

## **CHEROKEE METROPOLITAN DISTRICT**

### **RESOLUTION 2021-06**

#### **A RESOLUTION TO ACQUIRE OR CONDEMN REAL PROPERTY INTERESTS FOR AN ADDITIONAL TAMLIN WATER TANK SITE**

WHEREAS, the Board of Directors of the Cherokee Metropolitan District (the “District”) held a Regular Session Board Meeting on July 20, 2021 at the offices of the District, 6250 Palmer Park Blvd., Colorado Springs; and

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan district pursuant to §§ 32-1-101, et seq., C.R.S.; and

WHEREAS, the purposes for which the District was formed include the provision of water and sanitation services, park and recreation facilities and programs, street improvements through lighting and landscaping, and all related facilities, programs, and services; and

WHEREAS, the District provides essential water services, public infrastructure, and improvements to its customers and residents, property owners, and service users within its boundaries; and

WHEREAS, the District has determined it is in the public interest and that there is an immediate need to acquire property for the purposes of adding an additional water storage tank to its gravity water system. This additional tank is necessary at the same site as the District’s main finished water distribution tank on Tamlin Road (“Tamlin Tank site”). The public purpose of this additional tank is to provide water distribution to meet growth projections, provide needed redundancy, improve safety in the event of any major system failures, as well as to benefit and simplify operational system maintenance (the “Project”); and

WHEREAS, the District has determined no other site within the District conforms to the needs of the District, as this is the local high point able to provide pressure to customers in the higher regions of the District’s service area; and

WHEREAS, the District has determined that it should acquire by negotiation, if possible, or by the use of eminent domain, if required, the necessary property interests to allow the District to construct an additional water storage tank at the Tamlin Tank site; and

WHEREAS, the property in which the District will acquire the necessary real property interests within the area is legally described in Exhibit A, attached hereto and incorporated by reference herein (the “Property”); and

WHEREAS, pursuant to C.R.S. § 32-1-1004(4) and C.R.S. § 32-1-1006(1)(f), and other relevant law, the District is authorized to exercise the power of eminent domain and dominant eminent domain in the manner provided by Article 1 of Title 38, Colorado Revised Statutes and the Colorado Constitution, and may take any property necessary, both within and without the special district, for the purposes of providing essential water service to its customers, and

WHEREAS, the District finds that if acquisition by condemnation of the Property is commenced, the District's immediate possession of the Property is necessary for the public health, safety, and welfare in order to keep the Project on the desired schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CHEROKEE METROPOLITAN DISTRICT THAT:

Section 1. It is hereby determined that it is necessary to the public health, safety, and welfare of its customers that an additional water storage tank be added to the District's gravity water system at the same site as the District's Tamlin Tank site, and that property interests are necessary to accomplish the Project and may be acquired by donation, or negotiation and purchase if possible, and by condemnation if necessary, such Project being for and constituting a public purpose.

Section 2. In furtherance of the Project, the appropriate officers, agents, contractors and/or employees of the District are hereby specifically authorized to take any necessary and legal measures, including condemnation, to acquire the private real property interests within the Property legally described in Exhibit A, or any portion thereof, as may be determined necessary for the Project, including requesting immediate possession thereof.

Section 3. The District finds and determines that it should obtain immediate possession of and acquire title to, a fee interest or easements over and/or any other property interests in the Property for the Project as soon as is permitted by law, and that the Property described is necessary for the Project.

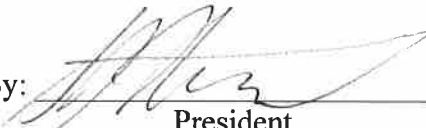
Section 4. The appropriate officers, agents, contractors and/or employees of the District shall negotiate in good faith for the acquisition of title to, a fee interest or easements over and/or any other property interests in the Property and if the designee is unable to acquire the Property through good faith negotiations then the District shall acquire title to, a fee interest or easements over and/or any other property interests in the Property through the exercise of the power of eminent domain.

Section 5. The District finds and determines that there is a public need and necessity and a public use for obtaining and acquiring title to, a fee interest or easements over and/or any other property interests in the Property in order to allow the District to fulfill its obligation to provide essential water services to its customers.

Section 6. All prior findings, determinations and actions of the District's officers, agents and/or employees, contractors, and attorneys with respect to the acquisition of the Property are hereby ratified, approved, and adopted.

Adopted this 20<sup>th</sup> day of July 2021.

CHEROKEE METROPOLITAN DISTRICT

By:   
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

(SEAL)

**EXHIBIT A**  
Legal Description

PARCEL DESIGNATION:	S200000632	DATE:	April 11, 2013
OWNER:	ULTRA RESOURCES, INC. (Owners current as of the date of certification hereon)		

**EXHIBIT A**

**LEGAL DESCRIPTION**

A parcel of land being a portion of the South Half of Section 21, Township 13 South, Range 65 West of the Sixth Principal Meridian, El Paso County, Colorado, being described more particularly as follows:

Basis of Bearing:

The West line of the Northwest Quarter of said Section 21, monumented on the north by a 3 1/4" aluminum cap, stamped PLS 17496 and on the south by a 2 1/2" aluminum cap, stamped PLS 17664 and said to bear S00°35'14"E.

COMMENCING at the West Quarter Corner of said Section 21;

Thence along the north line of the south half of said Section 21 N89°10'31"E, a distance of 1016.20 feet to the Northeast corner of a parcel described in Reception No. 091000484 recorded in the El Paso County Clerk and Recorders Office and being the Point of Beginning;

Thence continue on said north line of the south half of said Section 21, N89°10'31"E, a distance of 317.52 feet to the Southeast corner of a parcel described in Reception No. 206141281 recorded in the El Paso County Clerk and Recorders Office and monumented with a DBCO pin and collar stamped PLS 17664;

Thence S00°45'27"E, a distance of 365.64 feet;

Thence N89°12'10"E, a distance of 319.08 feet to the Southeast corner of said parcel in Reception No. 091000484;

Thence along the east line of said parcel, N00°30'46"W, a distance of 365.49 to the Point of Beginning from which the Southwest Corner of said Section 21 bears S20°25'11"W, a distance of 2834.34 feet.

Said parcel contains 116357.51 square feet or 2.67 acres more or less.

EXHIBIT B SKETCH is attached hereto and is only intended to depict EXHIBIT A – Legal Description. In the event that EXHIBIT A contains an ambiguity, EXHIBIT B may be used to solve said ambiguity.



Prepared for and on behalf of Ultra Resources, Inc. by Lyle G. Bissegger, PLS# 38038 of NV5, Inc., 1975 Research Pkwy., Suite 165, Colorado Springs, Colorado, 80920