AMARA ADDITION NO. 12
ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the "Agreement"), dated this ___ day of _____, 2024, is between **THE CITY OF COLORADO SPRINGS, a home rule city and Colorado municipal corporation** (the "City"), on the one hand, and **BJ RANCHES, LLC, a Colorado limited liability company** (the "Owner"), on the other. The Owner or the City may be referred to individually as a "Party" or together as the "Parties".

I.
INTRODUCTION

The Owner owns all of the real property located in El Paso County, Colorado, more particularly identified and described on the legal description attached as **Exhibit A** (the "Property"). The development proposed for the Property and contemplated herein is sometimes referred to herein as the "Amara Project".

Growth of the Colorado Springs metropolitan area makes it likely that the Property will be developed in the future. The Owner will be required to expend substantial funds to install infrastructure needed to service the Property. Therefore, the Owner desires to clarify its rights and obligations with respect to, among other things, installation of or payment for off-site and on-site infrastructure or improvements. Additionally, the Parties wish to clarify the City's agreements to provide services to the Property and to make cost recoveries available to the Owner, among other things more particularly set forth herein. Subject to the terms and conditions set forth in this Agreement, both the City and the Owner wish to annex the Property into the municipal bounds of the City of Colorado Springs to ensure the Property's 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 the Owner each agree as follows.

II.
ANNEXATION

The Owner has petitioned the City for annexation of the Property described in **Exhibit A** attached hereto. The annexation will become effective upon final approval by the City Council and upon the recording with the El Paso County Clerk and Recorder (the "Records") of each of the following: (1) this Agreement; (2) the annexation plat; (3) the Amara Addition No. 11 special warranty deed, and irrevocable consent to the appropriation, withdrawal, and use of groundwater and (4) the annexation ordinance.

This agreement is intended to as a subsequent annexation agreement as part of the overall Amara Annexation to include as a whole the Amara Additions No. 11 through 23 Annexation. The provisions contained in the Amara Addition No. 11 Annexation Agreement shall apply to the Property described herein and any of the property described in the Amara Annexation. All provisions of the Amara Addition No. 11 Annexation Agreement will extend to the Property as part of the overall annexation and included in the Agreement.

All references to the Property refer to the real property legally described in **Exhibit A** attached hereto, except as otherwise expressly indicated.

III.
LAND USE

Master Plan. The Owner has proposed and submitted to the City for approval the Amara Master Plan (File No. CPC MP 21-00208) (the "Amara Master Plan"). The Owner agrees to comply with the approved Amara Master Plan or any amendment to the Amara Master Plan approved in accordance with applicable provisions of the Code of the City of Colorado Springs 2001, as amended (the "City Code"). All references to City Code include any revisions or recodifications that may happen in the future.

IV.
ZONING

A. Zoning. The City, through the City's Planning and Community Development Department ("City Planning"), agrees to recommend that the initial zoning for the Property be "A (Agricultural)" upon annexation. The City and the Owner acknowledge that the "A (Agricultural)" zoning for the Property is only a holding zone until the Owner is ready to develop all or portions of the Property. At the time of development of all or portions of the Property, the Owner will be required to petition the City for a specific zoning designation that is appropriate for development of the subject portion of the Property being proposed for development, all in compliance with the Amara Master Plan. At that time, a full public process is recommended to discuss potential land uses. No potential land uses are established with this Agreement. The Owner acknowledges that the Property may also be subject to an Avigation Easement to be imposed over the entire Property. The Owner further acknowledges and understands that the City Council determines what an appropriate zoning designation is for all or portions of the Property, and that the recommendation for zoning in this Agreement does not bind the Planning Commission or City Council to adopt the recommended zoning for the Property.

B. Change of Zoning. Any future change of zoning request for all or any portion of the Property shall conform to the Amara Master Plan, as approved or as amended by the City in the future. Rezoning in accordance with the zones reflected in the Amara Master Plan will occur prior to actual development of all or any applicable portion of the Property.

V.
PUBLIC FACILITIES

A. Metropolitan Districts. Metropolitan Districts shall be governed by Article V of the Amara Addition No. 11 Annexation Agreement as if fully set forth in this agreement.

B. Streets, Bridges, and Traffic Control. Streets, Bridges, and Traffic Control shall be governed by Article V of the Amara Addition No. 11 Annexation Agreement as if fully set forth in this agreement.

C. Drainage. Drainage shall be governed by Article V of the Amara Addition No. 11 Annexation Agreement as if fully set forth in this agreement.

D. Parks. The Owner shall comply with City Code and Parkland Dedication Ordinance.

E. Schools. The Owner shall comply with any applicable City Code section, as amended, with respect to school dedications.

G. Improvements Adjacent to Park and School Lands. Streets and other required public improvements, including utilities, adjacent to park lands dedicated within the Property will be built by the Owner, subject to City Code requirements.

H. City Service Center. The City Service Center shall be governed by Article V of the Amara Addition No. 11 Annexation Agreement as if fully set forth in this agreement.

VI.
UTILITY SERVICES

Utilities shall be provided as set forth in the Amara Addition No. 11 Annexation Agreement.

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, the Owner grants 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 Owner 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 this Agreement, the annexation plat, and the annexation ordinance at the El Paso County Clerk and Recorder's office.

Furthermore, pursuant to C.R.S. § 37-90-137(4), as now in effect or hereafter amended, on behalf of the Owner and all successors in title, the Owner irrevocably consents 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, the Owner agrees 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 the Owner's Property without additional consent from the Owner.

Upon annexation of the Property, any wells or groundwater developed by the Owner prior to annexation will become subject to UTILITIES' applicable Tariffs, URRs, Standards, and rates as amended in the future. The Owner's 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.

Notwithstanding any other provision of this Article VII, the Owner shall be allowed to re-permit, and if necessary, rehabilitate the two (2) existing groundwater wells appurtenant to the Property – Permit Nos. 237443--A and 255690 ("Wells") – as issued by the Colorado Division of Water Resources, for temporary non-potable construction water use and subsequently non-potable irrigation of public spaces, including: parks, commonly owned or maintained landscaping, golf courses, other public recreational areas. The Owner's permitting, rehabilitation and use of the Wells for any of these purposes shall comply with URRs, Tariffs and Standards, as revised and shall be at the Owner's sole cost and expense. Because the Property is located outside UTILITIES' augmentation plan boundary, the Owner shall, at its sole costs and expense, obtain all required approvals from the State of Colorado and/or Water Court necessary for operation of the Wells including, but not limited to, approval of a substitute water supply plan and augmentation plan for the Wells. The Owner's rehabilitation, permitting and use of the Wells is also subject to the Owner and Utilities successfully negotiating and entering into an augmentation service agreement prior to the Owner's use of the re-permitted and rehabilitated Wells. No commingling of well and City water supply will be permitted. At such time the Owner elects to discontinue using any of the Wells described herein, the Owner shall: (1) plug and abandon the Wells in accordance with all applicable regulations; and (2) provide notice of such plugging and abandonment to UTILITIES.

VIII.
FIRE PROTECTION

The Owner understands and acknowledges that the Property may be excluded from the boundaries of the Hanover & Ellicott Fire Districts (the "Fire Districts") 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 entity owning the Property at the time of the City's request agrees to apply to the Fire Districts for exclusion of the Property from the Fire Districts. The Owner understands and acknowledges that the Owner, its heirs, assigns and

successors in title are responsible for seeking any exclusion from the Fire Districts and that the City has no obligation to seek exclusion of any portion of the Property from the Fire Districts. The Colorado Springs Fire Department ("CSFD") has determined that it will need two (2) fire stations for the Amara Project, and the Owner will be required to dedicate the land for such fire stations to the City at a time determined by the CSFD based on predicted or actual call volume and distribution. The size and location of the parcels of land to accommodate the two (2) fire stations are shown on the Amara Master Plan. In order to adequately serve the Property, Owner shall provide a temporary station to be used by the City until the permanent fire stations are complete with build-out, locations, type and timing determined by CSFD.

IX.
FIRE PROTECTION FEE

The Owner shall be subject to the requirements of City Code § 7.5.532 regarding Citywide Development Impact Fees.

X.
POLICE SERVICE FEE

The Owner shall be subject to the requirements of City Code § 7.5.532 regarding Citywide Development Impact Fees.

XI.
PUBLIC LAND DEDICATION

Public land dedication shall be governed by Article XI of the Amara Addition No. 11 Annexation Agreement as if fully set forth in this agreement.

XII.
SPECIAL PROVISIONS

Intentionally left blank - not applicable.

XIII.
ORDINANCE COMPLIANCE

The 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 "the 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. The Owner affirmatively states that there exist no outstanding deeds of trust or other similar monetary liens or monetary encumbrances against the Property.

XV.
RECORDING

This Agreement shall be recorded in the Records, 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 any party, including their respective successors, transferees, or assigns, and the City without the consent of any other party or its successors, transferees, or assigns so long as the amendment applies only to the property owned by the amending party. 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.

Any amendment shall be recorded in the Records, shall be a covenant running with the land, and shall be binding on all persons or entities presently possessing or later acquiring an interest in the property subject to the amendment unless otherwise specified in the amendment.

XVII.
HEADINGS

The headings set forth in this Agreement for the different sections of this Agreement are for reference only and shall not be construed as an enlargement or abridgement of the language of the Agreement.

XVIII.
DEFAULT AND REMEDIES

If either the Owner or the 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, the City agrees to treat the 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. The 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 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 the Owner and the 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 neither the remainder of the document nor the application of the provisions to other entities, persons or circumstances shall be affected. All exhibits attached to this Agreement are incorporated herein by this reference.

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:_____
City Attorney's Office

OWNER:
BJ RANCHES, LLC

By: _____

Name: _____

Title: _____
(Owner)

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____day of_____, 20__ , by _____, as _____ for and on behalf of BJ RANCHES, LLC.

Witness my hand and notarial seal.
My commission expires: _____

_____
Notary Public

EXHIBIT A
LEGAL DESCRIPTION

AMARA ADDITION NO. 12 ANNEXATION LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF SECTION 7, TOWNSHIP 15 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF GOVERNMENT LOTS 1 AND 2, IN SECTION 7, TOWNSHIP 15 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTHERLY END BY A 3-1/4" ALUMINUM SURVEYORS CAP IN RANGE BOX STAMPED "EL PASO COUNTY DOT 2000 LS 17496: FLUSH WITH GROUND AND AT THE SOUTHERLY END BY A 3-1/4" ALUMINUM SURVEYORS CAP STAMPED "PS INC 1994 PLS 12103" FLUSH WITH GROUND IS ASSUMED TO BEARS N00°17'10"W, A DISTANCE OF 2635.08 FEET.

COMMENCING AT THE WEST QUARTER CORNER SECTION 7, TOWNSHIP 15 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO SAID POINT BEING THE **POINT OF BEGINNING;**

THENCE N00°17'10"W, ON THE WEST LINE OF GOVERNMENT LOT 2, SECTION 7, TOWNSHIP 15 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN A DISTANCE OF 312.08 FEET;
THENCE N89°52'36"E, A DISTANCE OF 2807.81 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 7;
THENCE S00°42'33"E, ON THE EAST LINE OF THE NORTHWEST QUARTER, A DISTANCE OF 736.00 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 7;
THENCE S00°41'25"E, ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 7, A DISTANCE OF 312.07 TO THE SOUTH QUARTER CORNER OF SAID SECTION 7;
THENCE S00°41'50"E, ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 7, A DISTANCE OF 1318.84 FEET;
THENCE S89°54'50"W, A DISTANCE OF 2819.05 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 7;
THENCE N00°18'31"W, ON THE WEST LINE OF SAID GOVERNMENT LOT 3 IN SECTION 7, A DISTANCE OF 2635.66 FEET TO THE **POINT OF BEGINNING.**

CONTAINING A CALCULATED AREA OF 105.274 ACRES (4,585,747 SF).

EXHIBIT B

SPECIAL WARRANTY DEED AND IRREVOCABLE CONSENT
TO THE APPROPRIATION, WITHDRAWAL AND USE OF GROUNDWATER
AMARA ADDITION NO. 12

BJ RANCHES, LLC, a Colorado limited liability company (the "Grantor(s)"), whose address is _____ Colorado, in consideration of the benefits received pursuant to the AMARA ADDITION NO. 12 Annexation Agreement dated _____ ("Annexation Agreement"), which is executed by Grantor(s) concurrently with this Special Warranty Deed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, sell and convey to the City of Colorado Springs, Colorado ("Grantee"), whose address is 30 S. Nevada Avenue, Colorado Springs, CO 80903, all right, title, and interest in any and all groundwater underlying or appurtenant to and used upon the property described in Exhibit A ("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 Grantee to appropriate, withdraw and use the Water Rights; and Grantor(s) warrants title to the same against all claims arising by, through, or under said Grantor(s). The Water Rights include but are not limited to those described in Exhibit B.

Furthermore, pursuant to C.R.S. § 37-90-137(4) as now exists or may later be amended, Grantor(s), on behalf of Grantor(s) and any and all successors in title, hereby irrevocably consent in perpetuity to the appropriation, withdrawal and use by Grantee of all groundwater underlying or appurtenant to and used upon the Property.

This Special Warranty Deed and the consent granted herein shall be effective upon the date of the City of Colorado Springs-City Council's final approval of the Annexation Agreement.

Executed this _____ day of _____, 20_____.

GRANTOR(s):

By: _____

Name: _____

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

LEGAL DESCRIPTION

To the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater executed by **BJ RANCHES, LLC, a Colorado limited liability company**, Grantor(s) on _____.

AMARA ADDITION NO. 12 ANNEXATION LEGAL DESCRIPTION

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CONTAINING A CALCULATED AREA OF 105.274 ACRES (4,585,747 SF).

Exhibit B

To the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater executed by **BJ RANCHES, LLC, a Colorado limited liability company**, Grantor(s) on _____.

Decreed Groundwater Rights
Case No.: N/A
Court: N/A
Source: N/A
Amount: N/A
Date of Decree: N/A
Name of Owner: N/A

Permitted Groundwater
Permit No.: 237443--A
Date of Permit: November 6, 2001
Source: Not specified on permit
Amount: 15 GPM
Name of Owner: Dellora A. Norris Trust c/o Barnhart Pump Co
Legal Description of Well or other structure: SE 1/4, SW 1/4, Section 19, Township 15 S, Range 64 W, Sixth P.M.

Permit No.: 255690
Date of Permit: March 10, 2004
Source: Not specified on permit
Amount:15 GPM
Name of Owner: Robert C. Norris c/o Barnhart Pump Co
Legal Description of Well or other structure: SE 1/4, SW 1/4, Section 19, Township 15 S, Range 64 W, Sixth P.M.

Surface Water Rights
Name of Water Right: N/A
Case No.: N/A
Court: N/A
Source: N/A
Amount: N/A
Date of Decree: N/A
Name of Owner: N/A