

EBERT METROPOLITAN DISTRICT

RESOLUTION REGARDING THE QUALIFICATION AND APPOINTMENT OF A DISTRICT REPRESENTATIVE TO THE BOARD OF DIRECTORS OF THE TOWN CENTER METROPOITAN DISTRICT

WHEREAS, the Ebert Metropolitan District (the “**District**” or “**Ebert**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Article 1, C.R.S.; and

WHEREAS, the Town Center Metropolitan District (the “**Town Center**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Article 1, C.R.S.; and

WHEREAS, on April 14, 2021, Town Center adopted a Resolution of the Board of Directors Concerning the Qualification and Appointment of an Ebert Selected Representative to the Town Center Board of Directors (“**Town Center Resolution**”); and

WHEREAS, the Ebert District Board of Directors (“**Ebert Board**”) recognizes and understands the intent and spirit of the Town Center Resolution as being to:

- 1) Facilitate and improve Ebert resident representation on the Town Center Board of Directors (“**Town Center Board**”), and
- 2) Enable the residents of Ebert, through its elected board, to designate an Ebert property owner, selected and vetted by the Ebert Board, to serve on the Town Center Board; and

WHEREAS, the limited territory within Town Center narrowly restricts eligibility of Ebert residents for service on the Town Center Board to individuals qualified by a real estate purchase contract (authorized by §32-1-808(2), C.R.S.), which contract is exclusively within the sole discretion of Clayton Properties Group II, Inc. (owner of property within the Town Center territory, hereafter referred to as “**Clayton Properties**”); and

WHEREAS, Clayton Properties utilizes a contract procedure for conveyance of property within Town Center that includes a quitclaim deed, option contract, special warranty deed, and escrow agreement, and which provides for joint tenant ownership of the property with Town Center among the qualified board members and Clayton Properties itself; and

WHEREAS, Clayton Properties’ exclusive control of board qualifications has systematically limited the number of candidates for elections to as many or less than the number of open seats on the Town Center Board so that elections have always been cancelled due to an uncontested ballot, and which has historically resulted in extended periods with board vacancies to the detriment of Ebert; and

WHEREAS, Town Center has eliminated term limits allowing for any Ebert-designated resident, once qualified by contract for service on the Town Center Board and appointed thereto, to repeatedly self-nominate in perpetuity unless Clayton Properties exercises its purchase option to take back ownership of property within Town Center from such Board member and thereby eliminate such member's eligibility for election; and

WHEREAS, the periodic public election cycle subjects the Ebert Board to director turnover, which in turn often creates a desire for changing Ebert's representation on the Town Center Board; and

WHEREAS, neither the Ebert Board or the registered electors of Ebert have authority to recall an Ebert-designated resident currently sitting on the Town Center Board from such board; and

WHEREAS, given these circumstances, the spirit and intent of the Town Center Resolution is usurped unless a policy is adopted by the Town Center Board to allow the Ebert Board an ability to designate new candidates for the Town Center Board position coupled with Clayton Properties' exercise of its control of candidate qualifying property ownership to disqualify a sitting Ebert-designated director and qualify a different Ebert-designated director for appointment.

NOW, THEREFORE, be it resolved by the Board of Directors of the Ebert Metropolitan District that:

1. Qualification Provision: The Ebert Board formally requests that Clayton Properties, no later than election day of every regular election cycle for the Town Center Board or at any time that the Ebert Board makes a written request, to exercise its purchase option for taking back ownership of property within Town Center from the sitting Ebert-designated member of its board and to qualify, by initiating a new purchase process with the individual that the Ebert Board designates for appointment to such vacant director position within one-month of receipt from the Ebert Board of its designee.
2. Appointment Provision: The Ebert Board formally requests that the Town Center Board appoint the Ebert-designated individual that has been qualified for a seat on the Town Center Board, per paragraph 1 above, within one-month following the date that such individual has been qualified by the purchase process described in paragraph 1 above.
3. Term Limit Provision: The Ebert Board formally requests Town Center and Clayton Properties to effectively restrict the maximum term of service for any Ebert-designated resident appointed to the Town Center Board to not more than two (2) consecutive years, until the first retention election of such board member would be required by the election statutes governing special district elections. Should a newly elected Ebert Board desire to reappoint the incumbent, the Ebert Board shall do so in accordance with the Qualification and Appointment provisions described in paragraphs 1 and 2 above.

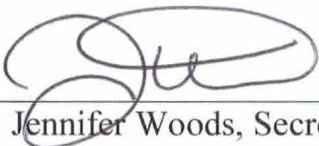
4. Recall Provision: The Ebert Board requests that Town Center and Clayton Properties to immediately exercise its purchase option for taking back ownership of property within Town Center from any sitting Ebert-designated member on the Town Center Board upon receipt of a written Ebert Board request to recall and replace such member, and to proceed in accordance with the Qualification and Appointment provisions described in paragraphs 1 and 2 above for appointment of any replacement individual designated by the Ebert Board.

This Resolution was adopted by the Board of Directors of the Ebert Metropolitan District at a duly called and held meeting of the Board of Directors on April 12, 2022, by a vote of 5 in favor and 0 opposed, and shall be in effect immediately following such meeting.

EBERT METROPOLITAN DISTRICT

By 
Cynthia Barclae, President

ATTEST:

By 
Jennifer Woods, Secretary