

RESOLUTION 2024-06

**RESOLUTION BY THE BOARD OF DIRECTORS OF THE TRIVIEW
METROPOLITAN DISTRICT APPROVING AND RATIFYING THE ANNEXATION
OF PROPERTY OWNED BY THE DISTRICT KNOWN AS CHICAGO RANCH INTO
THE TOWN OF BUENA VISTA, CO**

WHEREAS, in December 2020, Triview Metropolitan District (the "District") acquired the land and water rights associated with approximately 293.96 acres of real property located in unincorporated Chaffee County, Colorado, commonly known as Chicago Ranch (the "Property"), in order to control the water rights associated with the Arkansas Valley Irrigation Canal Company's Ditch and change the water rights to municipal uses for the District's purposes; and

WHEREAS, beginning in March 2021, the District began discussions with the Town of Buena Vista, Colorado (the "Town") and Chaffee County, Colorado around potential uses of the Property that would benefit the community and also allow the District to develop and use the water rights pursuant to the Water Rights Change Case (defined below), including potential shared use of the water diversion and measurement infrastructure, and recharge facilities to be located on the Property; and

WHEREAS, on August 31, 2021, the District filed an application in the Water Court, Water Division No. 2, Case No. 21CW3044, seeking a change of the water rights that had historically been used to irrigate the Property ("Water Rights Change Case"), and on March 29, 2024, the Water Court entered the final decree in the Water Rights Change Case which included a revegetation plan agreed to by the District, the Town and Chaffee County; and

WHEREAS, the discussions between the Town and the District led to the parties cooperating in the development of the Buena Vista Rodeo Grounds & Chicago Ranch Master Plan ("Master Plan"), a Master Plan for the Property and adjacent rodeo grounds owned by the Town which was approved by the Town Board on March 14, 2023 via Resolution No. 20, Series of 2023; and

WHEREAS, the District contracted with a third party consultant to develop the Master Plan which included the study of the Property for various recreational amenities for the benefit of the public, which may include, but are not limited to, open space areas, dog parks, hiking and biking trails, and other uses that are selected through the Town's public process; and

WHEREAS, these discussions also led the District and the Town to conclude that in order to best achieve the vision of the Master Plan and the District's development and use of the water rights pursuant to the Water Rights Change Case, annexation of the Property from unincorporated Chaffee County into the municipal boundaries of the Town so that the Town is the regulating agency for land use activities would be appropriate; and

WHEREAS, on June 7, 2024, the District's Manager signed and submitted to the Town an annexation petition (the "Petition"), a copy of which is attached hereto as **Exhibit A**, a draft

annexation agreement (the "Annexation Agreement"), a copy of which is attached hereto as **Exhibit B**, and related required materials including a zoning application, requesting to annex and zone the Property OSR (Open Space / Recreation, which includes, as a use by right, public water services facilities) and include it within the Town municipal boundaries; and

WHEREAS, on July 9, 2024, the Town Board adopted Resolution No. 56, Series 2024, accepting the Petition and related materials as complete and to be in substantial compliance with the procedural requirements for annexation pursuant to Title 31, Article 12, C.R.S. and setting the public hearing to consider the Petition on August 13, 2024; and

WHEREAS, the Board has reviewed the Petition and all relevant information related thereto; and

WHEREAS, the Board of the District desires to ratify the District Manager's execution of the Petition and related materials and approve the Petition to annex and zone the Property into the municipal boundaries of the Town and approve execution of the Annexation Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Incorporation. The foregoing recitals are incorporated herein by this reference.
2. Ratification and Approval of Petition. The Board hereby ratifies the District Manager's execution of the Petition attached as **Exhibit A** and related materials and approves the Petition to annex and zone the Property into the municipal boundaries of the Town.
3. Approval of Annexation Agreement. The District Manager is hereby authorized to enter into the Annexation Agreement on the District's behalf in substantially the form attached as **Exhibit B**, subject to minor modifications, including technical or grammatical changes, but not including any substantive changes which are not consistent with the intent of this Resolution or the Annexation Agreement, as the Chair, in consultant with the District Manager and the District's Attorney, may determine to be necessary and appropriate to protect the interests of the District or to effect the purposes of this Resolution.
4. District Manager Authority. The District Manager is hereby authorized and directed to execute necessary documents and take all actions necessary for the District to affect the annexation and zoning of the Property, including all actions identified in the Petition or Annexation Agreement, or required by the Town that are not specifically designated as requiring review, approval, or decision by the Board or required by law to be performed by the Board.
5. Effective Date of Resolution. This Resolution shall become effective as of the date hereof.

Remainder of page intentionally left blank. Signature page follows.

ADOPTED this 18th day of July 2024.

TRIVIEW METROPOLITAN DISTRICT

Mark A. Melini

Officer of the District

ATTEST:

[Handwritten Signature]

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

George M Rowley

General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution and Order for Inclusion of Real Property adopted by the Board at a meeting held on July 18, 2024, at 5:30 p.m., at 16055 Old Forest Point, Suite 302 Monument, CO 80132 and via teleconference.

[Initials] IN WITNESS WHEREOF, I have hereunto subscribed my name this 5th day of ~~November~~ September 2024.

[Handwritten Signature]

Signature

SARA LARILZ
District Administrator

EXHIBIT A TO RESOLUTION
(Annexation Petition)

ANNEXATION PETITION

TO: THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

The undersigned landowner (the "Petitioner"), being the owner of more than fifty percent (50%) of the property proposed to be annexed, exclusive of public streets and alleys, which property is described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"), hereby petitions the Board of Trustees (the "Board") of the Town of Buena Vista, Colorado (the "Town"), for annexation of the Property in accordance with the provisions of Section 15 of the Buena Vista Municipal Code and Title 31, Article 12, Part 1, C.R.S., as amended.

In support of this petition, the Petitioner states the following:

1. It is desirable and necessary that the Property be annexed to the Town.
2. The requirements of Sections 31-12-104 and 31-12-105, C.R.S., exist or have been met:
 - a. Not less than one sixth (1/6) of the perimeter of the Property is contiguous with the existing boundaries of the Town.
 - b. Contiguity with the Town is not established by: (i) use of any boundary of an area which was previously annexed to the Town that, at the time of its annexation, was not contiguous at any point with the boundary of the Town, was not otherwise in compliance with Section 31-12-104(1)(a), C.R.S., and was located more than three miles from the nearest boundary of the Town ("Non-Contiguous Area"); or (ii) use of any boundary of territory subsequently annexed directly to, or indirectly connected through subsequent annexations to, a Non-Contiguous Area.
 - c. The proposed annexation will not create any disconnected municipal satellites.
 - d. A community of interest exists between the Property and the Town.
 - e. The Property is urban or will be urbanized in the near future.
 - f. The Property is integrated or is capable of being integrated with the Town.
 - g. In establishing the boundaries of the Property, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner unless separated by a dedicated street, road, or other public way.
 - h. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of

\$200,000 for the preceding tax year has been included in the Property without the written consent of the landowner.

- i. No annexation proceedings have been commenced for the annexation of all or any portion of the Property to another municipality.
- j. Annexation of the Property shall not result in the detachment of area from any school district or the attachment of area to another school district.
- k. No portion of the Property is more than three miles in any direction from any point of the Town boundary as such was established more than one year before this annexation will become effective.
- l. If a portion of a platted street or alley is to be annexed, the entire width of said street or alley is included within the boundaries of the Property.
- m. The Property is not presently a part of any incorporated town, city and county, or city.

3. The Petitioner comprises one hundred percent (100%) of the landowners owning one hundred percent (100%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys.

4. Annexation of the Property will not create an unreasonable burden on the physical, social, economic, or environmental resources of the Town.

5. Accompanying this Petition are four copies of an annexation plat map showing the seal of a registered engineer or land surveyor, containing the following information:

- a. A written legal description of the boundaries of the Property;
- b. A showing of the boundary of the Property;
- c. A showing of the location of each ownership tract in unplatted land and, if part or all of the Property is platted, the boundaries and the plat numbers of plots or of lots and blocks;
- d. Next to the boundary of the Property, a drawing of the contiguous boundary of the Town and any other municipality abutting the Property.

6. Prior to the hearing before the Board on whether to annex the Property, the Petitioner and the Town shall have entered into an annexation agreement which shall govern and control the development of the Property within the Town (the "Annexation Agreement"). Annexation of the Property shall be conditioned upon the Board's approval of the Annexation Agreement. Upon the effective date of the ordinance annexing the Property and approving the Annexation Agreement (the "Annexation Ordinance"), the Property shall be subject to all of the terms and provisions of the Annexation Agreement. The Annexation Agreement shall be recorded to run with the Property and to provide notice to future purchasers of the Property.

7. In the event that an Annexation Agreement satisfactory to both the Petitioner and the Town is not agreed to on or before the date of the second reading of the Annexation Ordinance, the Petitioner shall have the right to withdraw this Petition at its option and this Petition shall be deemed to be null and void as of the date of this Petition and of no force and effect as if it had never been executed and filed with the Town. In such event, no filing fees shall be refunded to the Petitioner by the Town.

8. No vested rights to use or develop the Property in any particular way, as defined in Section 24-68-101, et seq., C.R.S., have been requested by the Petitioner from any governmental entity, other than those requested and included in the Annexation Agreement

9. The Petitioner signed this Petition no more than one hundred eighty (180) days prior to the date of filing.

10. The Petitioner shall pay all fees and costs incurred by the Town in processing this Petition through the annexation hearing before the Board.

11. Except as modified by the terms and provisions of the Annexation Agreement, upon the effective date of the Annexation Ordinance, the Property shall become subject to all ordinances, resolutions, rules, and regulations of the Town.

12. The Petitioner acknowledges that, upon the effective date of the Annexation Ordinance and subject to the terms and provisions of the Annexation Agreement, the Property, the owners thereof, and the uses thereon shall be subject to all taxes and fees imposed by the Town. The Property, the owners thereof, and the uses thereon are also bound by any taxes imposed and voter authorization obtained pursuant to Article X, Section 20 of the Colorado Constitution prior to the annexation of the Property. The Petitioner hereby waives any claims it may have under Article X, Section 20 of the Colorado Constitution related to such taxes and voter authorization.

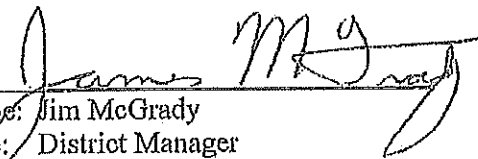
WHEREFORE, the Petitioner respectfully requests that the Board approve the annexation of the Property.

Petitioner:

Mailing Address: P.O. Box 849
Monument, CO 80132
Attn: Jim McGrady

Triview Metropolitan District,
a quasi-municipal and political subdivision of
the State of Colorado

Date: June 5, 2024

By: 
Name: Jim McGrady
Title: District Manager

AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, being first duly sworn upon oath, deposes and says:

That (he or she) was the circulator of the foregoing Petition for Annexation of lands to the Town of Buena Vista, Colorado, consisting of five (5) pages, including this page and Exhibit A, and that the signature thereon was witnessed by your affiant and is the true signature of the person whose name it purports to be.

Name STEPHEN R SHEFFIELD
(Please Print)
[Handwritten Signature]
(Signature)

STATE OF COLORADO)
)
COUNTY OF EL PASO)

The foregoing Affidavit of Circulator was subscribed and affirmed before me this 5th day of June 2024.

Witness my hand and official seal. *[Handwritten Signature]*
Notary Public [S E A L]

My commission expires: 8-19-2027

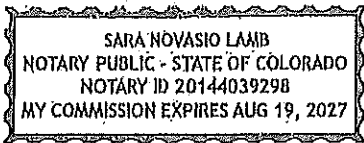


EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN A PORTION OF THE SOUTHWEST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 19 IN TOWNSHIP 14 SOUTH, RANGE 78 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF CHAFFEE, STATE OF COLORADO.

EXCEPTING. THEREFROM THAT PORTION OF LAND KNOWN AS "RAY'S RIDGE, A RURAL MINOR SUBDIVISION", ACCORDING TO THE PLAT FILED IN THE OFFICE OF THE CLERK AND RECORDER ON JANUARY 22, 2007, AS RECEPTION NO. 364114 AND THE WESTERLY 30 FEET OF COUNTY ROAD NUMBER 321.

SAID TRACT OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 19; THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 S 89°04'02" E, A DISTANCE OF 5437.05' TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 321; THENCE S 01°06'16" W ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 2628.30' TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 19; THENCE ALONG SAID SOUTH LINE N 89°16'33" W, A DISTANCE OF 1325.16' TO THE SOUTHEAST CORNER OF RAY'S RIDGE SUBDIVISION AS RECORDED UNDER RECEPTION NO. 364114, THENCE ALONG THE BOUNDARY OF SAID SUBDIVISION THE FOLLOWING 12 COURSES; (1) N 00°55'30" E, 658.34' (2) N 89°12'43" W, 678.61' (3) N 89°12'36" W, 678.54' (4) N 00°04'59" W, 31.71' (5) S 71°50'13" W, 491.64' (6) S 84°21'05" W, 152.51' (7) S 79°15'51" W, 129.05' (8) S 61°36'27" W, 273.88' (9) N 88°41'50" W, 89.73' (10) S 55°59'02" W, 195.23' (11) S 74°09'48" W, 129.01' (12) S 00°17'35" W, 211.31' TO A POINT OF THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19; THENCE ALONG SAID SOUTH LINE N 89°10'26" W, A DISTANCE OF 1395.74' TO THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 19; THENCE ALONG THE WEST LINE OF SAID SECTION 19 N 00°58'06" E, A DISTANCE OF 1323.59' TO THE SOUTH 1/16 CORNER OF SECTIONS 19 & 24; THENCE CONTINUE ALONG THE WEST LINE OF SAID SECTION 19 N 00°58'10" E, A DISTANCE OF 1323.83' TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINING 128050667.3 SQ. FEET OR 293.96 ACRES MORE OR LESS.

EXHIBIT B TO RESOLUTION
(Form of Annexation Agreement)

ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2024, by and between the Triview Metropolitan District, a Colorado special district (hereinafter referred to as the "Petitioner"), and the Town of Buena Vista, Colorado, a Colorado municipal corporation (hereinafter referred to as the "Town") (individually, a "Party" and collectively, the "Parties").

WHEREAS, a petition has been filed with the Town (the "Annexation Petition"), pursuant to C.R.S. § 31-12-107(1), for annexation of the unincorporated lands described in **Exhibit A** attached hereto and incorporated herein by reference (said lands being hereinafter referred to as the "Property"), which is commonly known as the Chicago Springs Ranch;

WHEREAS, the Petitioner is the owner of one hundred percent (100%) of the Property;

WHEREAS, the Parties have determined annexation would be beneficial for both Parties;
and

WHEREAS, the Parties have worked cooperatively to plan for development of the Property consistent with the Town's Comprehensive Plan and the Buena Vista Rodeo Grounds & Chicago Ranch Master Plan, as described in this Agreement, and to evaluate opportunities for the development and use of water rights and supplies including shared use of the water diversion and measurement infrastructure, and recharge facilities to be located on the Property.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants, promises and agreements of each of the Parties hereto to be kept and performed by each of them, the Parties agree as follows:

1. Annexation. The annexation of the Property shall be in accordance with the terms and conditions of the Annexation Petition, this Agreement, and the Colorado Municipal Annexation Act of 1965, C.R.S. § 31-12-101, et seq., as amended.
2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of annexation and development of the Property. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements contained in Town ordinances, as currently in effect, or as hereinafter amended, and any and all applicable state statutes.
3. Zoning – Condition Precedent. The Petitioner hereby consents to zoning the Property under the Open Space/Recreation ("OSR") District to include, as a use by right, public water services facilities. Petitioner is entering into this Agreement and is undertaking the obligations imposed upon Petitioner herein in reliance upon the Town's concurrent adoption of: (i) an ordinance annexing the Property into the Town, and (ii) an ordinance approving the zoning of the Property as set forth in this section. Performance of Petitioner's obligations hereunder is

expressly conditioned upon the Town's adoption of the ordinances described in this paragraph 3. If the Town fails to adopt the ordinances described in this paragraph 3, the petition for annexation shall be deemed withdrawn and the annexation process shall be terminated. Unless and until all of the conditions set forth in this paragraph 3 have been satisfied, none of the parties to this Agreement shall record, or cause to be recorded, the items described in C.R.S. § 31-12-113. Nothing set forth herein shall be deemed to limit the Town's authority to rezone the Property in the future.

4. Master Plan. The Parties have cooperated in the development of the Buena Vista Rodeo Grounds & Chicago Ranch Master Plan ("Master Plan"), a master plan for the Property and adjacent rodeo grounds owned by the Town. Petitioner contracted with a third party consultant to develop a master plan which includes the study of the Property for various recreational amenities for the benefit of the public, which may include, but are not limited to, open space areas, dog parks, hiking and biking trails, and other uses that are selected through the Town's public master planning process. Petitioner paid for all the costs associated with the development of the Master Plan by the third party consultant in an amount of One Hundred Thousand Dollars (\$100,000.00). The Town has no payment obligations relating to the Master Plan unless agreed to by the Town in writing. The Town Board approved the Master Plan on March 14, 2023 via Resolution No. 20, Series of 2023.

5. Infrastructure and Maintenance Contribution. Petitioner will contribute, both monetary and in-kind contributions, to the cost of infrastructure to be constructed as a result of the Master Plan outlined in paragraph 4 above and to ongoing maintenance of the Property.

a. The Town shall approve all infrastructure pursuant to the Master Plan and will establish priorities for the development and construction of infrastructure. Petitioner will develop and construct, at its expense, the required infrastructure based upon the Town's priorities and as directed by the Town and to any applicable Town standards, subject to the monetary limit detailed below. The Parties recognize that the level and type of contributions will be informed by the final Master Plan and agree to work cooperatively to determine the level and type of contributions from the Petitioner described in this paragraph; however, at a maximum, Petitioner shall contribute One Hundred Thousand Dollars (\$100,000.00) towards infrastructure, with the value of in-kind construction of infrastructure by Petitioner's staff contributing towards this amount or any monetary payments to a third party contractor engaged by Petitioner to perform the work. Any in-kind contributions will be calculated by the hourly rate (not including benefits) attributable to the employee or employees that perform the work under this subparagraph.

b. Subject to the restriction in this subparagraph, Petitioner will contribute in-kind contributions and/or funding for maintenance of the Property for a maintenance period of ten (10) years from the effective date of the annexation. Petitioner will contribute One Thousand Forty (1040) hours per year as an in-kind contribution for maintenance or, alternatively, Thirty-Eight Thousand Dollars (\$38,000.00) annually for maintenance activities, or a combination of in-kind and monetary contributions equal to the requirements

in this subparagraph. Any in-kind contributions will be calculated by the hourly rate attributable to the employee or employees that perform the work under this subparagraph. Whether monetary or in-kind contributions are made shall be in the Town's discretion in consultation with Petitioner.

6. Revegetation. On August 31, 2021, Petitioner filed an application in the Water Court, Water Division No. 2, Case No. 21CW3044, seeking a change of the water rights that have historically been used to irrigate the Property ("Water Rights Change Case"). On October 8, 2021, the Town filed a statement of opposition in the Water Rights Change Case that gave it party status to participate in the water court proceeding. The Town stipulated to the entry of a decree in this case on March 7, 2024. The Water Court for Division 2 entered the final decree in this case on March 29, 2024 that approved the Revegetation Plan in **Exhibit B** attached hereto and incorporated herein by reference ("Revegetation Plan Agreement") subject to amendments or revisions agreed to by Triview and the Town of Buena Vista when finalizing this annexation, finding as follows:

13.1 As a term of annexing the Chicago Ranch into the Town of Buena Vista, Triview and the Town of Buena Vista have agreed to a Revegetation Plan intended to comply with the provisions of C.R.S. § 37-92-305(4.5)(a) ("Revegetation Plan"). The Revegetation Plan is set forth in Exhibit B. The Water Court adopts the Revegetation Plan in full, subject, however, to amendments or revisions agreed to by Triview and the Town of Buena Vista. Nothing in this Decree is intended to change or modify the provisions of the Revegetation Plan. Triview shall serve the 2025 Integrated Pest Management Plan required in paragraph 5.2 of the Revegetation Plan on the Town of Buena Vista and Chaffee County prior to April 15, 2025.

Petitioner agrees to the terms and conditions to accomplish the revegetation and noxious weed management of lands from which irrigation water is removed as set forth in the Revegetation Plan Agreement. Petitioner will be solely responsible at its own cost to implement the Revegetation Plan Agreement including but not limited to the cost to provide all water and water system infrastructure required to implement the Revegetation Plan Agreement. In addition, Petitioner shall pay the Town's costs to evaluate Petitioner's progress to comply with the Revegetation Plan Agreement. Petitioner will propose and support the Revegetation Plan Agreement as the revegetation requirement for the Water Court Change Case. Without the Town's prior written agreement, Petitioner will not seek to amend the revegetation plan approved by the Court to vary from the terms of Exhibit B herein. .

7. Water Service and other Utilities. The Parties anticipate that Petitioner shall be required to install recharge infrastructure on the Property in connection with the final water decree entered by Water Division No. 2 in Case No. 21CW3044. Petitioner shall pay all expenses necessary to construct, maintain and operate the recharge infrastructure.

8. Restrictions and Conveyance of Property.

a. Within ninety (90) days of the date of a final unappealable decree of the Court in the Water Rights Change Case, Petitioner shall convey the Property to the Town via special warranty deed, subject to the restrictions detailed in Section 8(b) below and any other necessary reserved easement rights.

b. The Town and Petitioner agree that, at closing, Petitioner shall record a covenant, in the form attached as **Exhibit D**, to maintain the Property's use as public open space and recreation for a minimum of twenty (20) years. At closing, the Town shall issue an easement, in the form attached as **Exhibit E**, to Petitioner for the purpose of access to the Property to operate and maintain water system infrastructure, such as recharge facilities, located on the Property, to conduct revegetation and other necessary work on the Property required by the decree in the Water Rights Change Case, and other activities as agreed upon by the Parties.

c. After execution of this Annexation Agreement and prior to conveyance of the Property, Petitioner shall permit reasonable access to the Property by the Town for public recreational purposes and as necessary for the adoption and implementation of the Master Plan components, although Petitioner may restrict access to ensure the revegetation program is completed successfully. However, the Town shall not be permitted to make permanent improvements to the Property without the express consent of Petitioner, which shall occur pursuant to the process set forth in Section 5(a).

9. Environmental Assurances. To the best of Petitioner's knowledge, (i) the Property is not contaminated with any hazardous substance; (ii) Petitioner has not caused and will not cause, and to the best of Petitioner's knowledge, there has never occurred, the release of any hazardous substance on the Property; (iii) the Property is not subject to any federal, state or local "superfund" lien, proceedings, claim, liability or action, or the threat or likelihood thereof, for the cleanup, removal, or remediation of any such hazardous substance; (iv) there is no asbestos on the Property, the Property complies with the requirements of the Occupational Health and Safety Administration of the U.S. Department of Labor (OSHA) asbestos standards, and Seller will, at least twenty days before closing, provide the City all records the OSHA asbestos standards (29 C.F.R. Parts 1910, 1915, and 1926) require; (v) there are no underground storage tanks on the Property; and (vi) by acquiring the Property, the Town will not incur or be subject to any "superfund" liability for the cleanup, removal or remediation of any hazardous substance from the Property or any liability, cost, or expense for the removal of any asbestos or underground storage tank from the Property. The terms "hazardous substance", "release" and "removal" shall have the same meaning and definitions as in 42 U.S.C. Section 9601; provided, however, that the term "hazardous substance" as used herein also shall include "hazardous waste", as defined in 42 U.S.C. Section 6903 and "Petroleum", as defined in 42 U.S.C. 6991. The term "superfund" means the Comprehensive Environment Response, Compensation and Liability Act, as amended, 42 U.S.C. Section 9601, *et seq.*, as amended, and any similar state statute or local ordinance applicable to the Property, and all rules and regulations promulgated, administered or enforced by any governmental agency or authority. The term "underground storage tank" shall have the same meaning and definitions as in 42 U.S.C. Section 6991.

10. Short Range Plans for Property and Use of Water Thereon.

a. Petitioner will cease to irrigate the Property at the commencement of the 2024 irrigation season and will implement the Revegetation Plan Agreement in 2025. Petitioner and the Town are currently discussing partnership opportunities that include, but are not limited to, construction and use of augmentation stations, recharge facilities, and trading water rights or supplies in a mutually-beneficial manner. If the Parties reach agreement on any of these matters those agreements shall be reduced to writing and approved separately from this Annexation Agreement. In exploring these opportunities, the Parties will work cooperatively to achieve acceptable financial arrangements for any design or construction of water system infrastructure. No provision of this Annexation Agreement is contingent upon, subject to or amended by the provisions in this paragraph.

b. After annexation, Petitioner plans to construct one recharge pond consisting of two cells on the Property and obtain any necessary permits. The location of the recharge pond is shown on **Exhibit C**. The Town supports the construction of the recharge pond at the location shown in **Exhibit C** and shown on the Master Plan. At the time of construction of the recharge pond, Petitioner agrees to the following:

i. Split rail fencing around the pond to deter public access to the pond with locked gates as determined by Petitioner.

ii. Appropriately spaced signage indicating no public access to the pond. Petitioner and the Town shall cooperate on the language on the signage and its placement along the fence.

c. During the construction of the pond, Petitioner shall prevent the existence of any nuisances by way of its construction activities. During the lifetime of the recharge pond, Petitioner agrees to take reasonable steps to abate any nuisances that affect the reasonable enjoyment of the public of the Property.

11. Long Range Plans for Property and Water. Petitioner will implement the Revegetation Plan Agreement as described in paragraph 6 above.

12. Town Ordinances, Regulations, Codes, Policies and Procedures. Except as expressly provided herein, all Town ordinances, regulations, codes, policies, and procedures shall be applicable to the use and development of the Property.

13. Public Improvements Financed or Constructed by the Town. The Town has no obligation to construct or finance any public improvements under this Agreement for the benefit of the Property. Petitioner's obligations to construct or finance any public improvements under this Agreement for the benefit of the Property are set forth herein, and once those maximums are

reached, Petitioner is under no further obligations. The Town shall provide municipal services and utilities to the Property, if necessary, at Petitioner's cost.

14. Recordation of Agreement. This Agreement shall be recorded with the Clerk and Recorder of Chaffee County, Colorado, shall run with the land, and shall be binding upon and shall inure to the benefit of the heirs, successors and permitted assigns of the Parties hereto.

15. Assignment. This Agreement may not be assigned.

16. Cure of Legal Defects. In the event the annexation or zoning of the Property, or any portion of this Agreement, is declared void or unenforceable by final court action, the Town and the Petitioner shall cooperate to cure any legal defects cited by the court, and immediately upon such cure the Town shall reinstitute and complete proceedings to annex the Property subject to the terms of this Agreement.

17. Remedies. The Petitioner waives any constitutional claims it may have against the Town arising out of a breach of this Agreement. The sole remedy of Petitioner against the Town under this Agreement shall be the filing of a petition for disconnection pursuant to C.R.S. § 31-12-501, *et seq.*, as it may be amended, which the Town agrees to review and consider in accordance with applicable law. If Petitioner breaches this Agreement, the Town may seek any remedy available to it.

18. Effective Date. This Agreement shall be effective and binding upon the Parties immediately upon the effective date of an ordinance annexing the Property and an ordinance zoning the Property, regardless of whether the Agreement is executed prior to the effective date of said ordinances.

19. Authority of the Town. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances, or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee that is of uniform or general application.

20. Severability. It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is held by a court to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid, and the Parties shall cooperate to cure any such defect as provided in paragraph 16 of this Agreement.

21. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either Party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Chaffee County, Colorado.

22. Notice. All notice required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices so given shall be considered effective on the earlier of actual receipt or seventy-two (72) hours after deposit in the United States Mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

To the Town: Town of Buena Vista
 P.O. Box 2002
 Buena Vista, Colorado 81211

Copy to: Jefferson H. Parker, Esq.
 Hoffmann, Parker, Wilson & Carberry, P.C.
 511 16th Street, Suite 610
 Denver, Colorado 80202

Cynthia Covell
Andrea Benson
Alperstein & Covell, P.C.
1391 Speer Boulevard, Suite 730
Denver, Colorado 80204

To the Petitioner: Triview Metropolitan District
 P.O. Box 849
 Monument, Colorado 80132

Copy to: Caitlin S. Quander
 Brownstein Hyatt Farber Schreck, LLP
 675 15th Street, Suite 2900
 Denver, Colorado 80202

Steven O. Sims
Brownstein Hyatt Farber Schreck, LLP
675 15th Street, Suite 2900
Denver, Colorado 80202

23. Entire Agreement - Amendments. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the Parties hereto. This Agreement may be amended by written agreement between the Petitioner and the Town acting pursuant to authorization of the Board of Trustees.

24. Governmental Immunity. Nothing herein shall be construed as a waiver of any protections or immunities the Petitioner, the Town, or their employees, officials or attorneys may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

25. Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Petitioner or the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

PETITIONER:

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this
_____ day of _____, 2024, by _____.

My commission expires: _____

(S E A L)

Notary Public

**TOWN OF BUENA VISTA,
COLORADO**

By: _____
Libby Fay, Mayor

ATTEST:

Paula Barnett, Town Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

CERTAIN LAND IN THE SOUTHWEST ¼ AND THE SOUTHEAST ¼ OF SECTION 19N IN TOWNSHIP 14 SOUTH, RANGE 78 WEST OF THE 6TH P.M., CHAFFEE COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN A PORTION OF THE SOUTHWEST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 19 IN TOWNSHIP 14 SOUTH, RANGE 78 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF CHAFFEE, STATE OF COLORADO.

EXCEPTING. THEREFROM THAT PORTION OF LAND KNOWN AS "RAY'S RIDGE, A RURAL MINOR SUBDIVISION", ACCORDING TO THE PLAT FILED IN THE OFFICE OF THE CLERK AND RECORDER ON JANUARY 22, 2007, AS RECEPTION NO. 364114 AND THE WESTERLY 30 FEET OF COUNTY ROAD NUMBER 321.

SAID TRACT OF LAND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST OF 1/4 OF SAID SECTION 19; THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 S 89°04'02" E, A DISTANCE OF 5437.05' TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 321; THENCE S 01°06'16" W ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 2628.30' TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 19; THENCE ALONG SAID SOUTH LINE N 89°16'33" W, A DISTANCE OF 1325.16' TO THE SOUTHEAST CORNER OF RAY'S RIDGE SUBDIVISION AS RECORDED UNDER RECEPTION NO. 364114, THENCE ALONG THE BOUNDARY OF SAID SUBDIVISION THE FOLLOWING 12 COURSES; (1) N 00°55'30" E, 658.34'
(2) N 89°12'43" W, 678.61' (3) N 89°12'36" W, 678.54'
(4) N 00°04'59" W, 31.71' (5) S 71°50'13" W, 491.64'
(6) S 84°21'05" W, 152.51' (7) S 79°15'51" W, 129.05'
(8) S 61°36'27" W, 273.88' (9) N 88°41'50" W, 89.73'
(10) S 55°59'02" W, 195.23' (11) S 74°09'48" W, 129.01'
(12) S 00°17'35" W, 211.31' TO A POINT OF THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19; THENCE ALONG SAID SOUTH LINE N 89°10'26" W, A DISTANCE OF 1395.74' TO THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 19; THENCE ALONG THE WEST LINE OF SAID SECTION 19 N 00°58'06" E, A DISTANCE OF 1323.59' TO THE SOUTH 1/16 CORNER OF SECTIONS 19 & 24; THENCE CONTINUE ALONG THE WEST LINE OF SAID SECTION 19 N 00°58'10" E, A DISTANCE

Exhibit A

OF 1323.83' TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINING 128050667.3 SQ. FEET OR 293.96 ACRES MORE OR LESS.

EXHIBIT B
REVEGETATION PLAN AGREEMENT

[to be attached]

Exhibit B

EXHIBIT C

**MAP OF RECHARGE POND
(from page 11 of the Master Plan)**

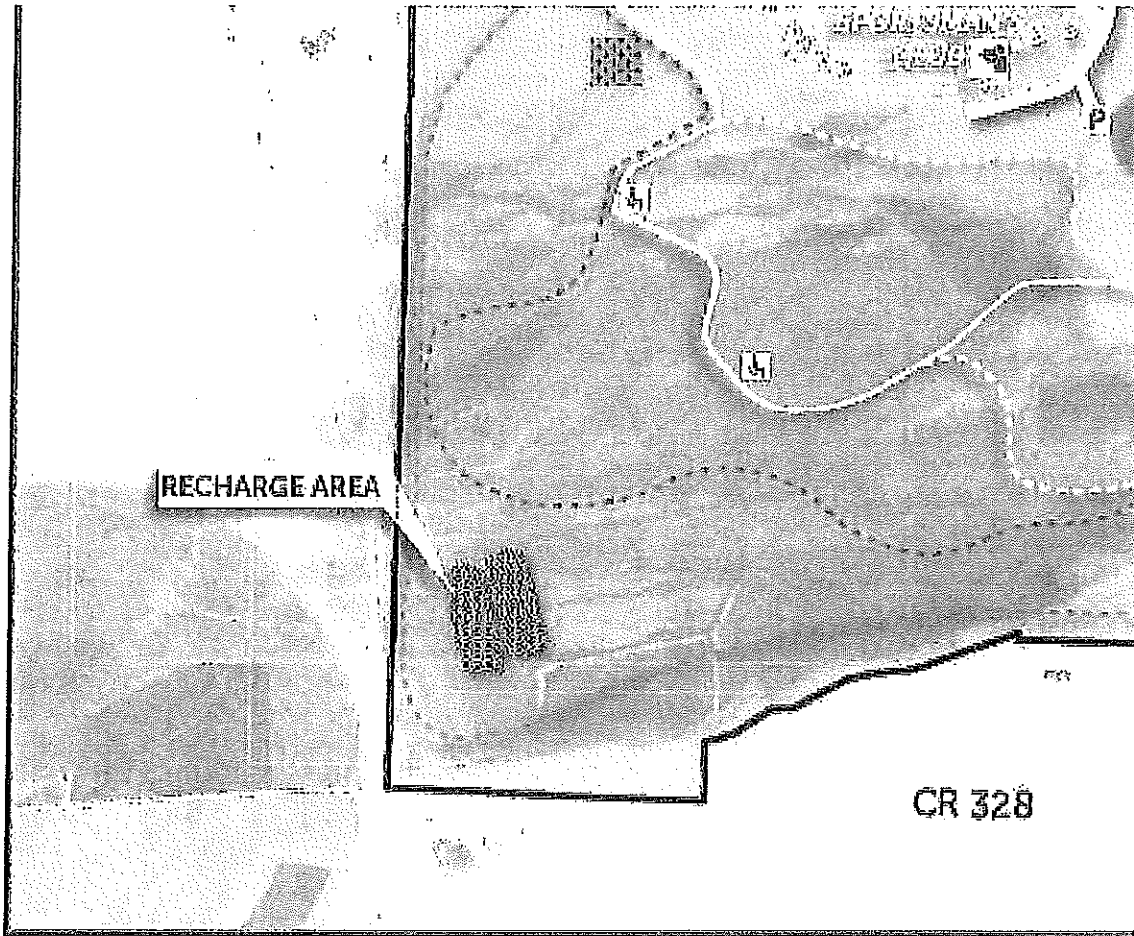


Exhibit C

EXHIBIT D
FORM OF COVENANT

Exhibit D

EXHIBIT E
FORM OF EASEMENT

Exhibit E