

## **RESOLUTION 2020-08**

### **Resolution of the Triview Metropolitan District Expressing Intent to Appropriate an Appropriative Right of Exchange on the Arkansas River**

WHEREAS, Triview Metropolitan District ("District") is a Colorado special district, quasi-municipal corporation and political subdivision of the State of Colorado, charged with the provision of certain municipal services to landowners, commercial businesses and residential customers within the District's Service Area; and,

WHEREAS, pursuant to C.R.S. §§32-1-1001(1)(h), (k), and (l), and 32-1-1004(3), this Board has the authority on behalf of the District to manage and control the business affairs of the District, to include the construction, installation, operation and maintenance of District improvements, the furnishing of services, and the acceptance of real and personal property for use by the District, specifically as concerns utility infrastructure, and for the acquisition of such real property interests, including through the appropriation of water rights, as benefit the District and the citizens it serves; and,

WHEREAS, the District did on or about December 18, 2019 execute a certain "term sheet" or "letter of intent" with Stonewall Springs Quarry, LLC, a Colorado limited liability company ("SSQ") and Stonewall Water, LLC, a Colorado limited liability company ("SW") (collectively "Stonewall") concerning the purchase of certain real estate, mineral and water rights interests on the Arkansas River in Pueblo County, Colorado; and,

WHEREAS, said Term Sheet resulted in a Purchase and Sale Agreement dated January 27, 2020, as amended, by and between Stonewall, and the Stonewall Springs Reservoir Company, a Colorado mutual water company, for (a) the purchase of certain water storage rights, both existing and prospective, totaling 18,338 acre feet; (b) approximately 797 acres of real property, including mineral rights, upon which such water storage structures are to be constructed, and (c) 1,341 shares in the Excelsior Irrigating Company, representing valuable renewable water resources for the District, along with associated and appurtenant assets and infrastructure. The above described water resources are hereafter collectively referred to as the "Stonewall Water"; and,

WHEREAS, the District did engage in substantial and extended diligence under the terms of the PSA, to ensure such assets, when developed will provide benefit commensurate with the cost of acquiring such assets to the residents and citizens of the District, and on May 29, 2020 the District did proceed to closing on said Purchase and Sale Agreement, following public notice and a public meeting to discuss and approve the same, as formally approved by Resolution 2020-07; and,



WHEREAS, the District did previously acquire, through various transactions, 1,057 shares of the Fountain Mutual Irrigation Company ("FMIC"), shares which the District intends to, and has begun to, change to the District's municipal use;

WHEREAS, the District further owns and controls substantial quantities of re-usable treated effluent discharged from its Waste Water Treatment Facility ("WWTF") shared with the Donala Water and Sanitation District and the Forest Lakes Metropolitan District, currently derived from first use of the District's augmented Denver Basin groundwater supplies, but ultimately derived from first municipal use of renewable water resources, including Excelsior Ditch supplies and FMIC supplies. Such effluent is anticipated to continue to be available should the District, as hoped, participate in the Colorado Springs Utilities ("CS-U") North Monument Creek Interceptor project ("NMCI"), thus delivering said re-usable treated effluent at the CS-U J.D. Phillips wastewater facility; and,

WHEREAS, the District has been engaged in negotiations and discussions with CS-U and other regional water and wastewater providers concerning the potential to utilize currently unused capacity and administrative trades/exchanges to other storage vessels, including unused capacity in the CS-U water delivery system, and further including components of that system requiring water storage in Pueblo Reservoir (*i.e.* the Southern Delivery System, "SDS"); and,

WHEREAS, the District has submitted an application to the United States Bureau of Reclamation ("Bureau") for an if-and-when long-term storage account in Pueblo Reservoir in order to facilitate cooperative uses of water with CS-U, and potentially others, utilizing the District's portfolio of re-usable and HCU water supplies; and,

WHEREAS, the District's multiple sources of water, when combined result in average annual volumes of water in excess of 1,500 annual acre feet of fully consumable water supplies, water which the District seeks to exchange at the greatest rate available in priority under an appropriative right of exchange on the Arkansas River, at 150 cubic feet per second.

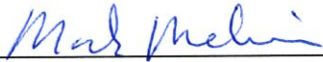
WHEREAS, in order to capture the District's re-usable effluent, FMIC water and/or Stonewall Water in the SSRC and move such water supplies to storage in Pueblo Reservoir, the District has deemed it prudent to seek a judicial decree for an appropriative right of exchange from the SSRC to Pueblo Reservoir, in such quantities as the District's engineering consultants may deem necessary for maximum beneficial use of the District's various water resources, subject to priority administration.

NOW, THEREFORE, pursuant to the District's authority and the power under C.R.S. §§32-1001 and 32-1-1004, the following resolution is made in regards to the District's formulation of the intent to appropriate, adjudicate and establish an appropriative right of exchange on the

Arkansas River.

Upon unanimous affirmative vote of the District's Board of Director's during public session of the Board meeting held July 23, 2020, it is so resolved that the Triview Metropolitan District did, effective upon execution of the Term Sheet with Stonewall dated December 18, 2019, formulate and evidence its intent to appropriate and establish an appropriative right of exchange, being an in-priority administrable water right, in such quantities as to facilitate the delivery of all water the District may potentially store in the SSRC, both in established components thereof and those to be constructed, from the SSRC to storage in Pueblo Reservoir, and for subsequent delivery or trade with other partners or entities, and for the maximization of the District's beneficial use of all available water resources. Such formulated intent to appropriate said appropriative right of exchange includes all sources available to the District, including but not limited to supplies pending lease from the Pueblo Board of Water Works, FMIC Water, Stonewall Water, and re-usable effluent derived from Denver Basin groundwater or other sources available to the District. The District instructs its manager James McGrady, and such consultants as necessary, to prepare and file an application with the Division 2 Water Court to seek to establish such appropriative right of exchange on the Arkansas River with a December 18, 2019 date of appropriation, such application to be prepared and filed during the year of 2020.

Dated this 23rd day of July, 2020.



Mark Melville, President  
Triview Metropolitan District



Marco Fiorito, Vice President  
Triview Metropolitan District