

**KETTLE CREEK ADDITION NO. 1
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT "Agreement", dated this ___ day of _____, 20___, is between the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), and Mark D. George, Lynn M. George, Waldo S. Pendleton, and Rebecca A. Pendleton all together herein referred to as the "Owner" or "Property Owner"). The City and Owner together may be referred to as the Parties, or separately as a Party.

I.
INTRODUCTION

The Owner owns all the real property located in El Paso County, Colorado, identified and described on the legal description attached as Exhibit A ("Property" or "Owner's Property").

The growth of the Colorado Springs metropolitan area makes it likely that the Property will experience development in the future. The Owner will be required to expend substantial funds for the installation of infrastructure needed to serve the Property and, therefore, desires to clarify Owner's obligations for installation of or payment for any off-site infrastructure or improvements and cost recoveries available to the Owner for services to the Property. Subject to the terms and conditions set forth in this Agreement, both the City and Owner wish to annex the Property into the City to ensure its orderly development. In consideration of the mutual covenants contained in this Agreement, the receipt and sufficiency of which are acknowledged by each of the Parties, the City and Owner agree as follows.

II.
ANNEXATION

The Owner has petitioned the City for annexation of the Property as set forth in Exhibit A. Subject to Article II below, the annexation will become effective upon final approval by the City Council and the recording of this annexation agreement, the annexation plat, the Kettle Creek Addition No 1 special warranty deed and irrevocable consent to the appropriation, withdrawal, and use of groundwater as forth in Exhibit B and the annexation ordinance with the El Paso County Clerk and Recorder.

III.
LAND USE

The Kettle Creek Annexation Land Use Plan for the Property has been proposed and submitted to the City for approval. Owner will comply with the approved Land Use Plan and subsequent amendments ("Kettle Creek Annexation Land Use Plan") approved in accord with the Unified Development Code of the Code of the City of Colorado Springs 2001, as amended ("UDC").

IV.
ZONING

Zoning. The City agrees to recommend that the initial zone for the Owner's Property shall be R-Flex Medium/SS-O/AF-O (Residential-Flex Medium Scale with Streamside and United States Air Force Academy Overlays) upon annexation. While zoned R-Flex Medium/SS-O/AF-O with the intent to establish Residential Land Use at a density range of 5-16 dwelling units per acre for a 19.88 acres site, a development plan shall be required for any use. Owner acknowledges an Avigation Easement will be placed over the entire Property at the time of zoning. Owner acknowledges and understands that City Council determines the appropriate zone for the Property, and the City's recommended zone does not bind Planning Commission or City Council.

V.
PUBLIC FACILITIES

A. General. As land is annexed into the City it is anticipated that land development will occur. In consideration of this land development, the City requires public facilities and improvements to be designed, extended, installed, constructed, dedicated and conveyed as part of the land development review and construction process. Public facilities and improvements are those improvements to property which, after being constructed by the Owner and accepted by the City, shall be maintained by the City or another public entity. Generally, the required public facilities and improvements and their plan and review process, design criteria, construction standards, dedication, conveyance, cost recovery and reimbursement, assurances and guaranties, and special and specific provisions are addressed in the UDC. Public facilities and improvements include but are not limited to: 1.) Utility facilities and extensions for water, wastewater, fire hydrants, electric, gas, streetlights, telephone and telecommunications (For water, wastewater, gas and electric utility service, refer to Chapter 12 of the City Code and Section VI. "Utilities Services" and Section VII. "Water Rights" of this Agreement.); 2.) Streets, alleys, traffic control, sidewalks, curbs and gutters, trails and bicycle paths; 3.) Stormwater infrastructure to convey stormwater located in the Right of Way; 4.) Arterial roadway bridges; 5.) Parks; 6.) Schools; and 7.) Other facilities and improvements required by a specific land development proposal.

It is understood that all public facilities and improvements shall be subject to the UDC, unless specifically stated otherwise in this Agreement. Those specifically modified public facilities and improvements provisions are as follows:

B. Metropolitan Districts. The Owner intends to place the Property within the boundaries of Kettle Creek Metropolitan District (the "Metro District") to be created immediately after annexation of the Property to finance, design, extend, install, construct and maintain specific public facilities and improvements as identified in this Agreement and as permitted by law. The public facilities and improvements include, among other things, various tracts for landscaping and drainage, and public utility and off-site utility infrastructure, all as identified or to be identified in the various development plans and/or plats for the Property. The Owner agrees that all such public facilities and improvements shall be identified in such development plans, plats and/or construction documents for the Property, and that except as set forth in this Agreement or in any other agreement between the City and the Owner, such public facilities and improvements will be the responsibility of the Owner to finance, design, extend, install, construct, and maintain. Where public improvements are referenced in this Agreement and indicate construction, financing, operation or maintenance by the Owner, the Owner shall be allowed to utilize the Metro District for such purposes to the extent legally allowed.

C. Streets, Bridges and Traffic Controls. The Owner agrees to construct, at the Owner's expense, those streets, bridges and traffic improvements adjacent to or within the Property. These improvements shall also include mutually acceptable dedications of right-of-way and easements, and extension of streets and right-of-way. UDC sections 7.4.304(F) (Cost Reimbursement by the City) and 7.4.305 (Arterial Roadway Bridges) are excluded as City participation or reimbursement for Arterial Streets and Arterial Bridges within the Property will not be allowed.

1. On-Site or Adjacent Streets: Owner agrees to comply with timing and phasing of construction responsibilities outlined specifically on the Land Use Plan and any subsequent amendments. All internal public roadways including Kettle Creek Road shall be constructed to a city standard classification as indicated on the approved Land Use Plan.
 - a. Old Ranch Road. The Owner shall be responsible for all costs, including design and construction, associated with the improvements to Old Ranch Road as follows:
 - i. Dedicating thirteen (13) feet of right-of-way and an eight (8) foot public improvement

easement along the entire southerly portion of the Property along Old Ranch Road.

- ii. Providing a new intersection of Kettle Creek Road with Old Ranch Road that is a ninety (90) degree angle.
- iii. Providing an eastbound left turn lane on Old Ranch Road at the Old Ranch Road/Kettle Creek Road intersection that is one hundred fifty-five (155) feet long with a one hundred sixty (160) feet long transition taper.

2. Off-Site Streets and Bridges: Not Applicable.

3. Traffic Control Devices. Owner shall pay for installation of traffic and street signs, striping, and traffic control devices, and permanent barriers, together with all associated conduit for all streets within or contiguous to the Property as determined necessary by the City and in accord with uniformly applied criteria set forth by the City.

D. Drainage. Final Drainage Reports and Plans shall be prepared and submitted by the Owner to the City and approved by the Stormwater Enterprise (SWENT) Manager. A Preliminary Drainage Report shall be prepared and submitted by the Owner to the City and approved by the SWENT Manager prior to recording subdivision plats. Owner shall comply with all drainage criteria, standards, policies and ordinances in effect at the time of development. The Owner shall comply with the 4 Step Process and provide detention for all developed areas, to be owned and maintained by the Owner.

A SWENT channel stabilization fee in-lieu program exists for Kettle Creek adjacent to this development and Owner has elected to participate in said program. Therefore, instead of designing and constructing the physical channel improvements along Kettle Creek adjacent to this development required by Step 3 of the 4 Step Process, Owner shall be responsible for the payment of a channel stabilization fee ("Channel Fee") to SWENT. The 2025 Kettle Creek Channel Fee is \$676 per linear foot (LF) of channel per side of channel. The total linear footage of the Kettle Creek channel located adjacent to this development, measured along the channel centerline / flowline, has been calculated as 1,287 LF. Therefore, Owner's total 2025 Channel Fee obligation is $\$676/\text{LF} * 1,287 \text{ LF} = \$870,012.00$. This Channel Fee obligation payment (\$870,012.00) must be received by SWENT prior to recording any subdivision plat within the annexation area in 2025. If the recordation of the plat(s) does not occur in 2025, then the Channel Fee must be adjusted for inflation and the adjusted / current year Channel Fee paid prior to the plat recordation. The 2026 Kettle Creek Channel Fee will be inflation adjusted / increased by the same yearly percentage increase due to inflation that is applied to the City's 2026 Drainage, Bridge and Pond Fees ("drainage basin fees"). Since a 2.2% increase due to inflation was recently approved by the City/County Drainage Board for the 2026 drainage basin fees, Owner's total 2026 Channel Fee obligation will be $\$691/\text{LF} * 1,287 \text{ LF} = \$889,317.00$. This Channel Fee obligation payment (\$889,317.00) must be received by SWENT prior to recording any subdivision plat within the annexation area in 2026. Should plat recordation not occur until 2027 or beyond, this Channel Fee obligation payment must again be adjusted for inflation based on the approved percentage increases in drainage basin fees in all future years.

E. Parks: Any residential uses are subject to applicable land dedication requirements for neighborhood and community park land as required by the UDC.

F. Schools: Any residential uses are subject to school fees as required by the UDC.

G. Improvements Adjacent to Park and School Lands. Streets and other required public improvements adjacent to park and school lands dedicated within the Property will be built by the Owner without reimbursement by the City or the School District.

VI.

UTILITY SERVICES

A. Colorado Springs Utilities' (UTILITIES) Services: UTILITIES' water, non-potable water, wastewater, electric, streetlight, and natural gas services ("Utility Service" or together as "Utility Services") are available to eligible customers upon connection to UTILITIES' facilities or utility systems on a "first-come, first-served" basis, provided that (among other things) the City and UTILITIES determine that the applicant has paid all applicable charges and fees and meets all applicable requirements of the City's Code of Ordinances ("City Code"), UTILITIES Tariffs, Utilities Rules and Regulations ("URRs"), and Line Extension and Service Standards ("Standards") for each Utility-Service application. In addition, the availability of Utility Services is contingent upon the terms detailed herein and the dedication or conveyance of real and personal property, public rights-of-way, private rights-of-way, or easements that UTILITIES determines are required for the extension of any proposed Utility Service from UTILITIES' utility system facilities that currently exist or that may exist at the time of the proposed extension or connection.

Owners shall ensure that the connections and/or extensions of Utility Services to the Property are in accordance with this Agreement and with the requirements of City Code and UTILITIES' Tariffs, URRs, and Standards, and Pikes Peak Regional Building Department codes in effect at the time of Utility Service connection and/or extension. Owners acknowledge responsibility for the costs of any extensions or utility system improvements that are necessary to provide Utility Services to the Property or to ensure timely development of integrated utility systems serving the Property and areas outside the Property as determined by UTILITIES.

Owners acknowledge that UTILITIES' connection requirements shall include Owners' payment of all applicable charges and fees, including without limitation, development charges, water resource fees, recovery-agreement charges, advance recovery-agreement charges, aid-to-construction charges and other fees or charges applicable to the requested Utility Service. Because recovery agreement charges, advance recovery-agreement charges, and aid-to-construction charges may vary over time and by location, Owners are responsible for contacting UTILITIES' Customer Contract Administration at (719) 668-8111 to ascertain which fees or charges apply to the Property in advance of development of the Property.

B. Dedications and Easements: Notwithstanding anything contained in Article XI of this Agreement to the contrary, Owners, at Owners' sole cost and expense, shall dedicate by plat and/or convey by recorded document, all property (real and personal) and easements that UTILITIES determines are required for any utility-system facilities necessary to serve the Property or to ensure development of an integrated utility system. UTILITIES shall determine the location and size of all property necessary to be dedicated or otherwise conveyed.

Owners shall provide UTILITIES all written, executed conveyances prior to or at the time of platting or prior to the development of the Property as determined by UTILITIES.

Further, all dedications and conveyances of real property must comply with the City Code, the City Charter, and UTILITIES Tariffs, URRs, and Standards, and shall be subject to UTILITIES' environmental review. Neither the City nor UTILITIES has any obligation to accept any real property interests. All easements by separate instrument shall be conveyed using UTILITIES' then-current Permanent Easement Agreement form without modification unless approved by UTILITIES.

If Owners, with prior written approval by UTILITIES, relocate, require relocation, or alter any existing utility facilities within the Property, then the relocation or alteration of these facilities shall be at the Owners' sole cost and expense. If UTILITIES determines that Owners' relocation or alteration requires new or updated easements, then Owners shall convey those easements prior to relocating or altering the existing utility facilities using UTILITIES' then-current Permanent Easement Agreement form without modification unless approved by UTILITIES. UTILITIES will only relocate existing gas or electric facilities during time frames and in a manner that UTILITIES determines will minimize outages and loss of service.

C. Extension of Utility Facilities by UTILITIES:

1. Natural Gas and Electric Facilities: Subject to the provisions of this Article, City Code, and UTILITIES Tariffs, URRs, and Standards, UTILITIES will extend electric and gas service to the Property if UTILITIES, in its sole discretion, determines there will be no adverse effect to any Utility Service or utility easement. Owners shall cooperate with UTILITIES to ensure that any extension of gas or electric facilities to serve the Property will be in accordance with City Code and UTILITIES Tariffs, URRs, and Standards. UTILITIES, in its sole discretion, may require Owners to pay upfront for the extension of any electric service or facilities, including any necessary electric transmission or substation facilities, in accordance with UTILITIES URRs and Tariffs.

- a. Owners shall be solely responsible for providing the just compensation for electric distribution facilities and service rights specified in C.R.S. §§ 40-9.5-204 plus all costs and fees, including but not limited to, attorneys' fees that UTILITIES incurs as a result of or associated with the acquisition of such electric service territory; and
- b. Owners shall be solely responsible for all costs: (1) to remove any existing electric distribution facilities within the Property that were previously installed by the then-current electric service provider ("Existing Facilities"); and (2) to convert any overhead electric lines to underground service lines ("Conversion") as determined by UTILITIES.
- c. Within 30 days of Owners' receipt of an invoice for the following:
 1. Owners shall pay the former electric service provider, directly, for the just compensation specified in C.R.S. §§ 40-9.5-204 (1) (a) and 40-9.5-204 (1) (b); and
 2. If the former electric service provider removes the Existing Facilities, then Owners shall pay the former electric service provider directly for the removal of any Existing Facilities.
 3. Further, Owners shall pay UTILITIES the just compensation specified in C.R.S. §§ 40-9.5-204 (1) (c) and 40-9.5-204 (1) (d) within 30 days of Owners' receipt of an invoice for such costs.
 4. Owners shall also pay for any Conversion required by UTILITIES as a result of such annexation concurrent with the execution of a contract between the Owners and UTILITIES that specifies the terms of Conversion.

2. Permanent Natural Gas Service

a. Greenhouse Gas Emissions

Given new and changing regulations regarding greenhouse gas (GHG) emissions, UTILITIES may require improvements above and beyond requirements in effect at the

time of annexation, such as beneficial electrification, battery storage, solar, or other options, to meet regulatory requirements; provided, however, that UTILITIES agrees that all such UTILITIES' requirements shall be uniformly applied to all similarly situated UTILITIES' customers. Further, the Owner acknowledges that UTILITIES may refuse new connections to its natural gas service system if state or federal regulations dictate or if UTILITIES determines such action is necessary or desirable to meet state GHG emission reduction targets; provided, however, that UTILITIES agrees that any such refusal of new connections shall be uniformly applied to all similarly situated prospective UTILITIES' customers.

3. Water and Wastewater Facilities: In accordance with City Code, UTILITIES shall be responsible for the construction of centralized water and wastewater treatment facilities needed to serve the Property. In the event UTILITIES or other developers design and construct other water or wastewater system improvements UTILITIES determines are needed to ensure an integrated water or wastewater system is available to serve the Property, Owners shall be required to pay Owners' pro rata share of cost recovery for the engineering, materials, and installation costs incurred by UTILITIES or the other developer in its design, construction, upgrade, or improvement of any water pump stations, water suction storage facilities, water transmission and distribution pipelines, or other water system facilities and appurtenances and any wastewater pump stations, wastewater pipeline facilities, or other wastewater collection facilities and appurtenances.

D. Water and Wastewater System Extensions by Owners: Owners must extend, design, and construct all potable and non-potable water system facilities and appurtenances, and all wastewater collection system facilities, wastewater pump stations, and any water or wastewater service lines to and within the Property at Owners' sole cost and expense in accordance with City Code and UTILITIES' Tariffs, URRs, and Standards in effect at the time of each specific request for water or wastewater service. Consistent with City Code § 7.4.303(B)(2) and 7.4.306(B)(2), Owners shall complete the design and installation, and obtain preliminary acceptance of such utility facilities, prior to UTILITIES' approval of Owners' water and wastewater service requests. Notwithstanding the above requirements, UTILITIES may enter into cost-sharing agreements with Owners for water and wastewater system expansions based on a determination of benefit to UTILITIES, in UTILITIES' sole discretion.

E. Limitation of Applicability: The provisions of this Agreement set forth the requirements of the City and UTILITIES in effect at the time of annexation of the Property. These provisions shall not be construed as a limitation upon the authority of the City or UTILITIES to adopt different ordinances, rules, regulations, resolutions, policies or codes which change any of the provisions set forth in this Agreement so long as these provisions apply to the City generally and are in accord with the then-current tariffs, rates, regulations and policies of UTILITIES. City Code, UTILITIES' Tariffs, URRs and Standards shall govern the use of all Utilities Services.

F. Southeastern Colorado Water Conservancy District: Notice is hereby provided that upon annexation, and as a condition of receiving water service from UTILITIES, the Property must be included in the boundaries of the Southeastern Colorado Water Conservancy District ("District") pursuant to C.R.S. § 37-45-136 (3.6) as may be amended, and the rules and procedures of the District. Further, notice is hereby provided that, after inclusion of the Property into the boundaries of the District, the Property shall be subject to a property tax mill levy or other payment in lieu of taxes for the purposes

of meeting the financial obligations of the District. Owners acknowledge that water service for the Property will not be made available by UTILITIES until the Property is formally included within the boundaries of the District. District inclusion requires consent by the Bureau of Reclamation ("Reclamation"). Owners shall be responsible for taking all actions necessary for inclusion of the Property into the boundaries of the District, including but not limited to, any action required to obtain Reclamation's consent to include the Property into the District.

VII. WATER RIGHTS

As provided in the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater ("Deed"), which is attached to this Agreement and hereby incorporated by reference, Owners grant to the City, all right, title and interest to any and all groundwater underlying or appurtenant to and used upon the Property, and any and all other water rights appurtenant to the Property (collectively referred to as "the Water Rights"), together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the City to appropriate, withdraw and use the Water Rights. The Deed conveying the Water Rights shall be executed by the Owners concurrently with this Agreement and shall be made effective upon the date of the City Council's final approval of the annexation of the Property. The Deed shall be recorded concurrent with the recording of the annexation agreement, annexation plat, and annexation ordinance at the El Paso County Clerk and Recorder's office.

Furthermore, upon recordation of the Deed, pursuant to C.R.S. § 37-90-137(4), as now in effect or hereafter amended, on behalf of Owners and all successors in title, Owners irrevocably consent to the appropriation, withdrawal and use by the City of all groundwater underlying or appurtenant to and used upon the Property.

In the event the City chooses to use or further develop the Water Rights that have been conveyed, Owners agree to provide any and all easements required by the City prior to the construction and operation of any City well or water rights related infrastructure on the Property. Wells constructed by the City outside the Property may withdraw groundwater under Owners' Property without additional consent from Owners.

Upon recording of the Deed, any wells or groundwater developed by Owners prior to recording will become subject to UTILITIES' applicable Tariffs, URRs, Standards, and rates as amended in the future. Owners' uses of groundwater shall be subject to approval by the City and UTILITIES, and shall be consistent with City Code, UTILITIES' Tariffs, URRs, Standards, and the City's resolutions and policies for the use of groundwater now in effect or as amended in the future. No commingling of well and City water supply will be permitted. If Owners determine not to use any existing wells on the Property, Owners shall plug and abandon any such wells on the Property in compliance with the State of Colorado Division of Water Resources ("DWR") procedures and provide UTILITIES with a copy of such DWR abandonment approval prior to receiving utility service from UTILITIES.

VIII. FIRE PROTECTION

The Owner understands and acknowledges that the Property may be excluded from the boundaries of the Tri-Lakes Monument Fire District (the "Fire District") under the provisions applicable to special districts, Article 1 of

Title 32 C.R.S., and as otherwise provided by law. Upon request by the City, the person who owns the Property at the time of the City's request agrees to apply to the Fire District for exclusion of the Property from the Fire District. The Owner understands and acknowledges that the Owners, its heirs, assigns and successors in title are responsible for seeking any exclusion from the Fire District and that the City has no obligation to seek exclusion of any portion of the Property from the Fire District.

IX.
FIRE PROTECTION FEE

The Owner shall be subject to the requirements of UDC section 7.5.532 regarding Citywide Development Impact Fees.

X.
POLICE SERVICE FEE

The Owner shall be subject to the requirements of UDC section 7.5.532 regarding Citywide Development Impact Fees.

XI.
PUBLIC LAND DEDICATION

Owner agrees that any land dedicated or deeded for municipal or utility purposes, including park and school sites, shall be platted and all applicable development fee obligations paid, and shall be free and clear of liens and encumbrances. All fees that would be applicable to the platting of land that is to be dedicated to the City (including park and school land) shall be paid by Owner. Fees will be required on the gross acreage of land dedicated as of the date of the dedication in accord with the fee requirements in effect as of the date of the dedication. All dedications shall be platted by the Owner prior to conveyance, unless otherwise waived by the City.

In addition, any property dedicated by deed shall be subject to the following:

- A. All property deeded to the City shall be conveyed by General Warranty Deed.
- B. Owner shall convey the property to the City within 30 days of the City's written request.
- C. Any property conveyed to the City shall be free and clear of any liens and/or encumbrances.
- D. All property taxes levied against the property shall be paid by the Owner through the date of conveyance to the City.
- E. An environmental assessment of the property must be provided to the City for review and approval, unless the City waives the requirement of an assessment. Approval or waiver of the assessment must be in writing and signed by an authorized representative or official of the City.

XII.
SPECIAL PROVISIONS

Notwithstanding anything in this Agreement to the contrary, the obligations of Owner and the effectiveness of this Agreement, including but not limited to the annexation of the Property into the City and any related land use, zoning, or development obligations, are expressly conditioned upon the final closing ("Closing") under the Purchase and Sale Agreement dated October 28, 2024 ("Purchase Agreement"), between Waldo S. Pendleton and Rebecca A. Pendleton and Mark D. George and Lynn M. George as Seller, and Challenger Communities, LLC, a Colorado limited liability company, as Buyer, with respect to a portion of the Property ("Closing").

In the event the Closing does not occur for any reason on or before _____ ("Outside Closing Date"), or the Purchase Agreement is terminated prior to the Outside Closing Date, this Agreement shall be null and void and of no further force or effect, and neither the City nor Owner shall have any further rights, duties, or obligations hereunder. Any actions taken by the City in reliance on this Agreement prior to such termination shall be deemed withdrawn, and no vested rights shall arise from this Agreement.

This Agreement shall not be recorded nor shall the annexation become effective until the occurrence of the Closing. Termination of this Agreement upon failure of the Closing shall be automatic and shall not require further action by City or Owner.

XIII.
ORDINANCE COMPLIANCE

Owner will comply with all tariffs, policies, rules, regulations, ordinances, resolutions and codes of the City which now exist or are amended or adopted in the future, including those related to the subdivision and zoning of land, except as expressly modified by this Agreement. This Agreement shall not be construed as a limitation upon the authority of the City to adopt different tariffs, policies, rules, regulations, ordinances, resolutions and codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally.

XIV.
ASSIGNS AND DEED OF TRUST HOLDERS

As used in this Agreement, the term "Owner" or "Property Owner" shall also mean any of the heirs, executors, personal representatives, transferees, or assigns of the Owner and all these parties shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original parties hereto. Rights to specific refunds or payments contained in this Agreement shall always be to the Owner unless specifically assigned to another person.

Owner affirmatively state that there exist no outstanding deeds of trust or other similar liens or encumbrances against the Property.

XV.
RECORDING

This Agreement and any subsequent amendments shall be recorded with the Clerk and Recorder of El Paso County, Colorado, and constitute a covenant running with the land. This Agreement shall be binding on future assigns of the Owner and all other persons who may purchase land within the Property from the Owner or any persons later acquiring an interest in the Property. Any refunds made under the terms of this Agreement shall be made to the Owner and not subsequent purchasers or assigns of the Property unless the purchase or

assignment specifically provides for payment to the purchaser or assignee and a copy of that document is filed with the City.

XVI.
AMENDMENTS

This Agreement may be amended by joint agreement between the City and any party, including their respective successors, transferees, or assigns, without the consent of any other non-City party or its successors, transferees, or assigns but only as applied to the property owned by the amending party at the time of the amendment. For the purposes of this article, an amendment shall be deemed to apply only to property owned by the amending party if this Agreement remains in full force and effect as to property owned by any non-amending party.

XVII.
HEADINGS

The headings for the different sections of this Agreement are for convenience and reference only and do not define or limit the scope or intent of any of the language of the Agreement and shall not be construed to affect in any manner the terms or the interpretation or construction of the Agreement.

XVIII.
DEFAULT AND REMEDIES

If either Owner or City fails to perform any material obligation under this Agreement, and fails to cure the default within thirty (30) days following notice from the non-defaulting party of that breach, then a breach of this Agreement will be deemed to have occurred and the non-defaulting party will be entitled, at its election, to either cure the default and recover the cost thereof from the defaulting party, or pursue and obtain against the defaulting party an order for specific performance of the obligations under this Agreement and, in either instance, recover any actual damages incurred by the non-defaulting party as a result of that breach, including recovery of its costs and reasonable attorneys' fees incurred in the enforcement of this Agreement, as well as any other remedies provided by law.

XIX.
GENERAL

Except as specifically provided in this Agreement, City agrees to treat Owner and the Property in a non-discriminatory manner relative to the rest of the City. In addition, any consent or approval required in accord with this Agreement from the City shall not be unreasonably withheld, conditioned or delayed. City agrees not to impose any fee, levy or tax or impose any conditions upon the approval of development requests, platting, zoning or issuance of any building permits for the Property, or make any assessment on the Property that is not uniformly applied throughout the City, except as specifically provided in this Agreement or authorized pursuant to the City Code. Any fee provided for in this Agreement shall be in addition to, and not in lieu of, any impact fee or development requirement required by or authorized pursuant to the City Code. If the annexation of the Property or any portion of the Property is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in the disconnection of the Property from the City, then this Agreement and all its provisions shall be null and void and of no further effect. If the referendum challenge fails, then Owner and City shall continue to be bound by all terms and provisions of this Agreement.

XX.
SEVERABILITY

If any provision of this Agreement is for any reason and to any extent held to be invalid or unenforceable, then such finding shall not affect either the remainder of the Agreement or the application of the provisions to other entities

IN WITNESS WHEREOF, the parties hereto have executed the Agreement as of the date first written above.

CITY OF COLORADO SPRINGS

BY: _____
Blessing A. Mobolade, Mayor

ATTEST:

BY: _____
Sarah B. Johnson, City Clerk

APPROVED AS TO FORM:

BY: _____
Office of the City Attorney

DRAFT

DRAFT

EXHIBIT A
[Exhibit A of the [Annexation Agreement](#)]

LEGAL DESCRIPTION

BARRON  LAND, LLC

LEGAL DESCRIPTION
KETTLE CREEK ADDITION NO.1

Lots 1, 2, and 3, Block 1, Pendleton Subdivision, filed for record on March 13, 1970, under Reception No. 719194 in the official records of the El Paso County Clerk and Recorder.

TOGETHER WITH

Kettle Creek Road, a 60' public right-of-way as established on Pendleton Subdivision, filed for record on March 13, 1970, under Reception No. 719194 in the official records of the El Paso County Clerk and Recorder.

The above parcels being more particularly described as follows:

That portion of the Southeast Quarter of Section 21 and a portion of the Northwest Quarter of Section 28, Township 12 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, being more particularly described as follows:

BEGINNING at a point on the East line of Lot 3, Block 1, Pendleton Subdivision, filed for record on March 13, 1970, under Reception No. 719194 in the official records of the El Paso County Clerk and Recorder, said point also being the North Quarter Corner of said Section 28; thence S 00°15'21" E along said East line (Bearings are based upon the North line of the Northeast Quarter of Section 28, Township 12 South, Range 66 West of the 6th P.M., monumented at the North Quarter Corner of Section 28 with a 1 1/4" brass cap on 1" diameter pipe stamped "GLW LS 6359" and monumented at the Northeast Corner of Section 28 with a 3 1/4" aluminum cap stamped "LS 10956", said line bears N 89°42'01" E, a measured distance of 2641.89 feet.), a distance of 308.91 feet to the Southeast corner of said Lot 2;
thence S 80°40'16" W along the South line of Lot 2 of said Block 1, Pendleton Subdivision, a distance of 872.71 feet to the Southwest corner of said Lot 2, also being the Northeast corner of Lot 1, of said Block 1, Pendleton Subdivision;
thence S 01°10'01" W along the East line of said Lot 1, a distance of 651.86 feet to the Southeast corner of said Lot 1;
thence S 86°43'51" W along the South line of said Lot 1, said South line also being the North right-of-way line Old Ranch Road as recorded in Book 2288 at Page 416 in the official records of the El Paso County Clerk and Recorder, a distance of 827.55 feet to the Southwest corner of said Pendleton Subdivision;
thence N 42°02'48" E along the West line of said Pendleton Subdivision, said West line also being the West right-of-way line of Kettle Creek Road as established in said Pendleton Subdivision, a distance of 1661.35 feet;
thence continuing along said West right-of-way line, 157.00 feet along the arc of a 50.00 foot radius curve to the right, having a central angle of 179°54'37" and a chord that bears N 78°57'00" E, a distance of 100.00 feet to a point on the West line of said Lot 3;

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City File No. ANEX-25-0002

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thence N 42°03'52" E along the West line of said Lot 3, a distance of 410.89 feet;
thence N 20°39'37" E continuing along said West line, a distance of 118.28 feet to the Northwest corner of said Lot 3;
thence N 89°29'01" E along said north line, a distance of 168.68 feet to the Northeast corner of said Lot 3;
thence S 00°18'16" E along said East line of Lot 3, a distance of 520.84 feet to the POINT OF BEGINNING.

Containing a calculated area of 866,126 square feet, 19,884 acres of land, more or less.



Spencer J. Barron
Colorado Professional Land Surveyor No. 38141
For and on behalf of Barron Land, LLC

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City File No. ANEX-25-0002

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By: _____

Name: **Lynn M. George** _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____, Grantor.

Witness my hand and official seal.
My Commission Expires: _____

(SEAL) Notary Public

Accepted by the City of Colorado Springs:

By: _____ this _____ day of _____, 20____
Real Estate Services Manager

By: _____ this _____ day of _____, 20____.
Colorado Springs Utilities Customer Utility Connections Manager

Approved as to Form:

By: _____ Date: _____
City Attorney's Office

Exhibit A
[Exhibit A of the [Special Warranty Deed](#)]

LEGAL DESCRIPTION

To the
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater
executed by **Mark D. George and Lynn M. George**, Grantor(s) on _____.

BARRON  LAND, LLC

LEGAL DESCRIPTION
GEORGE PARCEL

That portion of the Southeast Quarter of Section 21 and a portion of the Northwest Quarter of Section 28, Township 12 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Lot 2, Block 1, Pendleton Subdivision as described in that Warranty Deed recorded on June 08, 1993, under Reception No. 2305436 in the official records of the El Paso County Clerk and Recorder.

Containing a calculated area of 233,052 square feet (5.350 acres) of land, more or less.



Spencer J. Barron
Colorado Professional Land Surveyor No. 38141
For and on behalf of Barron Land, LLC

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Exhibit B
[Exhibit B of the [Special Warranty Deed](#)]

To the
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater
executed (**Mark D. George and Lynn M. George**), Grantor(s) on _____.

[CSU: THIS SECTION TO BE UPDATED BY COLORADO SPRINGS UTILITIES.]

Decreed Groundwater Rights

Case No.

Court:

Source:

Amount:

Date of Decree:

Name of Owner :

Permitted Groundwater

Permit No.

Date of Permit:

Source:

Amount:

Name of Owner :

Legal Description of Well or other structure:

Surface Water Rights

Name of Water Right:

Case No.

Court:

Source:

Amount:

Date of Decree:

Name of Owner :

Exhibit A
[Exhibit A of the [Special Warranty Deed](#)]

LEGAL DESCRIPTION

To the
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater
executed by **Waldo S. Pendleton and Rebecca A. Pendleton**, Grantor(s) on _____.

BARRON  LAND, LLC

LEGAL DESCRIPTION
PENDLETON PARCEL

That portion of the Southeast Quarter of Section 21 and a portion of the Northwest Quarter of Section 28, Township 12 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Lot 1, Block 1, Pendleton Subdivision as described in that Beneficiary Deed recorded on October 09, 2018, under Reception No. 218117681 in the official records of the El Paso County Clerk and Recorder.

TOGETHER WITH

Lot 3, Block 1, Pendleton Subdivision as described in that Beneficiary Deed recorded on October 09, 2018, under Reception No. 218117682 in the official records of the El Paso County Clerk and Recorder.

Containing a calculated area of 527,770 square feet (12.116 acres) of land, more or less.



Spencer J. Barron
Colorado Professional Land Surveyor No. 38141
For and on behalf of Barron Land, LLC

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Exhibit B
[Exhibit B of the [Special Warranty Deed](#)]

To the
Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater
executed (**Waldo S. Pendleton and Rebecca A. Pendleton**), Grantor(s) on _____.

[CSU: THIS SECTION TO BE UPDATED BY COLORADO SPRINGS UTILITIES.]

Decreed Groundwater Rights

Case No.
Court:
Source:
Amount:
Date of Decree:
Name of Owner :

Permitted Groundwater

Permit No.
Date of Permit:
Source:
Amount:
Name of Owner :
Legal Description of Well or other structure:

Surface Water Rights

Name of Water Right:
Case No.
Court:
Source:
Amount:
Date of Decree:
Name of Owner :