

## **RESOLUTION 2025-09**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF TRIVIEW METROPOLITAN DISTRICT SETTING WATER DEVELOPMENT REQUIREMENTS and IN-LIEU-OF FEES**

WHEREAS, Triview Metropolitan District ("District") has determined that it is appropriate to adopt, amend and supplement portions of its existing rules and regulations concerning the District's policy in regards to provision of water supply sufficient to support development to which the District will provide water service as a condition of service in the District's discretion, and in the alternative and in the District's discretion, implementation of a water acquisition fee (*i.e.* "in-lieu-of fee") for acquisition of substitute water supplies where water provided by developer is insufficient to cover anticipated demands, and for recovery and funding of the District's existing and future costs in the acquisition and development of such physical and legal water supplies for its customers ("Water Acquisition Fee"). The Water Acquisition Fee may include funding for infrastructure costs associated with the acquisition and development of such physical and legal water supply for the District's customers;

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

WHEREAS, pursuant to C.R.S. §32-1-1001(m) and (n), this Board 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; and

WHEREAS, the District has considered anticipated short and long-term expenses associated with the acquisition and development of physical and legal sources of water for the supplementation and continuation of provision of water service to the District's customers, and associated water infrastructure, and determined it appropriate to amend the District-wide Water Acquisition Fees on new development where insufficient supply is provided to the District by developers to cover anticipated demand, and to recoup and fund such imminent water acquisition and infrastructure expenses; and,

WHEREAS, the District has previously passed various resolutions concerning this subject matter. As to the subject matter of this Resolution 2025-\_\_ such prior resolutions only as to the same subject matter are of no further force and effect.

NOW, THEREFORE, pursuant to the District's authority and the power under C.R.S. §32-1-1001 and §32-1-1004, the following policy is adopted in regards to the District's requirements for conveyance of legally and physically sufficient water supply to

meet anticipated demands for development prior to the District's commitment to provide water and wastewater service to such development, and in the District's discretion, in-lieu-of such sufficient physical and legal water supply, implementation of a Water Acquisition Fee on such development, forming a portion of the District's rules and regulations.

1. Provision of Sufficient Water Supply. Pursuant to the District's inter-governmental agreement (the "IGA") with the Town of Monument (the "Town"), the District does not exercise authority over land use planning matters, but rather such issues are addressed and approved by Town authority to the extent the property subject of such planning are within the annexed boundaries of the Town. Planning activities for properties included within the District but not annexed into the Town are similarly governed by El Paso County Planning and Development (the "County"), not by the District. However, in making such land use entitlement approvals, the relevant planning authority typically requires that Triview commit that it "will serve" the development subject of the application with water and wastewater services, as a condition of approval by such planning authorities of such land use applications. Triview provides such "will serve" commitments when so requested, and commits to provide services to developments within the District's service area, provided that a sufficient physical and legal water supply is conveyed to the District in an amount commensurate or in excess of anticipated demand within the subject development and/or appropriate Water Acquisition Fees paid, in the District's discretion. For purposes of this water dedication requirement, "sufficient" shall mean:

A. Any and all Denver Basin groundwater underlying the real property subject of the land use application, whether not-nontributary or tributary, whether adjudicated or unadjudicated, and whether or not the quantities of such Denver Basin groundwater are in excess of, or less than, the anticipated demand for the requested development as determined in the District's discretion. All such Denver Basin groundwater shall be conveyed to the District, with evidence of good title to the District's reasonable satisfaction, without charge to the District. No "will serve" letters shall issue from the District in any instance absence conveyance of all underlying Denver Basin groundwater, regardless of quantities;

B. Any and all other surface and/or groundwater owned or controlled by the land use applicant which can be physically and legally delivered to the District, subject to all other terms and conditions of this resolution and further subject to the terms and conditions of any applicable inclusion agreement between the District and the land use applicant. In the District's sole and complete discretion, other agreements with specific land owners pursuant to inclusion, annexation, or water service applicable to any particular such land use application may supersede the provisions of this Paragraph 1.B. based upon fact-specific circumstances which may otherwise benefit the District;

C. For purposes of calculating whether the water supply provided to the District pursuant to Paragraphs 1.A. and 1.B., above, will be of a quantity "sufficient" to meet the anticipated demand of the subject land use application, the following factors

shall apply:

i. No groundwater underlying the property subject of the proposed development classified as “not-nontributary” shall be included for purposes of calculating the sufficiency of water provided, unless such not-nontributary groundwater is subject of a previously adjudicated plan for augmentation suitable for the District’s purposes, in the District’s sole discretion, and (a) utilizing for purposes of replacement of post-pumping depletions associated with such plan for augmentation some source other than underlying nontributary groundwater supplies; or (b) deducting from otherwise available nontributary groundwater resources that quantity so dedicated to post-pumping depletion replacement, both subject to the limitations of Paragraph 1.C.ii., below;

ii. The District shall consider 85% of nontributary groundwater supplies as being available for development purposes, with the remaining 15% being dedicated to the general purposes of the District and for provision of reserve supplies. For purposes of example, were a developer to have 100 annual acre feet of nontributary groundwater available to provide to the District, all such groundwater would be deeded to the District, but the District would provide a “will serve” letter only for development utilizing up to 85 acre feet of supply, for development entitlements to be obtained based thereon. The quantity of nontributary groundwater supply may be based upon adjudications quantifying such supply (less amounts previously used), or upon calculations by the District’s consultants for unadjudicated supplies, in the District’s sole and complete discretion.

iii. In the case of surface water supply, or groundwater originating from other than the Denver Basin formations, sufficiency of supply shall be determined by the District on the basis of information and opinions provided by its consultants, in the District’s sole and complete discretion. The District expresses its preference that any supplemental water supplies in addition to underlying Denver Basin supplies to be considered for sufficiency purposes be of a renewable nature, evidencing the Districts intent to continue to develop a renewable water supply to eventually replace finite Denver Basin groundwater supplies upon which the District currently relies.

iv. In the District’s discretion, sufficiency of water supply may be supplemented through payment of a Water Acquisition Fee, as provided below, in such amount as to represent the quantity of water required for the requested development, or the difference between such requirements and the quantities of water available for provision to the District as described in Paragraphs 1.C.i, ii, and iii, above.

2. Water Acquisition Fee. Where an application for land use development has been submitted, and associated request for a “will serve” letter has been made upon the District, and where the quantities of water described in Paragraph 1.C., above, appear in the District’s discretion to be insufficient for the scope of development requested in the application, the District may, in its sole and complete discretion, accept payment of a Water Acquisition Fee “in-lieu-of” that quantity of water necessary for the scope of

requested development, less those quantities of water which may be provided pursuant to Paragraph 1.C, above. Based upon anticipated water acquisition costs, and associated infrastructure and transactional costs associated therewith, the Board determines that an appropriate Water Acquisition Fee, or "in-lieu-of" fee at the present time is \$21,000 per acre foot. Based upon historical data demonstrating actual demands, and further based upon qualified engineering analysis, Triview has determined the appropriate water demand estimates for various scopes of development within the District, specifically:

A. Large Single Family demand, being defined as single-family dwellings constructed on lots of 5,000 square feet or larger, shall be 0.4 acre-feet per year, based upon ordinary and typical single family housing within the District;

B. Small Single Family demand, being defined as single-family dwellings constructed on lots of greater than 2,000 square feet but less than 5,000 square feet, shall be 0.3 acre-feet per year, based upon the District's analysis and experience with such smaller lot dwellings;

C. Multi-Family demand, being defined as attached dwellings typical of duplex or multi-plex design, shall be 0.25 acre-feet per year, based upon typical multi-plex (i.e. duplex) type residential dwellings within the District, and the District's engineering analysis of the same;

D. Apartment Demand shall be as follows, as demonstrated by qualified engineering analysis provided to the District by developers of apartment-style housing, and as analyzed in-house by the District, based upon actual apartment demands:

i. One Bedroom Apartment demand shall be 0.08 acre-feet per unit per year;

ii. Two Bedroom Apartment demand shall be 0.10 acre-feet per unit per year;

iii. Three Bedroom Apartment demand shall be 0.12 acre-feet per unit per year;

E. Associated/Auxiliary Structures. The district has further analyzed the water demand anticipated for buildings and structures typically associated with both apartment complexes, and from time to time multi-family/multiplex developments. Such demands shall be as follows:

i. Property Management/Office Facility demand shall be calculated as 0.050879 acre feet per year per 1,000 square feet of floor space;

ii. Fitness/Leasing Center Facility demand shall be calculated as 0.170262 acre-feet per year per 1,000 square feet of floor space;

iii. Clubhouse (without swimming pool) demand shall be calculated as 0.075736 acre-feet per year per 1,000 square feet of floor space.

F. Irrigation Demand. The District has analyzed and calculated specific water demands for the irrigation of various landscape features as typically associated with apartment and multi-family residential development, as well as for landscaping surrounding commercial development within the District:

i. Shrub Bed demand shall be calculated as 1 acre-foot per acre of shrubbery per year;

ii. Native Seed, Low-Grow Native Seed, and Native Wetlands Seed demand shall each be calculated as 1 acre-foot per acre per year;

iii. Turf Grass (i.e. Kentucky Bluegrass or similar) demand shall be calculated as 2.25 acre feet per acre annually;

G. As an example only, were a developer to have 100 acre feet of adjudicated nontributary supply, and were the scope of requested development to include 300 Large Single Family dwellings, the total demand for water would be 120 acre-feet per year ( $300 \times 0.4$ ), and such development would be short 35 annual acre feet of supply (85% of nontributary Denver Basin supply, pursuant to Paragraph 1.C.2., above). Such developer could therefore provide the District with payment of \$735,000 in Water Acquisition Fees (35 acre feet  $\times$  \$21,000 per acre foot), and the District would then be prepared to issue the "will serve" letter necessary for approval of land use planning applications.

H. In the District's sole discretion, Water Acquisition Fees collected by the District may be placed in a restricted account, and if so restricted the use of such funds shall be limited to only the following expenditures, until such time as the District, in its reasonable discretion, determines that its available water supply exceeds 125% of forecast build-out demand, and will continue to do so for a forecasted period of 25 years in the future. The District may, due to financial exigencies, elect to utilize Water Acquisition Fees not deposited in said restricted account for other purposes of the District in its discretion, but it is the District's stated policy to deposit all such funds in said restricted account, at which time it shall be subject to all applicable restrictions. Uses of water in said restricted account shall be limited as follows:

i. Purchase, lease, or other acquisition of physical and legal water supplies for use in the District's water system. Such acquisitions may include nontributary and nontributary Denver Basin supplies, other groundwater supplies, as well as renewable surface water supplies. Such acquisitions may be made by the District, or in cooperative efforts with other municipal or quasi-municipal entities.

ii. Purchase, design, construction, maintenance and repair of all facilities necessary for the delivery, treatment and use of physically and legally available water supplies to the District's water system, specifically including, but not limited to, such acquired water supplies as describe in Paragraph 2.A.i., above, and specifically including storage for any such water supplies.

iii. Purchase, design, construction, maintenance and repair of any facilities or systems necessary for the use and re-use of any and all water supplies available to the District to the fullest extent allowable by law, for maximization of beneficial uses of all such water supplies.

3. Determination by the Board. It is the Board's determination that this policy, and the fees discussed herein, are reasonably related to the overall existing and future costs of operations and capital improvements for the water services provided by the District, are necessary for the District to provide a reliable water supply and to recover costs associated therewith, and plan for future expense, and are uniformly made to apply to all of the District's customers. It is further the Board's determination that this policy is consistent with the prior practice of the District, as well as consistent with legislative guidance concerning the calculation and use of water fees by Colorado special districts.

4. Other Rates and Fees. All other policies and fee regulations of the District not expressly revised by this Resolution shall remain in full force and effect.

5. Enterprise. This Resolution is taken by the District, including as acting through its water activity enterprise.

6. Proper Action. 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 regarding provision of sufficient water supply to the District prior to issuance of "will serve" letters as may from time to time be requested by the Town, and policy regarding associated Water Acquisition Fees, were established as rules and regulations of the District, and were enacted by the Board of Directors of the District on this 19<sup>th</sup> day of June, 2025, to be effective immediately.

A handwritten signature in blue ink, consisting of a large, stylized 'P' followed by several loops and a long horizontal stroke.

District President

A handwritten signature in blue ink, appearing as a series of connected loops and a final horizontal stroke.

District Secretary    Attest

6/19/25  
Date