the telephone number, and the name of the contact person of the District, with the Division of Local Government.

22. That the formal written plan for conduct of the election on May 8, 2012, to be conducted by mail ballot, is approved by the Board of Directors.

23. That should any part or provision of this Resolution be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, it being the intention that the various provisions hereof are severable;

24. That all acts, orders, resolutions, or parts thereof, of the District that are inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict;

25. That the provisions of this Resolution shall take effect immediately;

26. That all past actions taken by the District, its Board members individually and collectively, officers, agents, attorneys, and consultants directed toward the lawful conduct of the election were done in the best interests of the District and said actions are hereby ratified and confirmed as if originally taken with full authority.

27. That in the event of a conflict between this Resolution and Relevant Law, the Relevant Law shall control.

ADOPTED AND APPROVED this 5th day of December, 2011.

(SEAL)



BANNING LEWIS RANCH METROPOLITAN
DISTRICT NO. 5

By:



President

ATTESTED:



Secretary