

RESOLUTION 2024-11

RESOLUTION OF THE BOARD OF DIRECTORS OF TRIVIEW METROPOLITAN DISTRICT ESTABLISHING INCLUSION POLICIES AND FEES FOR THE TRIVIEW METROPOLITAN DISTRICT

WHEREAS, The Board of Directors for the Triview Metropolitan District, (the "District"), desire to establish inclusion policies for inclusion of land within the District; and,

WHEREAS, the policies set forth below represent the current existing inclusion policies of the District, negating any prior similar policies; and,

WHEREAS, pursuant to C.R.S. §32-1-1001(1)(h), (j) and (k), §32-1-1004(3) and §32-1-1006(1)(g) the Board of Directors has the authority on behalf of the District to fix and from time to time increase rates, charges and tap fees for services or facilities furnished by the District within and outside the District's boundaries; and,

WHEREAS, pursuant to C.R.S. §32-1-1001(m) and (n), the Board of Directors has the power to adopt, amend and enforce bylaws and rules and regulations for the District that are not in conflict with the constitution and laws of the State of Colorado, for the carrying on of the business of the District, and may exercise all rights and powers necessary or incident to or implied from its specific powers;

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

1. Any request for inclusion in the District shall be made by way of a Petition for Inclusion, (the "Petition"), in form and content as prescribed by the District. A sample Petition form and instructions are attached as **Exhibit A**. An editable format of the Petition may be obtained from the District's offices.

2. In order to be eligible for inclusion in the District the land proposed for inclusion must not be included within or served by another water, sanitation, or metropolitan district, must not be served by a municipality, and must be located such that it may feasibly become a part of the District and receive services therefrom, as determined by the Board of Directors in its sole discretion. The District, in the discretion of the Board of Directors, may elect to include property previously included within or served by another special district or municipality provided that the Board determines that the District's provision of services will not be duplicative or otherwise burdensome upon the residents of such special district or municipality and the District, and further provided that the special district or municipality in which such property is already included consents to inclusion within the District and provision of services thereby, subject to the terms and conditions of an intergovernmental agreement which must be entered into between the District and the other municipal entity or special district.

4. The Petition must include all of the following information and must meet the following requirements for it to be considered:

a. The Petition shall be signed and notarized by the owners of 100% of the property to be included within the District ("Petitioner"). If Petitioner(s) owns less than 100% of the property to be included, the procedures of C.R.S. §32-1-401, *et. seq.*, must be followed.

b. The Petition shall contain a verified statement of the Petitioner(s), that the proposed area is eligible for inclusion and that the fee owners assent to the inclusion of the property in the District.

c. No Petition shall be valid if any signature on the Petition is dated more than one hundred eighty (180) days prior to the date of filing the Petition with the District.

d. The Petition shall be accompanied by a legal description of the area proposed for inclusion and a map or plat of the territory showing, with reasonable certainty, the land to be included, the boundaries thereof, and its relationship to the existing boundaries of the District.

e. The Petition shall be accompanied by a certified statement of current ownership of all property proposed to be included, which certified statement is to be prepared by a licensed and bonded title company.

f. The Petition shall be accompanied by a certificate of the previous year's tax assessment as issued by the El Paso County Treasurer showing all mill levies and taxing authorities.

g. The Petition shall include a drawing of the plan for all roads and for the location of all mains, pipelines and other service lines, along with a graphic depiction of the proposed pressure zones, the allowed and conditional uses within each zone proposed for the property to be included and a calculation of estimated total water usage and wastewater output, at full build out, of the proposed area. Unless agreed to by the District's Manager, both the drawings and the calculations shall be completed and approved by a licensed engineer.

j. The Board of Directors may require such additional information and/or documentation as is necessary for them to make an informed decision as to the feasibility and/or desirability of included the proposed area in the Districts, and further may require that the Petition contain all terms and conditions to which the District and the Petitioner will agree for the inclusion of the property within the District and for the District's provision of services thereto.

5. The Petitioner shall be responsible for all of the District's attorney fees, engineering costs and staff time associated with the consideration and inclusion of the property into the District. To defray these costs, each Petition must be accompanied by a non-refundable payment of \$5,000.00 for inclusion into the District ("Inclusion Fee"). If the Board of Directors or the District Manager determines that this amount is insufficient to cover the District's anticipated fees and costs associated with consideration of the Petition for the inclusion of the property, the Petitioner shall be required to pay such additional Inclusion Fees before any further consideration of the Petition shall take place.

6. Once the Petition has been filed, the District Manager and consultants shall first review the Petition making sure the Petition is complete. If it is determined that the Petition is incomplete, the Petition may be returned to the Petitioner for additional information. If the Petition is deemed to be complete, the District Manager shall cause to be published notice in a paper of local circulation that the Board of Directors will hold a public hearing to hear the Petition for inclusion at a regular meeting of the Board of Directors. The notice shall state the place, time, and date of such meeting, the names and addresses of the Petitioners, and notice that all persons interested shall appear at such time and place and show cause in writing why the petition should not be granted. The Board may continue such hearing to a subsequent meeting.

7. Except for unique circumstances, as the Board of Directors may determine in their discretion, a property shall be included within the District.

8. At a properly noticed public hearing, the Board of Directors shall make a formal determination that the territory proposed for inclusion is eligible for inclusion pursuant to this Resolution and state statute and that the Petition is complete. The Board of Directors shall then submit the completed Petition to the District Manager, staff, engineer, and attorney, to finalize the inclusion of the Property into the District, and for completion of the judicial process necessary for the same.

9. After review and comment by all interested individuals, an Inclusion Agreement shall be entered into between the Petitioner and the Districts. The Inclusion Agreement may be negotiated by the District Manager and the District's consultants, the terms of which may be included within the Petition itself, and further may include the following provisions:

a. That the construction of all infrastructure, including but expressly not limited to roads, water and sewer mains, service lines and/or any other onsite and offsite infrastructure necessary for the District to provide services to the property, and to make the water and wastewater systems operational within the newly included property shall be at the sole cost and expense of the Petitioner(s).

b. All construction shall be to the District's engineering specifications and subject to the inspection and approval of the District's inspectors and engineers. No part of any system may be back-filled or otherwise covered up until the inspection and approval by the District's inspectors and/or engineers is complete. The cost of design, review, inspection and approval shall be borne solely by the Petitioner(s). Once installed, all mains, pipelines, other infrastructure and appurtenances, and all other systems shall be conveyed to the District, free and clear of any and all liens and/or encumbrances. Any such conveyance shall include a one-year warranty as to materials, workmanship and equipment, from both the Petitioner(s) and its general contractors, in favor of the District for all water and wastewater infrastructure, and a two-year warranty for the same as concerns all roads, sidewalks, curbs and gutters.

c. The Petitioner(s) shall be required, as a condition of inclusion, to transfer to the District any and all water and groundwater rights, including all surface water rights and Denver Basin groundwater rights, whether inchoate or adjudicated. The Petitioner(s) may likewise be required to obtain water rights to supplement the District's

water portfolio, and to cause the same to be adjudicated in the District's name, in the District's discretion. All water right(s) proposed to adjudicated in the District's name shall be of a quality, quantity and availability as approved by the District in its sole and subjective discretion. If such requirement is necessary, the inclusion shall not be deemed complete, and no service will be given, until such water court action is initiated. The District shall be a co-applicant for any such water court action and the Petitioner shall reimburse the District for all of its engineering and attorney costs and fees associated with such action. Petitioner shall obtain District's consent to the entry of any decree adjudicating such water rights and/or augmentation plan. The District, in the Board's sole and subjective discretion, may agree to accept payment of tap fees, water development fees and/or in-lieu-of water fees, in an amount to be determined by the District, in lieu of receiving a final adjudicated water rights decree, or in lieu of any water deficiencies remaining following completion of the adjudication described in this Paragraph 9.c.

d. All applicable tap fees at the District's standard rates in effect for the type of service requested shall be paid at the time of Building Permit.

e. The service of the area included shall be subject to the rules, regulations and resolutions promulgated by the District from time to time.

f. The Petitioner(s) shall provide all necessary easements, in size and location approved by the District, to provide access for construction, maintenance and repair of the mains, pipelines, other systems and appurtenances. All easements shall be in form and content approved by the District, shall formally convey the easements to the District and when feasible, shall be included in any plat or subdivision in the area included.

g. Additional conditions may be required by the District, or certain conditions described herein may be waived by the District, on a case-by-case basis.

10. All owners, developers, residents and users of District services within the property proposed to be included shall comply with the rules, regulations and resolutions of the District and any and all applicable federal, state, county and/or local laws, rules, statutes, codes and regulations.

11. No Petition for Inclusion will be approved by the Board if any of the following conditions exist:

a. Any toxic, radioactive, hazardous and/or dangerous substance, or industrial sewage or waste is proposed to be accepted for wastewater treatment.

b. Any sewage proposed for treatment, due to its nature, strength and/or volume would not be compatible with the District's treatment process or capacity, or that of facilities with which the District may contract.

c. The wastewater system(s) proposed for use by the included property would require the installation of a lift station or systems. Unless otherwise approved by the District, all wastewater systems must be gravity flow, with the design to be approved by the District and it's engineers.

d. The District shall not be required, nor will the District accept for treatment any substance that would be a violation of any federal, state, county or local law, statute, regulation, rule and/or resolution, including, but not limited to any environmental protection laws.

12. The District shall not be liable for any losses and/or damages resulting from the inability of the District to supply water or wastewater services, or other services provided by the District, due to governmental regulations, statutes, or orders, electrical or other power failures, temporary shut-downs for repairs, maintenance, constructions, alterations, acts of God or other occurrences beyond the direct control of the District, or resulting from lack of availability or capacity of treatment facilities or other District resources. The District may impose water service and wastewater discharge restrictions, as necessary, so long as it does so on an equitable or pro-rata basis to all similarity situated users with the District for the type of service being restricted.

13. This Resolution is approved, adopted, enacted and taken by the District, including as acting through its water activity enterprise.

14. This action is taken by the Board at its regular public meeting after all required public notices and postings of the meeting have been made, with a quorum of the Board in attendance and taking proper action thereon.

THEREFORE, the above policy and resolution regarding standards and requirements for inclusion of property into the District was adopted and established as rules and regulations of the District, and were enacted by the Board of Directors of the District on this 24 day of Oct, 2024, to be effective immediately.



Mark Melville, District President

ATTEST:



James Barnhart, District Secretary

PETITION AND AGREEMENT FOR THE INCLUSION OF REAL
PROPERTY
INTO THE TRIVIEW METROPOLITAN DISTRICT
(_____ PROPERTY)

EXHIBIT A
Sample
Petition for
Inclusion

TO: **The Board of Directors Triview Metropolitan District**
County of El Paso, State of Colorado

COMES NOW the undersigned Petitioner, _____, a _____ ("Petitioner"), and hereby petitions the Triview Metropolitan District by and through its Board of Directors, that the hereinafter described real property be included in said Triview Metropolitan District for services to include provision of water supply and distribution for domestic purposes, street construction and drainage systems, street lighting, sanitary sewer and stormwater services, parks and recreational facilities, and maintenance and management of streets and roadways, including traffic and safety controls, and any other services commonly provided by Triview Metropolitan District (hereinafter, "Services") and in support of the within Petition and Agreement for the Inclusion of Real Property states and represents as follows:

1. That the Petitioner is the sole fee owner of the real property located in the County of El Paso, State of Colorado, which is the subject of this Petition and is hereinafter referred to as the "Property" consisting of some approximately _____ acres and more particularly described on **Exhibit A** attached hereto. **Exhibit A** includes the legal description for the Property and is recorded with the El Paso County Clerk and Recorder, Instrument No. _____. The Property is _____ acres in size lying in the $\frac{1}{4}$ $\frac{1}{4}$ of Section __, Township __ South, Range __ West of the 6th P.M. The Property is a portion of the Dellacroce Ranch identified as El Paso County Parcel number _____.

2. That the undersigned Petitioner has good, rightful, proper and lawful authority to bring this Petition affecting the Property, and that this petition is consented to by the holder of the first deed of trust, (INSERT NAME OF FINANCIAL INSTITUTION, IF ANY)

3. That by the execution of the within Petition and Agreement for Inclusion of the Real Property the Petitioner assents to and formally requests the permanent inclusion of the Property in said Triview Metropolitan District and hereby accepts and expressly agrees to all rules, regulations, terms, conditions, provisions, obligations, assessments and liabilities of whatsoever kind or nature as may be now in effect or hereinafter at any time imposed or acted upon by Triview Metropolitan District (collectively, "District Rules") and affecting the Property upon and by virtue of its inclusion in said District, so long as such District Rules are uniformly applied across all properties within the District.

4. That by execution of this Petition and Agreement for Inclusion of the Real Property the Petitioner agrees and understands that the Property shall be subject to the taxes, mill levies, fees, rates, tolls and charges of the District, including the Inclusion Fee, as may now be in effect or hereinafter imposed and that the Inclusion Fee is based upon the type of land use and will be assessed at the time of building permit for any new occupiable structures on the Property. The present rate of said Inclusion Fee is as set forth

in Resolution 2024-11 is \$5,000.00.

RECITALS

5. The Triview Metropolitan District ("District") is a special district formed and operating under the Colorado Special District Act, and provides the Services described above, including water and wastewater related services, within its boundaries in El Paso County, Colorado. See C.R.S. §32-1-101 to 32-1-1807.

6. The Petitioner requests that the Property be included within the service area and boundaries of the District and has submitted this Petition and Agreement for Inclusion of Real Property into the Triview Metropolitan District.

7. The Property is eligible for inclusion into the District pursuant to C.R.S. §32-1-401, *et. seq.*, and pursuant to the District's inclusion resolutions and guidelines. The District has initially approved this Petition for Inclusion, conditional upon the terms and conditions of this Inclusion and Service Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

8. Water Rights. Petitioner owns or has the inchoate right to the use of the following water and water rights appurtenant to and underlying the Property and based on a 100-year allocation as concerns Denver Basin groundwater supplies ("Property's Water Rights"):

a. Approximately ___ annual acre feet of ground water from the nontributary Dawson aquifer, ___ annual acre feet of ground water from the nontributary Denver aquifer, ___ annual acre feet from the not-nontributary Arapahoe aquifer, and ___ annual acre feet from the nontributary Laramie-Fox Hills aquifer [AS ADJUDICATED IN CASE NO. _____, WATER DIVISION NO. ___]; and,

b. _____.

As partial consideration for inclusion of the Property into the District, and in partial satisfaction of applicable resolutions and policies requiring the provision of water, or fees in-lieu-of water, to allow the District to provide water service to the Property, Petitioner shall, upon formal inclusion of the Property into the District by order of the El Paso County District Court, convey to the District the above described Property's Water Rights via Special Warranty Deed, a copy of which is attached hereto as Exhibit __. Petitioner shall grant all necessary easements to the District for access to and the extraction of groundwater from the underlying aquifers, for construction, operation, and maintenance of wells to the same, and for construction, operation, and maintenance of water transmission lines from the wells to the District's facilities, in form acceptable to the District and upon request of the District. Petitioner warrants and represents that it is the fee title owner of the Property's Water Rights, or of the overlying land to which inchoate water

rights are statutorily allocated, with marketable title, and there will be no liens or encumbrances against the Property's Water Rights upon the conveyance. Petitioner further agrees to execute such overlying landowner consents as may be necessary for the District to utilize, change, or otherwise vest and make use of the water rights conveyed.

This Agreement is subject to and conditional upon the District's acceptance of such condition of title, in its sole discretion. The District shall not be obligated to conclude the inclusion of the Property by order of the El Paso County District Court until the District is satisfied with and accepts the condition of title to the Property's Water Rights. The District shall have sixty (60) days from execution of this Agreement (Diligence Deadline) to perform an inspection of the title to the Water Rights, including a review of the title abstract obtained by the District for the Property. If the District identifies an objection to the condition of title to the Property's Water Rights, it shall notify Petitioner in writing of the basis of such objections prior to the Diligence Deadline. Petitioner shall thereafter make diligent efforts to cure such title objections within 60 days and obtain the District's acceptance of title. If the District does not identify any objections prior to the Diligence Deadline or if the District's title objections are resolved to the District's satisfaction, the title contingency shall be satisfied. Upon expiration of the Diligence Deadline without objection by the District or upon cure of any title objections identified prior to the expiration of the diligence Deadline, the District shall apply to the El Paso County District Court for formal inclusion of the Property into the District.

9. Development of the Water Rights. The District and Petitioner acknowledge that some future water court action may be required to allow use of the Property's Water Rights by the District. Possible water court actions include, without limitation, (i) adjudicate water supplies from the Denver Basin aquifers underlying the property, (ii) adjudicate a new augmentation plan for the Denver Basin Aquifers, (iii) otherwise incorporate the Property's Water Rights for use throughout the District as part of the District's water portfolio. *[INCLUSION OF THE PROPERTY IS CONDITIONED UPON SUBMISSION OF AN APPLICATION TO ADJUDICATE THE PROPERTY'S WATER RIGHTS HAVING BEEN FILED WITH THE WATER COURT IN THE DISTRICT'S DISCRETION, AND AT THE PETITIONER'S EXPENSE – OPTIONAL]*. Following the execution of this Agreement and final inclusion of the Property into the District, the District may proceed with these or any other necessary Water Court actions, as so deemed in the District's sole discretion, and the Petitioner expressly consents to the same. The Petitioner shall reasonably cooperate with the District in the District's prosecution of any Water Court action. Except as otherwise provided herein, the District shall be responsible for all legal and engineering costs, fees and expenses, including all attorneys and expert witness fees, incurred in connection with any Water Court actions necessary for the use of the Property's Water Rights by the District. In consideration of the Property's Water Rights, the District agrees to provide quasi-municipal Services to the Property, upon conveyance of the Property's Water Rights to the District and upon inclusion of the Property within the District by order of the El Paso County District Court.

10. Water Improvements. The Petitioner shall construct and pay for any water delivery and distribution systems necessary to properly supply and distribute water from

the District's facilities to the Property ("Water Utility Improvements"), the sufficiency of which shall be determined by the District in its sole discretion. Petitioner shall obtain final design approval of the Water Utility Improvements by the District, in writing, that such improvements are in accordance with the District's design criteria and construction standards. The Water Utility Improvements shall be sufficient to service the Property, as determined in the District's discretion. Petitioner shall be solely responsible for ensuring that the infrastructure as designed, constructed and approved is adequate to properly service all of the Property in accordance with the District's design criteria, construction standards and construction oversight observations. The District shall bear no responsibility to the Petitioner for the adequacy of design or construction. The Water Utility Improvements shall include any offsite improvements necessary to adequately service the Property.

11. Wastewater Improvements. The Petitioner shall construct and pay for any wastewater collection lines and associated infrastructure as necessary to properly collect all the wastewater from the Property and connect to the District's wastewater collection and treatment system, together with necessary modifications, relocations and reconstruction of existing District infrastructure on or adjacent to the Property as required to accommodate any development planned for the Property and continue to provide the necessary function, performance and necessary access to the existing infrastructure for required operation, maintenance, repair and replacement, ("Wastewater Utility Improvements"), the sufficiency of which shall be determined by the District in its sole discretion. The Petitioner shall obtain final design approval of the Wastewater Utility Improvements by the District, in writing, that such improvements are in accordance with the District's design criteria and construction standards. The Wastewater Utility Improvements shall be sufficient to service the Property and as necessary to continue the capability of the existing wastewater infrastructure on or adjacent to the Property, in the District's discretion. The Petitioner shall be solely responsible for ensuring that all infrastructure as designed, constructed and approved is adequate to properly service all of the Property in accordance with the District's design criteria, construction standards and construction oversight observations. The District shall bear no responsibility to the Petitioner for the sufficiency of design or construction.

12. Plan Approval. Prior to construction of any Water Utility Improvements or Wastewater Utility Improvements, Petitioner shall submit detailed construction plans to the District for final design approval. Construction shall not begin until Petitioner has obtained the prior written approval by the District of such final design construction plans, which approval shall be in the District's sole discretion as to whether such plans comply with this Agreement, the District's design criteria and construction standards, and all other rules, regulations and policies of the District.

13. Water Tap and Water Development Fees. Petitioner shall pay to the District such tap fees, impact fees, renewable water fees, and water development fees for water services to the Property as applicable at the time Petitioner requests water service to the Property. The District requires, as part of the inclusion of the Property into the District and the entry of this Inclusion and Service Agreement, that the Petitioner convey satisfactory water rights to the Water District for the development uses of the Property or,

at the Water District's discretion, pay Water Development Fees, also known as fees in-lieu-of water, and other generally applicable fees. Such fees allow the District to acquire satisfactory water rights to meet the Property's demands or to compensate for the water demands of the Property, including the costs associated with the requirements to make such water available to service the District's service area. All such fees to be paid under this Agreement shall be pursuant to the rate structure in place at the time when the water services are requested to be made available to the Property. All such fees shall be determined by the District and shall be due and payable at the time that such water service is requested to be made available to the Property.

14. Wastewater Fees. The Wastewater Tap Fees for the Property shall be based upon the total Drainage Fixture Units ("DFU") as defined by the International Plumbing Code ("IPC"), the Edition adopted by the Pikes Peak Regional Building Department at the time wastewater service is requested and applicable fees paid for wastewater service to the Property. In the event there are wastewater generating features discharging to the Sanitation District's system which are not defined in the IPC, the District shall determine the DFU equivalency in its sole discretion based on the principles established in the IPC and the District's Sewer Use Regulations, policies and specifications. Wastewater Tap Fees to be paid under this Agreement shall be under the rate structure in place at the time when the sewer services are requested to be made available to the Property and shall be due and payable at the time that such wastewater service is requested to be made available to the Property.

15. Other Service Fees. The District also provides services related to roads, including maintenance and construction, regular road maintenance including snow removal, managing street overlay and routine maintenance, crack repair, placing lane markings and street signs, and street lighting and traffic control markers. The District further provides services related to parks and recreation. Petitioner will incur all costs for any services related to the District's construction of roads, necessary drainage, public trails and parks or recreational facilities, and expenses associated therewith, and will be responsible for all usual and customary fees associated therewith. Petitioner acknowledges the necessary costs associated with these continuing improvements going forward, including but not expressly limited to taxes, mill levies, fees, rates, tolls and charges of the District.

16. Reimbursement. As part of the District's requirements for petitioning the District for inclusion, and for the actual inclusion and services within said District, the Petitioner shall reimburse the District for its attorney's fees, engineering fees, District staff overtime, and publication costs incurred in connection with the inclusion process of the Property, together with all other costs incurred by the District that would not have been incurred if the Petition had not been submitted and the Property included in the District. This reimbursement shall include post-inclusion agreement inspection, design and construction plan review and approvals by the District for the utility infrastructure, and shall include reimbursement for legal and engineering fees and costs in preparing and entering into this Inclusion and Service Agreement. All such amounts shall constitute a charge relating to the Property. Any amount not timely paid shall constitute a lien upon the Property until paid, and may be enforced in the same matter as the statutory lien upon

the Property for charges and services due to the District under C.R.S. § 32-1-1001(j). All such fees are presumptively included in the Inclusion Fee described in Paragraph 4, above, unless the District advises that further reimbursement in excess of the Inclusion Fee will be required.

17. Main Lines. Petitioner shall be solely responsible for the construction, at its expense, of the connection to, and extension of, the District's existing water and wastewater main lines to and from the Property as necessary for delivery of utility service to the Property. Petitioner will also be solely responsible for the construction of roadways, walkways, necessary infrastructure including but not limited to road signs and traffic lights, lighting at night, and any public parks or recreational space(s) to be placed within the Property. In this manner, and as required herein, Petitioner is responsible for the construction and expense of all onsite and offsite infrastructure improvements for service to the Property.

18. Service Lines. The cost of the Petitioner's connection to the water and wastewater main lines and the cost of the service lines from the main lines to the improvements on the Property shall be at the sole expense and obligation of the Petitioner.

19. Easements. The Petitioner hereby grants and provides to the District, at no cost to the District, any and all necessary licenses, permits, easements and rights of way across the Property and over, under and across any area required outside the limits of the Property, including any necessary easements needed for well sites and transmission lines to and from any wells located on the Property, all in size and location as determined by, and acceptable to, the District. No specific licenses, permits, easements and rights of way are granted here. All grants and provisions shall be in accordance with the District's design criteria and specifications to provide for the construction, operation, maintenance, repair and replacement of the mains, pipelines and appurtenances for the water and wastewater lines serving the Property or any wells located on the Property, as well as for any roadways to be constructed, drainage systems, stormwater pipelines and structures, and for parks or recreational facilities and their related landscaping irrigation improvements, together with the right of ingress and egress thereto. The design criteria and specifications for the easements shall include that (1) the utility easements for main lines shall be exclusive easements to the extent reasonably possible and the licenses, permits, easements and rights of way granted herein shall be superior to any similar instruments recorded after this Agreement, (2) to the extent exclusive easements are not reasonably possible, then any other neighboring utilities (i.e., natural gas, telephone, cable, etc.) may be located within the utility easement but shall not be located on top of the District's utility infrastructure within the easements or so close thereto as to interfere with or impair the District's access to and maintenance of the utilities within the easements and only with prior written consent from the District that any interference has been adequately prevented or mitigated to the satisfaction of the District, and (3) to the extent the utility easements exist upon or adjacent to private, non-County, City or State maintained roads, Petitioner shall grant access and utility easements to the District that is within or adjacent to the Petitioner's private roads, all as required by the District. The Petitioner and its successors shall be solely responsible for maintaining such private

roads and access as necessary for the District's use and enjoyment of the easements granted, including but not limited to, proper road maintenance, snow removal and traffic control. To the extent that the District is unable to properly access and utilize the easements granted herein due to any failure of the Petitioner or its successors to comply with these obligations, the District shall not be responsible for any failure to provide utility service or to provide for the maintenance or repair of utility infrastructure as a result of the Petitioner's failure to fulfill its obligations. In such event, the Petitioner shall be solely liable and responsible for such limitations in provision of service, maintenance and repair. This obligation shall survive the completion of this inclusion process.

20. Cooperation. The Petitioner and the District agree to cooperate with one another in the performance of the post-inclusion obligations set forth in this Agreement, and the execution of any other documents necessary to fulfill the intent and purposes of this Agreement.

21. Compliance. If the Property is included in the District by final order of the El Paso County District Court, the Petitioner shall abide by all terms of this Inclusion and Service Agreement and comply with all applicable Federal, State, County and local statutes, laws, rules, regulations, policies and resolutions. Further, the Property will be subject to assessments and other charges of the District from the date of the inclusion, and Petitioner shall comply with all rules, regulations, and rate structures of the District, both existing and as may be enacted in the future. This Inclusion Agreement shall replace any previous inclusion Agreements for the Property and shall be the sole Inclusion Agreement for the Property.

22. Nature of Work. All work to be performed by the Petitioner under the terms of this Inclusion and Service Agreement shall be performed using quality materials and shall be performed in a workmanlike manner in compliance with the rules, regulations, specifications, policies and requirements of the District. Compliance with such specifications and requirements shall be determined in accordance with standard procedures of the District.

23. Water Quality. The Petitioner shall have the obligation to assure that the Water Utility Improvements constructed by the Petitioner are able to deliver water to the development meeting all applicable drinking water regulatory requirements. The District shall have the obligation to meet all applicable drinking water regulatory requirements to the point of delivery to the Water Utility Improvements.

24. Existing Water Supply and Wastewater Service. Petitioner shall only receive a water supply and wastewater service for the Property from the District. Accordingly, Petitioner shall disconnect any existing infrastructure providing a water supply and wastewater service to the Property. Excluding any wells operated by the District, Petitioner may not receive a water supply from any well to provide water to the Property for any uses without the District's express written consent. Petitioner shall properly seal and cap any existing wells located on the Property and provide evidence acceptable to the Water District as to conformance with the requirements of the Colorado Division of Water Resources as to abandonment and/or cessation of use of existing wells

on the Property, or shall transfer and convey an existing wells to the District for the District's use, should the District advise it wishes to utilize such existing wells, in the District's sole discretion. Any plat or other similar approval obtained by the Petitioner from applicable entities with authority over land use approvals shall reference and incorporate this Inclusion Agreement. The District's rules and regulations shall govern the approval of any service or main lines under this Agreement or in providing the Property with a water supply or wastewater services, including any water or wastewater quality and standards.

25. Acceptance of Work. The construction obligations of Petitioner shall not be complete until the District's inspection and written acceptance of the infrastructure as being in compliance with the District's specifications and plans accepted by the District for use in construction under this Agreement.

26. Contingencies. This Agreement is conditional upon obtaining the formal inclusion of the Property into the District by order of the El Paso County District Court.

27. Provision of Service. All water, wastewater, stormwater, street and drainage, traffic and safety, public streetlight, and park and recreational facility services for the Property shall be subject to the rules, regulations, policies and resolutions promulgated by the District from time to time. The District shall not provide any service if Petitioner or its successors are not in compliance with this Agreement.

28. Liability of the District. The District shall not be liable for any losses or damages resulting from the inability of the District to supply water, wastewater, stormwater, street and drainage, traffic and safety, public streetlight, or park and recreational facility services due to governmental regulations, statutes or orders, electrical or other power failures, temporary shut down due to repairs, maintenance, construction, alterations, acts of God, or other occurrences beyond the direct control of the District, or resulting from the lack of availability of capacity of the District's facilities. The District may impose restrictions on services as necessary, so long as it does so on an equitable or pro rata basis to all users within the District for the type of service being restricted.

29. Default/Remedies. A party shall be in default hereunder in the event it fails to perform its obligations as required hereunder, and if such noncompliance is not cured within 15 calendar days after written notice by the other party of the nature of the alleged noncompliance. In the event of default, the non-defaulting party shall have all remedies available under Colorado law, including that either party shall have the right to injunctive relief and specific performance in order to require the other party to perform its obligations under this Agreement.

30. Right to Cure. The District shall have the right, but not the obligation, to cure any default by the Petitioner under this Agreement and to recover from the Petitioner the District's costs and expenses in curing such default and in performing Petitioner's obligations.

31. Assignment. This Agreement may not be assigned by Petitioner without the

District's prior written consent, which consent will not be unreasonably withheld. If any portion of the Property is sold or transferred by Petitioner prior to the time for recording of the Court order for inclusion of the Property into the District, the Petitioner shall obtain the District's consent for the assignment of this Agreement with the Property. The Petitioner shall obtain and provide to the District the consent of the transferee, in recordable form, for the inclusion of that Property into the District. The transferee shall also agree and consent that the Property will be subject to assessments and charges of the District from the date of inclusion, including but not limited to tap fees, and that they shall comply with the rules, regulations and rate structures of the District, both existing and as may be enacted in the future. Any property not providing such consents shall not be allowed to connect into and receive service from the District's facilities.

32. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter covered herein. All negotiations, considerations, representations and understandings between the parties are incorporated and merged herein. This Agreement may be modified or altered only by the parties' written agreement.

33. Authority/Ownership. All parties to this Agreement represent and warrant that they have the full power and authority to enter into and perform this Agreement, to grant the licenses, permits, easements and rights of way granted herein, and to bind their respective principals. Petitioner represents that it is the owner and is in title to the Property and agrees to deliver good marketable title under its easements to the District, free and clear of liens and encumbrances or with all lienholders' consent. Petitioner shall provide appropriate entity resolutions authorizing the execution and performance of this Agreement, if needed. Petitioner warrants and represents that there are no liens upon the Property.

34. Severability. Unenforceability of any provision contained in this Agreement shall not affect or impair the validity of any other provision of this Agreement, so long as the primary purpose(s) of this Agreement remain effectuated by the remaining terms.

35. Attorney's Fees. In the event of any dispute between the parties concerning this Agreement or in the event of any action to enforce this Agreement or to collect damages on account of any breach of the obligations provided for herein, the prevailing party shall be entitled to recover from the other party, all costs and expenses, including reasonable attorney's fees, incurred in such litigation as well as all additional such costs and expenses incurred in enforcing and collecting any judgment rendered in such action.

36. Time is of the Essence. Time is of the essence in the performance of the parties obligations hereunder.

37. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Proper venue for any action regarding this Agreement shall be in the District Court of El Paso County, Colorado.

38. No Third Party Beneficiary. This Agreement shall be for the sole benefit of the parties hereto, and no other party is entitled to have any rights or benefits by reason

of this Agreement as a third party beneficiary or otherwise.

39. Survival of Provision. The terms and provisions of this Agreement shall be deemed to survive the closing of this transaction and the El Paso County District Court Order for inclusion of the Property within the District.

40. Binding Effect/Covenant Upon Property. The covenants, agreements, and obligations contained herein shall extend to, bind, and inure to the benefit of not only the parties hereto, but also their respective personal representatives, heirs, successors, and assigns. This Agreement benefits and burdens the Property and shall constitute a covenant running with the Property.

Triview Metropolitan District

Petitioner

By: _____
James McGrady, District Manager of
Triview Metropolitan District

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

Subscribed and sworn to before me this _____ day of _____, 2024, by James McGrady as District Manager of Triview Metropolitan District.

My commission expires: _____

Witness my hand and seal.
(SEAL)

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

Subscribed and sworn to before me this _____ day of _____, 2024, by _____, as _____ of _____.

My commission expires: _____

Witness my hand and seal.
(SEAL)

Notary Public