

**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
FOSSIL RIDGE METROPOLITAN DISTRICT NO. 1**

**ESTABLISHING POLICIES AND PROCEDURES FOR THE ACCEPTANCE AND  
ACQUISITION OF PUBLIC IMPROVEMENTS**

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WHEREAS, the Fossil Ridge Metropolitan District No. 1, Jefferson County, State of Colorado ("**District**"), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, along with Fossil Ridge Metropolitan District Nos. 2-3 ("**District No. 2,**" and "**District No. 3,**") respectively or "**Districts**"), all in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the "**Special District Act**"), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries, as authorized and in accordance with the Service Plan for the Districts (the "**Service Plan**"); and

WHEREAS, the Districts have entered into a District Facilities Construction and Services Agreement, which sets forth the manner in which the Districts will cooperate among each other and, as required therein, proceeds of tax revenues generated within the boundaries of District No. 2-3 are and will continue to be transferred to the District as consideration for undertaking the management and execution of construction of public improvements; and

WHEREAS, in accordance with the Special District Act and the Service Plan, the District has the power to acquire real and personal property, manage, control, and supervise the affairs of the District, including the financing, construction, installation, operation and maintenance of the public improvements in accordance with the Service Plan (the "**Public Improvements**"), to hire and retain agents to perform the tasks empowered to the District, and to perform all other necessary and appropriate functions in furtherance of the Service Plan; and

WHEREAS, it is the District's intent to coordinate the financing, construction and operation and maintenance of the Public Improvements in connection with development of the Solterra development (the "**Project**"); and

WHEREAS, the Board of Directors of the District (the "**Board**") recognizes that due to the timing and need for certain public infrastructure, third-party developers or builders ("**Developer**") may require construction of the Public Improvements, in advance of when the District may be able to construct the same due to funding considerations or otherwise; and

WHEREAS, to the extent such entities construct the Public Improvements on behalf of the District, the District desires to adopt a policy whereby it may, in its sole discretion, acquire certain of the Public Improvements from the Developer, subject to the terms and conditions of this Resolution.

NOW, THEREFORE, be it resolved by the Board of the District as follows:

1. Application for Acceptance and Initial Acceptance. Upon completion of any Public Improvement intended for ownership by the District (or portion thereof which, in the reasonable opinion of the District, based upon advice from its engineers and legal counsel, constitutes a discrete subsystem or component of a larger improvement or structure that may be separately acquired), the Developer shall submit the following materials to the District, in form and substance reasonably satisfactory to the District:

(a). A description of the Public Improvement(s) to be accepted and detail associated with the costs thereof.

(b). Copies of all invoices, statements and evidence of payment thereof equal to the proposed costs associated with the Public Improvements, including lien waivers from suppliers and subcontractors, as applicable.

(c). Evidence that any and all real property interests necessary to permit the District's use and occupancy of the Public Improvement have been granted, or, if permitted solely in the discretion of District, assurance acceptable to the District that the Developer will execute such instruments as shall satisfy this requirement.

(d). A complete set of electronic or 24" by 36" mylar reproducible "as-built" drawings of the Public Improvement which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate size and location of all Public Improvement. Such drawings shall be in form and content reasonably acceptable to the District. Where Public Infrastructure is being acquired or accepted as discrete subsystems or components, this requirement may be satisfied upon final completion of the Public Infrastructure of which the subsystem or component is a part.

(e). A form of Bill of Sale or other instrument of conveyance (in form and substance acceptable to the District in its reasonable discretion) by which the Public Improvement (or component part or subsystem) will be conveyed to or at the direction of the District, if applicable.

(f). Such additional information as the District may reasonably require, including but not necessarily limited to the following:

- i. Evidence that all authorities with jurisdiction have approved or initially accepted the Public Improvements.
- ii. All record documents, operational and maintenance manuals (if any), all guarantees and warranties, and all other deliverables necessary for the

District to start-up, operate, and maintain the Public Improvement, including facility identification lists of materials and equipment.

- iii. Confirmation, in writing, that all claims for extension of contract time and/or increases in the contract amount have been resolved and that no other claims exist or will be submitted against the District
- iv. A signed warranty agreement with the District, which shall include an assignment of all warranties for materials, and from subcontractors and material suppliers.
- v. A performance bond (which includes a two-year warranty) or a separate warranty bond acceptable to the District.

(g). The Developer's engineer or other appropriate design professional shall inspect the Public Improvements for compliance with applicable design and construction standards, and review all supporting material, and shall issue an engineer's certification in form and substance reasonably acceptable to the District stating that Public Improvements are fit for their intended purpose, and constructed substantially in accordance with design and approved plans (the "**Engineer's Certification**").

2. District Review and Certification Procedures. Following receipt of the materials set forth under Section 1, above, and within a reasonable period of time thereafter:

(a). The District shall be entitled to inspect the Public Improvements for compliance with applicable design and construction standards, and review all supporting material. The District's engineer will schedule and perform a preliminary walk through with the developer to inspect the Public Improvements and verify that all Developer's supplies, equipment, waste materials, rubbish, and temporary facilities have been removed from the project site and are acceptable to the District. The responsibilities and obligations of Developer's engineer or other appropriate design professional selected by Developer shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the District, including, but not limited to, the District's engineer. The District shall be entitled to rely upon the representations in the Engineer's Certification as required under Section 2(f), below, as the same is provided by Developer and Developer shall be bound by the same.

(b). During or prior to the walk through the Developer will demonstrate to a District representative the proper operation and maintenance of all equipment.

(c). The District's engineer will then provide a list of corrective work or other deficiencies ("**Punch List**") for the Public Improvements to the Developer.

(d). Once the Developer has completed the Punch List to the satisfaction of the District's engineer, the District's engineer will issue a recommendation of initial acceptance to the Board.

(e). Once the Board receives a recommendation of initial acceptance from the District's engineer, the District may then issue a notice of initial acceptance.

(f). The District's accountant or engineer shall review the invoices and other material presented to verify payment and shall issue a cost certification in form and substance reasonably acceptable to the District declaring the total amount of costs associated with the Public Improvements (the "**Cost Certification**"), and a statement that the information is true and accurate and such costs are related to construction of Public Improvements.

3. Acceptance of Public Improvements. Subject to review of the District Engineer and issuance of a notice of initial acceptance, the receipt of a satisfactory Cost Certification and Engineer's Certification, as set forth above, and satisfaction of any other conditions reasonably required by the District, the District shall evidence its acceptance of the Application for Acceptance submitted by adopting a resolution providing that all information required to be received by the District has been so received, (or specifying any applicable waivers that have been granted), and shall set forth certain findings of the Board with respect to the providing that all information required to be received by the District has been so received, (or specifying any applicable waivers that have been granted), and shall set forth any additional findings of the Board with respect to the acquisition of Public Improvements and initial acceptance thereof. In the event the District reasonably determines that corrective work must be completed before the Resolution may be adopted, the Developer shall promptly be given written notice thereof and an opportunity to dispute and/or complete such corrective work.

4. Final Acceptance Process. No sooner than 60 days prior to the completion of the two-year warranty period the developer shall request an inspection with the District's engineer. The developer is responsible for having the Public Improvements clean and free of debris at the time of the inspection. Failure to do so shall require rescheduling the inspection.

(a). During the field inspection a Punch List of items requiring remedial action will be prepared. The Punch List shall be issued to the developer.

(b). Upon completion of all remedial work, the Developer shall request a final inspection.

(c). Upon satisfactory completion of the final inspection and the two-year warranty period, as outlined above, the developer shall submit a request for final acceptance to the District's engineer.

(d). Once final acceptance has been obtained by the Developer any warranty security held by the District will be released.

Until final acceptance by the District, Developer shall, at Developer's expense, make all needed repairs or replacements to the Public Improvements required on account of defects in materials or workmanship and shall be responsible for ordinary repairs and maintenance thereof.

5. No Waiver. No waiver of any of the provisions of this Resolution shall be deemed to constitute a waiver of any other of the provisions of this Resolution, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein.

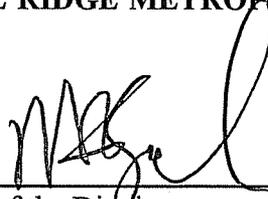
6. No Guaranty or Reliance. Nothing contained herein shall obligate the District to accept any Public Improvements. The approval or consent of the District to any application for the

acquisition of Public Improvements shall not be deemed to constitute a waiver of any right to hold or deny approval by the District as to any other application. The approval of any application or acceptance of any Public Improvements shall be in the sole and absolute discretion of the District.

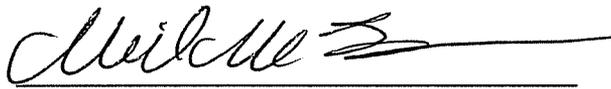
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ADOPTED THIS 18<sup>th</sup> DAY OF March, 2016.

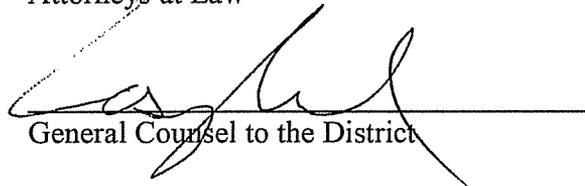
**FOSSIL RIDGE METROPOLITAN DISTRICT  
NO. 1**

  
\_\_\_\_\_  
Officer of the District

ATTEST:

  
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APPROVED AS TO FORM:  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

  
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General Counsel to the District