

**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 3616 W. HIGH STREET AND 225 BELLVUE AVENUE**

WHEREAS, D Carps Investments, LLC, a Colorado limited liability company, (“Property Owner”), the owner of the property located at 3616 W. High Street, (TSN: 7403327025) (“High Street Property”) and 225 Bellvue Avenue (TSN: 7403327015) (“Bellvue Property”) which are located in the High Street subdivision, (collectively the High Street Property and the Bellvue Property are referred to herein as the “Property”) requested water and wastewater service for the Property directly from Colorado Springs Utilities for commercial use; and

WHEREAS, City Council has previously approved the provision of water and wastewater services to the Property for residential purposes only; and

WHEREAS, Property Owner has requested water and wastewater services from the City for commercial purposes;

WHEREAS, City Code section 7.6.207 states that “[a]ny request for a change of use of previously granted municipal services shall be considered and administered as a new application for such municipal service ...”; 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, the Property is outside the City limits; and

WHEREAS, the Bellvue Property is legally ineligible for annexation; and

WHEREAS, the High Street Property is legally eligible for annexation under the Municipal Annexation Act of 1965, but City staff does not recommend annexation of the High Street Property at this time; 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 and wastewater collection facilities exist in the area and main extensions are not required to extend service to the Property; and

WHEREAS, the Property Owner 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 Owner has irrevocably consented to, among other things, annex the Property to the City, transfer the groundwater rights associated with the Property to the City; 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 High Street subdivision 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 Colorado Springs Utilities’ water and wastewater service at the Property for commercial use is in the best interest of the City and meets all applicable requirements of the law.

Section 2. The City Council hereby finds that annexation of the High Street Property is not in the best interest of the citizens of the City.

Section 3. The City Council hereby approves water and wastewater service outside the corporate limits of the City of Colorado Springs to the Property for commercial 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 Owner execute a new Agreement to Annex.

Section 4. 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:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk