

## RESOLUTION \_\_\_\_ -14

A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY KNOWN AS CAPITAL ANNEXATION NO. 1 HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT "A"

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

This matter comes on for hearing before the City Council of the City of Colorado Springs on October 14, 2014 pursuant to Sections 31-12-108 and 31-12-109, C.R.S., known as the Municipal Annexation Act of 1965 as amended (hereinafter referred to as Annexation Act), to consider the annexation of that certain territory known as Capital Annexation No. 1, more specifically described in Exhibit "A" as attached hereto and incorporated herein by reference, and the Council having examined all of the evidence presented at said hearing and being fully advised of the premises, now sets forth findings of fact and conclusions of law based thereon as provided for in Section 31-12-110 of the Annexation Act, other findings of fact and conclusions as are appropriate, and makes determinations as follows:

1. The City Clerk of the City of Colorado Springs has received a petition for annexation of the area described in Exhibit "A" entitled "Petition for Annexation," signed by persons comprising one hundred percent (100%) of the landowners in the area to be annexed and owning one hundred percent (100%) of the area, excluding public streets and alleys, in compliance with the provisions of Article II, Section 30 of the Colorado Constitution, and Section 31-12-107(1) of the Annexation Act.

2. On September 9, 2014, the City Council approved a resolution entitled "A Resolution Finding a Petition for Annexation of The Area Known as Capital Annexation No. 1 Consisting of 60.06 Acres to be in Substantial Compliance with Section 31-12-107(1), C.R.S. and Setting a Hearing Date of October 14, 2014 for the Colorado Springs City Council to Consider the Annexation of the Area." This resolution set a hearing to consider the annexation of this area to the City of Colorado Springs on October 14, 2014, in Council Chambers, City Hall, 107 North Nevada Avenue, Colorado Springs, Colorado, and directed the City Clerk to give notice of said hearing in the manner prescribed in Section 31-12-108 of the Annexation Act. In addition, said resolution found that the petition for annexation is in substantial compliance with Section 31-12-107(1) C.R.S of the Annexation Act, and further determined that said petition is in substantial compliance with Section 30 of Article II of the Colorado Constitution, which findings are adopted herein.

3. The City Clerk, pursuant to said resolution, has caused to have published in the Colorado Springs Gazette a document entitled "Public Notice City of Colorado Springs Notice of Public Hearing on Annexation Petition of Capital Annexation No. 1 Consisting of 60.60 Acres Located East of Industrial Road and Capital Drive Intersection," along with a copy of said resolution with an attached legal description of the area to be annexed and a map showing the approximate boundaries thereof, with four (4) publications as follows: September 13, 2014; September 20, 2014; September 27, 2014;

and October 4, 2014. The Colorado Springs Gazette is a daily newspaper in general circulation throughout the City of Colorado Springs, throughout the area to be annexed, and throughout El Paso County, Colorado.

4. Said resolution and notice pertaining thereto as set forth in Paragraph 3 of this resolution comply with the requirements of Section 31-12-107(1)(g) and Section 31-12-108 of the Annexation Act.

5. Copies of the published notice and resolution have been mailed to the Clerk of the Board of County Commissioners of El Paso County, the El Paso County Attorney, the Pikes Peak Library District, the Falcon Fire Protection District, Cherokee Metropolitan District, the Southeastern Colorado Water Conservancy District, and the School District located within the territory described in Exhibit "A" as required by Section 31-12-108 of the Annexation Act.

6. The annexation impact report was provided to the El Paso County Planning Department in accord with Section 31-12-108(5) of the Annexation Act.

7. The area described in Exhibit "A" is unincorporated.

8. The area described in Exhibit "A" is the same as the area described in the annexation plat.

9. No annexation of all or any part of said area has been commenced by any other municipality.

10. This annexation will not result in the detachment of an area from any school district and attachment of the same area to another school district.

11. This annexation will not result in the change of any county boundaries.

12. At least one-sixth (1/6th) of the boundary of the perimeter of the area proposed to be annexed is contiguous with the boundary of the City of Colorado Springs.

13. No land held in identical ownership within the area proposed to be annexed, 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 by the boundaries of such annexation without the written consent of the landowner except as such tracts or parcels are separated by a dedicated street, road or other public way.

14. No land held in identical ownership within the area proposed to be annexed, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the next year preceding the annexation), has been included within the boundary of the area proposed to be annexed without the written consent of the landowners.

15. This annexation will not extend boundaries of the city limits of the City of Colorado Springs more than three miles in any direction from the municipal boundary.

16. There has been adopted by the City Council as provided in Section 31-12-105 C.R.S. of the Annexation Act a plan which includes the area subject to the annexation.

17. There are no additional terms or conditions to be imposed upon this annexation, and the annexation agreement itself as between the petitioners and the City shall not constitute additional terms and conditions under the Annexation Act.

18. In establishing the boundaries of the area proposed to be annexed, if a portion of a platted street or alley is annexed, the entire width of said street or alley is included within the area proposed to be annexed.

19. The applicable parts of Section 31-12-105 of the Annexation Act have been met.

20. The provisions of Section 31-12-104(b) requiring a finding that "[t]hat a community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality..." are met by virtue of a finding of at least one-sixth (1/6th) boundary contiguity with the City of Colorado Springs as provided for in said section.

21. No petition for election has been received nor is an election otherwise required under the provisions of Section 31-12-107(2) of the Annexation Act.

22. The annexation of Capital Annexation No. 1 as legally described in Exhibit "A" attached hereto meets the requirements of and fully complies with Part 1 of Article 12 of Title 31 C.R.S., the Municipal Annexation Act of 1965 as amended, and Section 30 of Article II of the Colorado Constitution.

23. The City Council finds and concludes that said territory is eligible for annexation to the City of Colorado Springs.

24. The City Council consents to the provision of interim water and wastewater services to the property by Cherokee Metropolitan District pursuant to the terms of the Interim Water and Wastewater Service Agreement between the property owner, Cherokee Metropolitan District and Colorado Springs Utilities dated September 25, 2014 ("Interim Service Agreement").

25. The City Council consents to the owner's continued use of the existing well on the Property that is drilled into the Arapahoe aquifer to withdraw the groundwater for industrial uses consistent with the terms and conditions of the Colorado Division of Water Resources Well Permit No. 22434-F, as provided in the Interim Service Agreement

26. The City Council hereby finds that the owner shall not be required to

compensate the City for the value of the groundwater located in the Dawson, Denver, and Laramie-Fox Hills aquifers underlying the property to be annexed.

27. The City Council authorizes the President of the City Council to execute the Capital Annexation No. 1 Annexation Agreement, attached hereto as Exhibit "B", upon its presentation to City Council.

Dated at Colorado Springs, Colorado, this 14<sup>th</sup> day of October, 2014.

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Keith King, Council President

ATTEST:

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Sarah B. Johnson, City Clerk