



## County Attorney

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March 18, 2024

MS-22-7      Space Village Filing No. 4  
Minor Subdivision

Reviewed by:      Lori L. Seago, Senior Assistant County Attorney  
April Willie, Paralegal

### WATER SUPPLY REVIEW AND RECOMMENDATIONS

#### Project Description

1. This is a proposal by Hampton Yard 11 LLC ("Applicant") to subdivide a 22.8 acre tract of land into 2 lots. The property is currently zoned I-3 CAD-O (Heavy Industrial - Commercial Airport Overlay District).

#### Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* ("WSIS"), the annual subdivision demand is 0.28 total acre-feet for irrigation of 0.698 acres. Based on this, the Applicant must provide a supply of 84 acre-feet of water (0.28 acre-feet/year x 300 years) to meet the County's 300-year water supply requirement for the subdivision.

#### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District" or "Cherokee"). As identified in the Water Resource Report dated June 2023, the annual water demand for the development is 0.28 acre-feet per year to be used for landscaping on the property. Per the Water Provider's

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Supplement to the Water Resources Report, Cherokee's total available water supply is approximately 4,364.8 acre-feet/year, while its existing water commitments total 4,144.8 acre-feet per year. After commitment of 0.28 acre-feet per year to Space Village Filing No. 4, the District will have 219.7 acre-feet per year remaining for additional commitments.

4. The General Manager of the District provided a letter dated February 28, 2024, committing to provide water service of 0.28 acre-feet per year for irrigation of Space Village Filing 4, which is located within the District's boundaries.

The District notes that this commitment is "hereby made exclusively for this specific development project at this site within the District." The District's commitment is only a conditional commitment: "[t]o confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment."

#### State Engineer's Office Opinion

5. In a letter dated August 23, 2022, the State Engineer reviewed the application to subdivide the 22.8-acre tract into 2 lots to be used for self-storage facilities. The State Engineer confirmed that the Cherokee Metropolitan District has committed an adequate amount of water. Further, the State Engineer states that "[a]ccording to this office's records, it appears Cherokee has sufficient water resources to serve the proposed development." Further, the State Engineer declared that "pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights."

#### Recommended Findings

6. Quantity and Dependability. Applicant's water demand for Space Village Filing No. 4 is 0.28 acre-feet per year to be supplied by Cherokee Metropolitan District. **Based on the water demand of 0.28 acre-feet/year for the development and the District's availability of water sources, but given the conditional nature of the District's commitment to serve, the County Attorney's Office recommends a finding of conditional sufficiency as to water quantity and dependability for Space Village Filing No. 4.**

7. Quality. Section 8.4.7(B)(10)(g) of the El Paso County Land Development Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis: The County Attorney's Office reviewed the following documents in preparing this review: the Water Supply Information Summary, the Water Resources Report dated June 2023, the Water Provider's Supplement to the Water Resources

Report for the Space Village Minor Subdivision dated March 1, 2024, the Cherokee Metropolitan District letter dated February 28, 2024, and the State Engineer's Office Opinion dated August 23, 2022. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect or should the below requirement not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

#### **REQUIREMENTS:**

A. Applicant and all future owners of lots within this filing shall be advised of and comply with the conditions, rules, regulations, and specifications set by the District.

B. Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated February 28, 2024 (approval must be provided by February 28, 2025), to retain the District's water commitment. **If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.**

cc: Ashlyn Mathy, Project Manager, Planner