

ROAM METROPOLITAN DISTRICT NOS. 1, 2 & 3

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 800-741-3254
Fax: 303-987-2032
<http://roammd1-3.colorado.gov>

NOTICE OF A SPECIAL MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expires:</u>
Jolene Larson	Treasurer	2025/May 2025
Robert Cyman	Secretary	2025/May 2025
Robert Klane	Assistant Secretary	2027/May 2027
Brian Ripley	Assistant Secretary	2027/May 2027
Blake Johnson	President	2025/May 2025

DATE: October 20, 2023

TIME: 11:00 a.m.

PLACE: To access the meeting remotely, attendance via Zoom use the following information below:

<https://us02web.zoom.us/j/83015456087?pwd=VEFuekdYk1LQ1F1ZWlHbDNBKytRQT09>

Phone Number: (719) 359-4580

Meeting ID: 830 1545 6087

Passcode: 708751

One tap mobile: +17193594580,,83015456087#

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of Potential Conflicts of Interest.

- b. **CONSENT AGENDA** – These items are considered to be routine and will be approved and/or ratified by one motion. There will be no separate discussion of these items unless a Board Member so requests, in which event, the item will be removed from the Consent Agenda and considered on the Regular Agenda.

- September 22, 2023 Regular Meeting Minutes (enclosure).
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II. PUBLIC COMMENT

- A. Members of the public may express their views to the Boards on matters that affect the Districts. Comments will be limited to three (3) minutes per person.
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III. LEGAL MATTERS

- A. Review and approval of Development Improvement Agreement with the Town of Winter Park (District No. 1) (enclosure).
-

- B. Review status of Fraser River Development Co. Improvement Acquisition Agreement Purchase Application and Payment (District No. 1)
-

IV. FINANCIAL MATTERS

- A. Review and ratify the approval of the payment of District No. 1 claims for the period ending as follows (enclosure):

Fund	Period Ending Sept. 30, 2023
General	\$ 6,223.20
Debt	\$ -0-
Capital Projects	\$ 1,175.00
Total	\$ 7,398.20

- B. Review and approval of Cost Certification Report No. 10 (to be distributed).
-

- C. Review and approval of Pay Application(s) from Mountain States Snowcats (District No.1)
-

V. CAPITAL PROJECTS

- A. Roam Filing 3 Cabins Phase 2 Update.
-

VI. OTHER MATTERS

- A. _____

VII. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR DECEMBER 7, 2023 – BUDGET HEARING.**

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE ROAM METROPOLITAN DISTRICT NOS. 1, 2 AND 3 HELD SEPTEMBER 22, 2023

A Regular Meeting of the Boards of Directors (the “Boards”) of the Roam Metropolitan District Nos. 1, 2 and 3 (referred to hereafter as “District No. 1,” “District No. 2” and “District No. 3,” and collectively, the “Districts”) was duly held on Friday, the 22nd day of September, 2023, at 11:00 a.m. This District Board meeting was held via Zoom at <https://us02web.zoom.us/j/83015456087?pwd=VEFuekdYk1LQ1F1ZWlHbDNKytRQT09>; Meeting ID 830 1545 6087; Passcode: 708751. The meeting was open to the public.

Directors In Attendance Were:

Jolene Larson
Robert Cyman
Robert Klane
Brian Ripley
Blake Johnson

Also In Attendance Was:

Jim Ruthven; Special District Management Services, Inc. (“SDMS”)

Alan Pogue, Esq.; Icenogle Seaver Pogue, P.C.

Cody Conry, Brandon Collins and Chase Hanusa; Independent District Engineering Services, LLC (“IDES”)

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Attorney Pogue discussed the requirements of Colorado law to disclose any potential conflicts of interest of the Boards of Directors to the Secretary of State. The members of the Boards were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. It was noted by Attorney Pogue that disclosures of potential conflicts of interest were filed with the Secretary of State for all Directors. There were no new conflicts.

COMBINED MEETING

The Boards of the Districts determined to hold joint meetings of the Districts and to prepare joint minutes of actions taken by the Districts at such meetings. Unless

RECORD OF PROCEEDINGS

otherwise noted herein, all official action reflected in these Minutes shall be deemed to be action of all of the Districts. Where necessary, action taken by an individual District will be so reflected in these Minutes.

ADMINISTRATIVE MATTERS

Consent Agenda: The Boards considered the following items on the Consent Agenda:

- Approve the Minutes of the August 25, 2023 Special Meeting.

Following discussion, upon motion duly made by Director Larson, seconded by Director Johnson, and upon vote, unanimously carried, the Boards approved the above Consent Agenda items/actions.

PUBLIC COMMENT

There were no public comments at this time.

LEGAL MATTERS

Status of the Development Improvement Agreement with the Town of Winter Park: Attorney Pogue and Director Johnson discussed with the Boards the status of the Development Improvement Agreement with the Town of Winter Park.

FINANCIAL MATTERS

Claims: The Board of District No. 1 considered ratifying the approval of the payment of claims through the periods ending as follows:

Fund	Period Ending August 31, 2023
General	\$ 7,863.00
Debt	\$ -0-
Capital Projects	\$ 183,879.02
Total	\$ 191,742.02

Following discussion, upon motion duly made by Director Larson, seconded by Director Ripley, and upon vote, unanimously carried, the Board of District No. 1 ratified approval of the payment of claims, as presented.

Pay Application No. 5 for Cabins Phase 1 from Mountain States Snowcats: The Board of District No. 1 reviewed and ratified approval of Pay Application No. 5 for Cabins Phase 1 from Mountain States Snowcats in the amount of \$11,637.50.

Following discussion, upon motion duly made by Director Johnson, seconded by Director Larson, and upon vote, unanimously carried, the Board of District No. 1

RECORD OF PROCEEDINGS

ratified approval of the Pay Application No. 5 for Cabins Phase 1 from Mountain States Snowcats in the amount of \$11,637.50, as presented.

Cost Certification Report No. 10: Mr. Conry reviewed with the Boards the Cost Certification Report No. 10. No action was taken at this time.

**CAPITAL
PROJECTS/
OPERATIONS AND
MAINTENANCE
MATTERS**

Roam Filing 3 Cabins Phase 2 Update: Mr. Conry provided an update to the Boards on the Roam Filing 3 Cabins Phase 2.

OTHER BUSINESS

The Boards directed Mr. Ruthven to schedule special meetings for October 20, 2023 and November 17, 2023.

ADJOURNMENT

There being no further business to come before the Boards, upon motion duly made by Director Larson, seconded by Director Klane and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By _____
Secretary for the Meeting

DEVELOPMENT IMPROVEMENTS AGREEMENT

THIS DEVELOPMENT IMPROVEMENTS AGREEMENT ("Agreement") is made and entered into this 18th day of January, 2023, by and between the TOWN OF WINTER PARK, a Colorado municipal corporation having an address of P.O. Box 3327, 50 Vasquez Road, Winter Park, Colorado 80482 (the "Town"), and ROAM METROPOLITAN DISTRICT NO. 1, a Title 32, C.R.S., special district having an address of 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228 (the "District") (collectively the "Parties").

WHEREAS, District has a temporary construction easement to construct public improvements on and within certain real property located in the Town as reflected in **Exhibit A** attached hereto and incorporated herein by reference (the "Property");

WHEREAS, the Town has approved District's development plan for public improvements for the Property, which is attached hereto as **Exhibit B**, and incorporated herein by reference; and

WHEREAS, the Town's approval of the District's proposed development of public improvements on the Property is contingent upon the express condition that all duties created by this Agreement are faithfully performed by District.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties hereto agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions and fees to be paid by District in connection with the improvements for development of the Property. All conditions in this Agreement are in addition to any requirements of the Winter Park Town Code, state statutes and other Town ordinances, and are not intended to supersede any requirements contained therein.

2. Public Improvements. District agrees to complete or pay for, as described herein, the public improvements set forth in **Exhibit C**, attached hereto and incorporated herein by this reference ("Public Improvements") subject to this Agreement and in accordance with the approved development plan.

3. Construction.

a. All Public Improvements shall be installed and completed at the expense of District and dedicated or conveyed to the Town upon the Town's acceptance thereof or dedicated or conveyed and accepted by an agency, association, or district as required by law or as acceptable to the Town. The estimated cost of the Public Improvements is set forth in **Exhibit C**.

b. The Town may make reasonable engineering observations at District's expense. Observation, acquiescence in or approval by any inspector shall not constitute the approval by the Town of any portion of such Public Improvements.

c. District shall provide all necessary engineering designs, surveys, field surveys and incidental services related to the construction of the Public Improvements at

its sole cost and expense, including reproducible "as-built" drawings certified accurate by a professional engineer registered in the State of Colorado.

4. Completion and Preliminary Acceptance. Except as otherwise provided above, the obligations of District in Section 3 hereof shall be performed within three (3) years. A certificate of occupancy shall not be issued until such obligations have been satisfied unless expressly agreed to otherwise. Proper application to the Town for preliminary acceptance of Public Improvements shall be made by District in advance. Upon completion of construction of the Public Improvements, the Town or a Town-accepted agency, association, or district shall inspect the Public Improvements and certify with specificity their conformity or lack thereof to the Town's specifications. District shall make all corrections necessary to bring the Public Improvements into conformity with the Town's specifications. Upon determination by the Town that the Public Improvements conform with all of the Town's specifications, the Town shall preliminarily accept the Public Improvements and the two-year warranty period set forth in Section 5, below, shall commence.

5. Warranty. Upon preliminary acceptance of the Public Improvements by the Town, District shall warrant any and all Public Improvements for a period of two (2) years from the date the Town grants preliminary acceptance of the Public Improvements. District shall be responsible for scheduling the necessary inspections for preliminary acceptance. Specifically, but not by way of limitation, District shall warrant that all Public Improvements are free of defects in materials or workmanship for a period of two (2) years, as stated above. District shall be responsible, at District's cost to maintain all Public Improvements until such improvements are finally accepted and conveyed to the Town or such other acceptable entity as set forth in this Agreement. The Town or a Town-accepted agency, association, or district will accept for maintenance all Public Improvements after the warranty period has expired, provided all warranty work has been completed. The Town shall accept for snow removal purposes only all dedicated public streets after preliminary acceptance has been granted in writing by the Town.

6. Final Acceptance of Public Improvements. Upon completion of the two (2) year warranty period set forth in Section 5, above, the Town shall inspect the Public Improvements and certify with specificity their conformity or lack thereof to the Town's specifications. District shall make all corrections necessary to bring the Public Improvements into conformity with the Town's specifications. Upon determination by the Town that the Public Improvements conform with all of the Town's specifications, the Town shall accept the Public Improvements. District shall convey the Public Improvements to the Town by bill of sale or warranty deed as determined acceptable by the Town in its sole judgment. Upon conveyance of the Public Improvements District shall warrant that the title to the Public Improvements conveyed is marketable and its transfer rightful.

7. Ownership. All Public Improvements shall be conveyed to the Town upon final acceptance.

8. Performance Guarantee. To secure the construction and installation of the Public Improvements, District has entered into a Public Improvement Escrow Agreement by and among the Town, the District, and Fraser River Development Co, LLC, dated December 3, 2021.

9. Land Dedication; Fee in Lieu. To the extent it does not conflict with this Agreement, land dedications and fees-in-lieu shall be provided as stated in Winter Park Town Code. In the case of a conflict between the Winter Park Town Code and this Agreement, the terms of this Agreement shall apply.

10. Nuisance Conditions. District shall prevent the existence of any nuisances by way of its construction activities, as nuisances are defined by the Winter Park Town Code. If the Town determines that a nuisance exists, District shall be subject to the provisions of the Winter Park Town Code regarding the abatement of nuisances and the cost assessed therefor. If the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the Town, the Town may, upon thirty (30) days' notice under this Agreement, draw upon the Performance Guarantee to pay the cost of abating the nuisance, including any expenses and penalties incurred under the Winter Park Town Code. The Town may exercise this right in addition to, or in lieu of, the withholding of permits or certificates of occupancy. The decision to draw on the Performance Guarantee shall be within the sole discretion of the Town.

11. Indemnification. District hereby agrees to indemnify and hold harmless the Town, its officers, employees, agents or servants from any and all suits, actions and claims of every nature and description caused by, arising from or on account of any act or omission of District, or of any other person or entity for whose act or omission District is liable, with respect to construction of the Public Improvements; and District shall pay any and all judgments rendered against the Town as the result of any suit, action or claim within the scope of the indemnification provision contained in the prior clause, together with all reasonable expenses and attorney fees incurred by the Town in defending any such suit, action or claim.

12. Breach.

a. If District breaches this Agreement, the Town may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town deems necessary to protect the public health, safety and welfare. The remedies include, but are not limited to:

- i. The refusal to issue any building permit or certificate of occupancy;
- ii. The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;
- iii. A demand that the security given for the completion of the public improvements be paid or honored; and
- iv. Any other remedy available at law or in equity.

b. Unless necessary to protect the immediate health, safety and welfare of the Town, or to protect the interest of the Town with regard to security given for the completion of the public improvements, the Town shall provide District thirty (30) days' written notice of its intent to take any action under this Section, during which District may cure the breach and prevent further action by the Town.

c. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for Public Improvement work negligently or defectively performed.

d. Should this Agreement become the subject of litigation to resolve a claim of breach by District and a court of competent jurisdiction determines that District was in breach of this Agreement, District shall pay the attorney fees, expenses and court costs of the Town.

13. Waiver. In executing this Agreement, District waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on District as set forth herein, and concerning the procedure, substance and form of the resolution adopting this Agreement. District expressly agrees that the Town cannot be legally bound by the representations of any of its officers or agents or their designees, except in accordance with the Winter Park Town Code and the laws of the State of Colorado.

14. Modification. This Agreement shall not be modified, except by subsequent written agreement of the parties hereto.

15. Integration; Annexation Agreement. This Agreement and any attached exhibits constitute the entire agreement between District and the Town.

16. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

17. Severability. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

18. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Grand County, Colorado.

19. Assignment. There shall be no transfer or assignment of any of the rights or obligations of District under this Agreement without the prior written approval of the Town, which may be withheld in the Town's sole discretion; except that this Agreement and District's rights hereunder may be assigned by District in whole, but not in part, to a company wholly owned by District. In the event of an assignment as permitted herein, the assignee shall assume full responsibility for fulfilling the remaining obligations of District under this Agreement, and shall execute an acknowledgement of this responsibility in the Town's favor. Failure of the assignee to execute such an acknowledgement shall result in District being jointly and severally liable with the assignee for the remaining obligations under this Agreement.

20. Recordation. This Agreement shall be recorded in the real estate records of Grand County and shall be a covenant running with the Property.

21. Title and Authority. District expressly warrants and represents to the Town that, together with the undersigned individuals, that the undersigned individuals have full power and authority to enter into this Agreement. District and the undersigned individuals understand that the Town is relying on such representations and warranties in entering into this Agreement.

22. Third Parties. There are no intended third-party beneficiaries to this Agreement.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first above written.

TOWN OF WINTER PARK

Nick Kutumbos, Mayor

ATTEST:

Danielle Jardee, Town Clerk

DISTRICT

Print Name _____
Title _____

ATTEST:

EXHIBIT A
TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT B
DEVELOPMENT PLAN

EXHIBIT C
PUBLIC IMPROVEMENTS

Insert MSS contract

**Roam 1-3 Metropolitan District
September-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Allegiant Management Llc	Aug-23	8/31/2023	8/31/2023	\$ 110.00	Covenant Control/Comm Mgmt	1710
Aztec Consultants, Inc.	150049	8/10/2023	8/10/2023	\$ 1,175.00	Engineering	3690
Ranch Creek Waste	26140	8/31/2023	8/31/2023	\$ 2,205.00	Trash Service	1715
Special District Management Services	D1 08/2023	8/31/2023	8/31/2023	\$ 1,808.00	Accounting	1612
Special District Management Services	D1 08/2023	8/31/2023	8/31/2023	\$ 1,195.20	Management	1680
Special District Management Services	D1 08/2023	8/31/2023	8/31/2023	\$ 7.40	Miscellaneous	1685
Special District Management Services	D2 08/2023	8/31/2023	8/31/2023	\$ 384.00	Accounting	1612
Special District Management Services	D2 08/2023	8/31/2023	8/31/2023	\$ 342.00	Management	1680
Special District Management Services	D2 08/2023	8/31/2023	8/31/2023	\$ 0.20	Miscellaneous	1685
Special District Management Services	D3 08/2023	8/31/2023	8/31/2023	\$ 16.00	Accounting	1612
Special District Management Services	D3 08/2023	8/31/2023	8/31/2023	\$ 155.20	Management	1680
Special District Management Services	D3 08/2023	8/31/2023	8/31/2023	\$ 0.20	Miscellaneous	1685
				\$ 7,398.20		

**Roam 1-3 Metropolitan District
September-23**

	General	Debt	Capital	Totals
Disbursements	6,223.20		\$ 1,175.00	\$ 7,398.20
				\$ -
Total Disbursements from Checking Acct	\$6,223.20	\$0.00	\$1,175.00	\$7,398.20