#### **RESOLUTION NO. 2024-03-01**

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE DAWSON TRAILS METROPOLITAN DISTRICT NO. 1

#### **REGARDING ACCEPTANCE OF DISTRICT ELIGIBLE COSTS**

WHEREAS, Dawson Trails Metropolitan District No. 1, Town of Castle Rock, Douglas County, State of Colorado ("**District**"), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the District was formed, inter alia, for the purpose of designing, acquiring, constructing, installing, operating, maintaining and financing street improvements, parks and recreational facilities, storm sewer improvements, water improvements, traffic and safety controls, transportation improvements, mosquito control, television relay and translator facilities, fire protection improvements, and sanitary sewer improvements (collectively, the "**Public Improvements**") within and without the boundaries of the District; subject to any limitations contained in the Service Plan for the District; and

WHEREAS, in accordance with § 32-1-1001(1)(f), C.R.S., the District has the power to acquire real and personal property, including rights and interests in property and easements necessary to its functions or operations; and

WHEREAS, the District has entered into an Infrastructure Acquisition and Reimbursement Agreement, dated October 19, 2022, by and between the District and ACM Dawson Trails VIII JV, LLC ("ACM"), and an Infrastructure Acquisition and Reimbursement Agreement, dated March 19, 2024, by and between the District and Westside Property Investment Company Inc. ("Westside" and collectively with ACM, the "Developers"), which agreements (each an "Acquisition Agreement") set forth the procedure for documenting, certifying, and reimbursing the Developers for certain costs related to Public Improvements that may be lawfully funded by the District; and

WHEREAS, the Developers have funded certain costs related to the Public Improvements for the benefit of the District; and

WHEREAS, pursuant to each Acquisition Agreement, the District has agreed to reimburse the Developers for "**District Eligible Costs**," subject to the satisfaction of certain terms and conditions as set forth in each Acquisition Agreement; and

WHEREAS, each Acquisition Agreement requires that the Developers furnish copies of all invoices, statements and evidence of payment equal to the proposed District Eligible Costs, including lien waivers from suppliers and subcontractors, as applicable, to the District related to the costs funded by the Developers related to the Public Improvements (collectively, the "**Payment Information**") in order to, inter alia, allow the District to substantiate the amount of District Eligible Costs; and

WHEREAS, the Developers have furnished the Payment Information and all other requested information to the District; and

WHEREAS, the Board of Directors of the District (the "**Board**") engaged Schedio Group, LLC, (the "**District Engineer**") an independent engineer, who has reviewed the Payment Information to substantiate the amount of District Eligible Costs, and the District Engineer has advised the Board that certain of the costs submitted by the Developers are reasonable and appropriate and related to the Public Improvements authorized and contemplated under the terms of the Service Plan and each Acquisition Agreement and are therefore eligible for reimbursement by the District; and

WHEREAS, the Board engaged CliftonLarsonAllen, LLP, the ("**District Accountant**") who has also reviewed the Payment Information to substantiate the amount of District Eligible Costs, and the District Accountant has advised the Board that certain of the costs submitted by the Developers are reasonable and appropriate and related to the Public Improvements authorized and contemplated under the terms of the Service Plan and each Acquisition Agreement and are therefore eligible for reimbursement by the District; and

WHEREAS, the Board has reviewed the information submitted by the District Engineer and District Accountant and other information as appropriate and has determined that the best interests of the District, its residents, users, and property owners would be served by the District's recognition and acceptance of the District Eligible Costs, and, as applicable, acquisition of the Public Improvements from the Developers, and the District should expend funds for such purposes; and

WHEREAS, the Board desires to recognize and reimburse the Developers for the District Eligible Costs and, as applicable, subject to the availability of District funds for such purpose.

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

1. <u>District Eligible Costs</u>. The Developers have represented that they have funded or caused to be funded District Eligible Costs at their sole cost and expense, which District Eligible Costs are directly related to the Public Improvements, and provided the Payment Information to the District.

2. <u>Cost Certification</u>. As required under Section 3 of each Acquisition Agreement, the District Engineer and District Accountant have each reviewed the Payment Information, and have issued "Cost Certifications," attached as **Exhibit A** and **Exhibit B** respectively, certifying

the amount of District Eligible Costs to be reimbursed to the Developers.

3. <u>Acceptance of District Eligible Costs</u>. The Board hereby finds that the applicable requirements set forth in each Acquisition Agreement have been met, and that the District Eligible Costs are hereby accepted and approved for reimbursement by the District.

4. <u>Dedicated Improvements</u>. The Board acknowledges that certain of the Public Improvements may be dedicated to other governmental entities. For such Public Improvements, the Developers has provided the information as required by each Acquisition Agreement, as applicable, in form and substance satisfactory to the District (or has provided assurance acceptable to the District, that the Developer will provide such information).

5. <u>Acceptance of District Eligible Costs</u>. The Board, having reviewed the certifications and recommendations of the District Engineer and District Accountant, finds and determines that the total amount of District Eligible Costs to be reimbursed to the Developers is as follows:

Westside:	\$1,923,134.92; and
ACM:	\$3,395,635.67.

The Board further finds that the applicable requirements set forth in each Acquisition Agreement have been met, and that the District Eligible Costs are hereby accepted and approved for reimbursement by the District. To the extent required by each Acquisition Agreement, this Resolution shall be deemed the "Acceptance Letter" to be issued by the District.

6. <u>Subject to Annual Appropriations</u>. Any payments due hereunder are subject to annual appropriation by the District and do not create a multiple-fiscal year obligation or debt whatsoever. Furthermore, any payments due hereunder are subject to any repayment terms and conditions as set forth in each Acquisition Agreement.

7. <u>Definitions</u>. Capitalized terms not defined herein, shall have the meanings set forth in each Acquisition Agreement.

Signature page follows.

# ADOPTED THIS 19<sup>TH</sup> DAY OF MARCH, 2024.

## DAWSON TRAILS METROPOLITAN DISTRICT NO. 1

DocuSigned by:

Lawrence P Jacobson

Officer of the District

-DocuSigned by: Jake Schroeder 7FE830F442514BF.

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

— DocuSigned by:

Jennifer Gruber Tanaka

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# EXHIBIT A

**Engineer's Cost Certification** 

### EXHIBIT B

Accountant's Cost Certification