

**Resolution No. \_\_\_\_-15**

**A RESOLUTION APPROVING AN AGREEMENT PROVIDING WATER AND WASTEWATER SERVICE TO LAND LOCATED OUTSIDE THE CITY LIMITS OF THE CITY OF COLORADO SPRINGS AND AGREEMENT TO ANNEX FOR THE PROPERTY LOCATED AT 4615 TOPAZ DRIVE IN PARK VISTA ESTATES ADDITION**

WHEREAS, David M. Benavides and Dawn E. Benavides (“Property Owners”), the owners of the property located at 4615 Topaz Drive, (TSN: 6323304014), which is located in the Park Vista Estates Addition subdivision enclave, (the “Property”) requested water and wastewater service for the Property directly from Colorado Springs Utilities for single-family residential use; and

WHEREAS, in accord with City Code section 7.6.210 City Council, in its legislative discretion, has the authority to authorize water and wastewater services outside the City without annexation; and

WHEREAS, “Residential Service – Outside City Limits” of the Water Rate Schedules and Wastewater Rate Schedules of Colorado Springs Utilities’ Tariff, requires prior City Council approval for Colorado Springs Utilities to provide end-use water service and wastewater service outside the corporate limits of the City of Colorado Springs in areas where water and wastewater service is available from Colorado Springs Utilities; and

WHEREAS, the Property is outside the City limits but within an enclave that is totally surrounded by the City of Colorado Springs and Colorado Springs Utilities’ water and wastewater service territories; and

WHEREAS, Colorado Springs Utilities provided evidence to City Council that there is sufficient water capacity and pressure available to serve the Property; there is sufficient wastewater treatment capacity available to serve the Property; and water distribution facilities exist in the area and a main extension is not required to extend service to the Property; and

WHEREAS, City Code section 12.5.405 requires owners and/or developers of property to be served by the wastewater system to extend collection lines to the farthest point or points upgrade of the owners’ property.

WHEREAS, in lieu of requiring the Property Owners to install the wastewater main extension to the farthest point or points upgrade of the Property, which would require an extension from the intersection of Topaz Drive and Pearl Drive to the furthest extent of the Property’s eastern boundary, Colorado Springs Utilities will require that the Property Owners or successors pay a pro-rata share of the construction costs associated with the future installation of a wastewater main from the intersection of

Topaz Drive and Pearl Drive extending east to the intersection of Diamond Drive and Pearl Dr, in the form of an advance recovery agreement charge prior to connecting the Property to the City wastewater system; and

WHEREAS, the Property Owners have executed an Agreement Providing Water and Wastewater Service to Land Located Outside the City Limits of the City of Colorado Springs and Agreement to Annex (“Agreement to Annex”); and

WHEREAS, under the terms of the Agreement to Annex, as a condition of service, the Property Owners have irrevocably consented to, among other things, annex the Property to the City, transfer the groundwater rights associated with the Property to the City, and pay the advance recovery agreement charge associated with extending the wastewater main to the intersection of Pearl Drive and Diamond Drive; and

WHEREAS, City Council has previously approved similar Agreements Providing Water and Wastewater Service to Land Located Outside the City Limits of the City of Colorado Springs and Agreement to Annex for other residences in the Park Vista Estates Addition subdivision enclave and Colorado Springs Utilities is providing water and wastewater service for those other residences in accord with those agreements; and

WHEREAS, Colorado Springs Utilities recommends approval of the Agreement to Annex and the provision of water and wastewater service to the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The City Council finds that the request for water and wastewater service at the Property from Colorado Springs Utilities for single-family residential use is in the best interests of the City and meets all applicable requirements of the law.

Section 2. Pursuant to “Residential Service - Outside City Limits” of the Water Rate Schedules and Wastewater Rate Schedules of Colorado Springs Utilities’ Tariff, City Council hereby approves water and wastewater service outside the corporate limits of the City of Colorado Springs to the Property for single-family residential use in accord with the Agreement to Annex. The water and wastewater service may not be enlarged or the use changed without the prior written approval of the City. Any requests to enlarge service or change use shall be reviewed in accord with the then-current tariffs,

rules, regulations, ordinances or other applicable law, and may require the property owners execute a new Agreement to Annex.

Section 3. The City Council hereby approves the Agreement to Annex in the form attached hereto and authorizes the President of City Council to execute the Agreement to Annex. The Chief Executive Officer of Utilities is authorized to administer the Agreement.

DATED at Colorado Springs, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Merv Bennett, President of Council

ATTEST:

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Sarah B. Johnson, City Clerk