

**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

This Modified and Restated Wastewater Facilities Participation, Utilization, and Service Agreement ("Agreement") is entered into this 10th day of February, 2009 ("Effective Date"), by and between Colorado Springs Utilities ("Utilities"), an enterprise of the City of Colorado Springs, a Colorado home rule city and municipal corporation (the "City"), whose address is P.O. Box 1103, Colorado Springs, Colorado 80903, and The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (hereinafter together referred to as "Developer"), whose address is 4100 MacArthur Boulevard, Suite 100, Newport Beach, CA 92660 (Utilities and Developer are hereinafter together referred to as the "Parties").

RECITALS

WHEREAS, the Parties entered into the Wastewater Facilities Participation, Utilization and Service Agreement, effective as of the 24th day of January 2006, (recorded on February 16, 2006, at Reception No. 206024599 in the El Paso County real property records), as modified by that First Amendment, effective as of the 24th day of February 2006 (recorded on February 12, 2007, at Reception No. 207020090 in the El Paso County real estate records), and that Second Amendment, effective as of the 31st day of March 2006 (recorded on February 12, 2007, at Reception No. 207020091 in the El Paso County real estate records), that Third Amendment, effective as of the 14th day of April 2006 (recorded on February 12, 2007, at Reception No. 207020092 in the El Paso County real estate records), that Fourth Amendment, effective as of the 3rd day of August 2006 (recorded on February 12, 2007, at Reception No. 207020093 in the El Paso County real estate records), that Fifth Amendment, effective as of the 28th day of February 2007 (recorded on April 19, 2007, at Reception No. 207053258 in the El Paso County real estate records), that Sixth Amendment, effective as of the 29th day of March 2007 (recorded on April 11, 2007, at Reception No. 2070490841 in the El Paso County real estate records); and that Seventh Amendment, effective as of the 11th day of December 2007 (recorded on January 24, 2008, at Reception No. 208009615 in the El Paso County real estate records) (collectively referred to herein as the "CSRWRF Agreement");

WHEREAS, on the 24th day of January 2006, Developer owned the real property legally described in **Exhibit A** attached hereto; and

WHEREAS, Developer has begun, and desires to continue, development in the Banning Lewis Ranch annexation area and desires Interim (as defined below) and long-range wastewater service for such development; and

WHEREAS, City and Developer are parties to the Annexation Agreement (defined below) which anticipated the possibility of construction of interim utility facilities under certain terms and conditions, which are as specified herein; and

WHEREAS, the Annexation Agreement anticipated construction of a new regional wastewater reclamation facility ("New WWTF") to service the long-range wastewater needs of the JCC Basin; and

WHEREAS, Annexors will fund all infrastructure related to providing wastewater service to the JCC Basin (defined below) as provided in the Annexation Agreement and as further detailed below; and

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WHEREAS, Developer will provide interim wastewater extension facilities in accordance with the Annexation Agreement; and

WHEREAS, Utilities is willing to provide Interim (defined below) wastewater service; and

WHEREAS, the Parties entered into the CSRWRF Agreement to set forth, in greater detail than is set forth in the Annexation Agreement, the terms and conditions for the design, construction and operation of the New WWTF and connections thereto, the provision of Interim wastewater service, and the funding and the reimbursement of costs in connection with such facilities and Interim service; and

WHEREAS, the Annexation Agreement provided that the New WWTF would be located on a site owned by the LFMSDD but allows CITY and ANNEXORS to otherwise agree to an other location; and

WHEREAS, the Parties agree that, considering current economic and engineering data, it is anticipated to be more cost effective to provide wastewater service to the JCC Basin by constructing the New WWTF on existing Utilities property at the LVWWTP (as defined below); and

WHEREAS, the Parties agree to locate the New WWTF at the LVWWTP; and

WHEREAS, by this Agreement, the Parties wish to modify and restate the CSRWRF Agreement with this Agreement, in part, to evidence the agreement to locate the New WWTF at the LVWWTP, to comply with the Annexation Agreement regarding wastewater facilities, to serve the JCC Basin and to specify the provision of capacity to the JCC Basin;

NOW, THEREFORE, in consideration of the Annexation Agreement, the CSRWRF Agreement, the Recitals, the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

I. DEFINITIONS

- A. **“Account”** means the trust account detailed in Section VIII.B.2. below.
- B. **“Advance Recovery Agreement”** means the agreement forms attached hereto as **Exhibit B** as it may be amended by Utilities from time to time. Utilities collects Advance Recovery Agreement fees from any District Annexor, non-District Annexor or any non-Annexor within the JCC Basin while a subject area is being provided service through Interim facilities.
- C. **“Annexation Agreement”** means the Annexation Agreement recorded with the El Paso County Clerk and Recorder on September 23, 1988, in Book 5557 at Page 405 as clarified by that certain Agreement dated September 2004 recorded on March 16, 2005, at Reception No. 205037381 (the “Settlement Agreement”) addressing issues raised in the declaratory judgment action, Case No. 01-CV-0566.

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- D.** “**Annexor**” means one of the parties, individually, to the Annexation Agreement, its successors and assigns, except for the City and the Banning Lewis Ranch Planning Association, Inc.
- E.** “**Annexor First in Need**” means the Annexor that Utilities Determined is the first in need of the Work and is thus responsible for funding the Work.
- F.** “**Annexors**” means collectively, all of the Annexor parties (or, if applicable, their designated successors or assigns as specified in Section XIX.A of the Annexation Agreement) to the Annexation Agreement.
- G.** “**Assignment**” means Developer’s assignment of its rights and obligations under this Agreement to District as further detailed in Section VII.B below and using the form of assignment attached as **Exhibit C** and the assignment by District to District No. 1 as further detailed in Section VII.B below and using the form of assignment attached as **Exhibit Q**.
- H.** “**Average Flow**” means the 30-day high average wastewater flow as such flow is used by the State of Colorado to calculate permit flow limits. On a per SFE basis, as of the effective date, this equates to 200 gallons-per-day (“GPD”), as may be amended by Utilities in the future in conformance with Utilities design standards, and which may change upon actual flow metering analysis.
- I.** “**Budget**” has the meaning set forth in Section III.E below.
- J.** “**Charges**” means those specific Advance Recovery Agreement charges and Recovery Agreement charges as established by Utilities Rules and Regulations, as such charges may be amended as Determined by Utilities from time to time. The term “Charges” does not include the JCC Basin Development Charge or other Utilities specific fees. Charges constitute the “System Development Charge” referenced in the Annexation Agreement.
- K.** “**Concept Design Table**” means the table, attached hereto as **Exhibit D**, as may be amended from time to time as Determined by Utilities after notice to and considering input by Developer. The Concept Design Table specifies Work required to provide capacity to the JCC Basin.
- L.** “**Construction Capacity**” means, for Initial Interim Capacity, the capacity at which the JCC Basin capacity treated from the Initial Interim Pipeline reaches a Peak Flow of 2.57 MGD (2.7 MGD multiplied by 95%); and for Interim Capacity, the capacity at which the JCC Basin capacity treated from the JCC Diversion reaches an Average Flow of 3.8 MGD (4.0 MGD multiplied by 95%); and for Phase I: Plant capacity, the capacity at which the State of Colorado would require Utilities to commence construction for additional capacity or cease issuance of building permits as detailed in C.R.S. § 25-8-501 (5) (d) and (e), as such law may be amended from time to time, whether or not such law applies. Phase I: Plant capacity shall be determined considering only flow from the JCC Basin. At the Effective Date, the Phase I: Plant Construction Capacity is 95%.
- M.** “**Determine(s)(d)**” or “**Determination**” each mean that when Utilities makes any determination, decision, or approval, or when imposing any requirements required by this

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Agreement, such determination, decision, approval, or imposition shall be in Utilities' sole discretion except that Utilities shall: i) comply with the Annexation Agreement as clarified by this Agreement; ii) treat all funds provided by Developer in the same manner as public funds; iii) take into account the standard of care and professional skill relating to public improvement projects; iv) take into consideration a balance of the interests of Developer and the other Annexors, the City, non Annexor Utility customers within the JCC Basin, and Utilities rate payers; and v) take into consideration the criteria for decisions and determinations explicitly provided in this Agreement, the requirements of the Utilities Rules and Regulations and the procurement regulations promulgated thereunder, Utilities policies and procedures, the City Charter, the City Code, and applicable local, state, and federal laws, rules, and regulations. Whether or not explicitly stated, when Utilities makes any determination, decision, or approval, or when imposing any requirements required by this Agreement, such determination, decision, approval, or imposition shall be subject to this Section M as if "Determined by Utilities" were expressly written. Any consent or approval required under the Annexation Agreement shall not be unreasonably withheld.

- N. "Development Reports"** means that report or reports described in Section III.F below.
- O. "District"** means Banning Lewis Ranch Regional Metropolitan District, formerly known as Banning Lewis Ranch Metropolitan District No. 6, a special district formed under C.R.S. §32-1-101 et. seq., a copy of which is filed and of record with the El Paso County District Court in Case No. 05CV3836, as such District shall be amended and restated as required in Section VII.A. below.
- P. "Escrow"** means the escrow account detailed in Section VIII.B.3. below.
- Q. "Estimates"** means those estimated capacities, costs and expenses, and/or dates listed in the Concept Design Table and/or future estimated capacities, costs, expenses, and/or dates, plus estimated Facilities fees and costs of 5% for legal, and administrative fees, in addition to permitting fees and 20% for engineering fees for Utilities constructed Tasks, as such estimates may be amended from time to time by Utilities at its Determination subject to Section VIII.A. Estimates are Class 5 estimates as such term is used by the American National Standards Institute. All cost and expense components of the Estimates are in dollars for the year noted on the Design Concept Table.
- R. "Facilities"** means cumulatively all infrastructure, Work, and improvements, as detailed in the Concept Design Table that Utilities Determines are necessary to provide wastewater service to the JCC Basin.
- S. "Financial Assurance"** means Developer provided assurance or guarantee of payment for Projects through a letter(s) of credit in the form of **Exhibit E**, as may be amended by Utilities from time to time.
- T. "Initial Interim Capacity"** means the total amount of Interim service capacity available for the JCC Basin's use as detailed in Section IV.A.
- U. "Install"** means, without limitation, the planning, design, permitting, construction, and installation (as detailed in the Concept Design Table) in accordance with Utilities' Rules and

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Regulations and standard practices and procedures, as may be amended from time to time, and subject to Utilities' approval.

- V. **“Interim”** means wastewater flow and or facilities that are not in conformance with Utilities' long range plans, as used in the Utilities Rules and Regulations, as may be amended from time to time.
- W. **“Interim Capacity”** means the total amount of temporary service capacity available for Developer use until such time as detailed in Section IV.A.
- X. **“Initial Interim Pipeline”** means collectively, Segment 3A – Phase 2 – project 2006-S178 and Segment 3A – Phase 3 project 2006-S179. The Initial Interim Pipeline is graphically depicted on **Exhibit F**, attached hereto.
- Y. **“JCC Basin”** means the Jimmy Camp Creek Wastewater Service Area as defined by the FIMS database as may be amended from time to time by Utilities in accordance with City and Utilities regulations, policies and procedures to reflect changes solely related to localized grading; the JCC Basin includes the Upper East Fork of the Sand Creek Wastewater Drainage Basin. At the Effective Date, the JCC Basin is as depicted on **Exhibit G**, attached hereto.
- Z. **“JCC Diversion”** means the 4 MGD lift station and pipe or equivalent infrastructure to obtain 4 MGD Interim Capacity, as detailed in the Concept Design Table and contemplated under Section IV.A. below.
- AA. **“LVWWTP”** means the Las Vegas Wastewater Treatment Plant.
- BB. **“Manual”** means The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property, as may be amended from time to time.
- CC. **“MGD”** or **“mgd”** means millions of gallons per day.
- DD. **“Necessary Improvements”** means those improvements to existing, permanent facilities or connections thereto, that Utilities determines, in its discretion, considering, among other things, input from Developer, are necessary to provide Initial Interim Capacity or Interim Capacity. Necessary Improvements are detailed in the **Exhibit H**.
- EE. **“Necessary Improvements – Treatment”** means those improvements to permanent treatment facilities, that Utilities Determines are necessary or appropriate to provide wastewater service through the Facilities. Necessary Improvements – Treatment shall be detailed in the Concept Design Table.
- FF. **“Off-Site Lines”** means all public wastewater pipes (excluding service pipes extending from a premises to the public main) together with all appurtenances and necessary manholes, service taps, pump stations, and associated materials, property, and equipment that are outside the boundaries of the JCC Basin, but that connect the JCC Basin to the LVWWTP and/or the J.D. Philips Water Reclamation Facility.
- GG. **“On-Site Lines”** means all public wastewater pipes (excluding service pipes extending from a premises to the public main) together with all appurtenances and necessary manholes, service

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taps, pump stations, and associated materials, property, and equipment that are located within the JCC Basin and that connect the JCC Basin to the Off-Site Lines.

- HH.** “**Peak Flow**” means Average Flow times a factor of 1.8 (e.g. 1.8 x 200 GPD) or a flow of 360 gallons-per-day per SFE, as such factor may be amended by Utilities in the future, which may change upon actual flow metering analysis.
- II.** “**Phase I: Plant**” means the Install of the Phase I capacity Estimated as detailed in the Concept Design Table, as such capacity may be adjusted by mutual agreement of the Parties.
- JJ.** “**Phase II: Plant**” means the Install of the Phase II capacity Estimated as detailed in the Concept Design Table, as such capacity may be adjusted by mutual agreement of the Parties.
- KK.** “**Planning Capacity**” means, for Initial Interim Capacity, the JCC Basin capacity at which the capacity treated from the Initial Interim Pipeline reaches a Peak Flow of 2.16 MGD (2.7 MGD multiplied by 80%); and for Interim Capacity, the JCC Basin capacity at which the capacity treated from the JCC Diversion reaches a Average Flow of 3.2 MGD (4.0 MGD multiplied by 80%); and for Phase I: Plant capacity, the capacity at which the State of Colorado would require Utilities to begin planning for additional capacity as detailed in Colorado Revised Statute § 25-8-501(5)(d), (e) and CDPHE Regulation 61, as such law and regulation may be amended from time to time, whether or not such law applies. Phase I: Plant capacity shall be determined considering only flow from the JCC Basin. At the Effective Date, the Phase I: Plant Planning Capacity is 80%.
- LL.** “**Pledge**” means to use assets as security for repayment of debt incurred for the Work.
- MM.** “**Project**” means a Developer (on behalf of Annexors) funded, Utilities Installed undertaking as detailed in the Concept Design Table.
- NN.** “**Proportional Share of Capacity**” means a JCC Basin entity’s proportional share of wastewater capacity, as compared to all other JCC Basin entities that will have capacity in the Facilities, as Determined by Utilities in its Discretion considering, among other things, the Development Reports, projected flow rates while accounting for water quality, and Developer’s input.
- OO.** “**Proportional Share of Cost**” means a JCC Basin entity’s proportional share of the total costs and expenses of the Work, based upon that entity’s Proportional Share of Capacity versus all other JCC Basin entities, as determined by Utilities in its Discretion, considering, among other things, Developer’s input. Such total costs and expenses include, but are not limited to, actual labor and non-labor costs for planning, permitting, engineering, design, project management, inspection, construction, testing, procurement, easement procurement, advertising, fees, and legal expenses directly related to Install of the Facilities, plus associated labor and administrative and general overheads.
- PP.** “**Recovery Agreement(s)**” means an agreement and associated request and checklist in the form attached as **Exhibit I**, as may be amended from time to time in accordance with Utilities Rules and Regulations. Recovery Agreements are approved, as Determined by Utilities, after

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construction of infrastructure to reimburse a developer for oversized infrastructure or when infrastructure is used to serve other property owners served by the infrastructure. Despite any definition in this Agreement to the contrary, Recovery Agreement Charges for Work are as defined in the Utilities Rules and Regulations and as detailed in Section XIV.T.

- QQ.** “**Service Contracts**” means applications to Utilities for utility connection and service and subsequent water and wastewater service.
- RR.** “**SFE**” means single family equivalent.
- SS.** “**Task**” means a Developer funded and Installed task as detailed in the Concept Design Table.
- TT.** “**Utilities Rules and Regulations**” means the rules and regulations governing Utilities as established by City Council, and as may be amended from time to time.
- UU.** “**WWMF Report**” means the January 2005 Banning Lewis Ranch, Wastewater Master Facility Report, as may be amended from time to time.
- VV.** “**Work**” means all of the Projects and Tasks as detailed in the Concept Design Table, which shall be updated as necessary based upon capacity, flow, and the Development Reports.

II. TERM

The term of this Agreement shall be from the Effective Date through completion of and final payment for all Work for the Install of the Facilities.

III. GENERAL PROVISIONS

- A. Management & Contracts.** Utilities, considering, among other things, the Concept Design Table and the Budget and Developer’s input, shall Determine and manage all Project contracts and all Install of the Facilities, except as detailed in Sections IV. and VI. below. Utilities may require that contracts for each of the Projects that it manages be put out for a competitive bid, the process of which will be in compliance with Utilities standards and procedures, as they may be amended from time to time. When selecting the successful bidder(s) for any such contract(s), Utilities will consider, among other things, Developer’s input to the extent that it does not interfere with Utilities standard competitive bidding process, timing, cost effectiveness, capital costs and operation and maintenance costs. Utilities shall provide written notice to Developer should Utilities approve any change in the scope of work in Utilities’ construction contracts related to the Phase I: Plant or the Phase II: Plant, if such change causes a stated guaranteed maximum or “not to exceed” contract price to increase by more than \$150,000 in 2008 dollars or 5% of then current year dollars, whichever is less over such original contract price. Utilities shall consider pricing as a factor in the selection of the design engineer.
- B. Information and Consultation.** At Developer’s sole cost and expense and written request to Utilities, Utilities shall provide to Developer any and all requested information relating to the Projects, including, without limitation, all plans and specifications, and any and all non-proprietary information from the designing engineer and the designing contractor for the Phase

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I: Plant and the Phase II: Plant, subject to terms and conditions of Utilities' standard confidentially agreement. At Developer's sole cost and expense, the successful bidder(s) for any construction contracts for the Phase I: Plant and the Phase II: Plant may provide a secure internet site showing, at a minimum, any changes in scope as detailed in Section III.A. All information regarding any such written request that is provided on such an internet site shall satisfy Utilities' obligation, if any, to provide such information.

Except for the definitions of Planning Capacity and Construction Capacity, Utilities shall have final and ultimate Determination over all aspects of the Initial Interim Capacity, Interim Capacity, and Facilities, considering, among other things, the factors explicitly detailed in this Agreement. Developer shall have reasonable access to make inspections on construction occurring on any construction site for the Phase I: Plant and the Phase II: Plant, provided that all such visits are scheduled in advance with the Utilities project manager for a mutually acceptable time. All communications by Developer to any Project contractor shall be made through Utilities' representatives as designated in accordance with Section III.C. below. Notwithstanding the involvement of Developer as set forth in this Agreement, all professional responsibility for work under a Project construction contract shall be solely the responsibility of Utilities' contractor, and Developer shall not have any responsibility therefor.

- C. **Representatives.** The Parties agree that Utilities and Developer shall each, by written notice to the other, designate representatives to act on its behalf under this Agreement and all contact regarding this Agreement shall be made through the representatives. The representatives may be changed by similar written notice.
- D. **Schedule.** Utilities shall provide an update to the schedule for design and construction of the Phase I: Plant and the Phase II: Plant Projects, commencing with the first complete calendar quarter after the flow from Annexors to LVWWTP has reached Planning Capacity, and each calendar quarterly thereafter. The schedule may be adjusted more frequently from time to time, by and as Determined by Utilities, which shall consider, among other things, the Development Reports from Annexors and flow measurements.
- E. **Budget.** Utilities, considering, among other things, Developer's input, shall develop the Budget for the Phase I: Plant and the Phase II: Plant Projects within a reasonable period of time after the design of each is completed. The Budget shall include, without limitation, Estimates for actual labor and non-labor costs for planning, permitting, engineering, design, project management, inspection, construction, testing, procurement, advertising, fees, and legal expenses directly related to the Install of the Phase I: Plant and the Phase II: Plant Projects, plus associated labor and administrative and general overheads. The initial Estimates are in the Concept Design Table. The Budget shall be updated annually considering timing, cost effectiveness, capital costs and operation and maintenance costs.
- F. **Development Report.** No later than January 30th of each year during the term of this Agreement, Developer shall submit to Utilities a report that details Developer's development activities of the prior calendar year and a projection of Developer's development activities for the next five (5) years, including an estimate of when Developer expects to reach the Initial Interim Capacity and Interim Capacity limits. Developer may provide, or Utilities may request, additional Development Reports if

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development activity has materially increased or decreased from the prior Development Reports.

- G. Approval of LVWWTP Location.** The Annexation Agreement, Sec. XIV.C.1., provides that service to the JCC Basin will be provided from a new facility located at a site optioned by the LFMSDD “unless otherwise agreed.” By entering into this Agreement, Developer grants its agreement pursuant to Sec. XIV.C.1. to locate the new facility at the LVWWTP as provided by this Agreement. If, as Determined by Utilities, other approvals from the Developer are required to locate the new facility at the LVWWTP, Developer shall provide such approval and not object to the LVWWTP site and if, as Determined by Utilities, approvals from other parties are required to locate the new facility at the LVWWTP, Developer shall not object to such requirement or the procedures that Utilities uses to acquire such approvals.

IV. INTERIM CAPACITY

- A. Design, Permitting and Construction.** Initial Interim Capacity for the JCC Basin shall be limited to a total Average Flow of 1.5 MGD and shall be provided as detailed in the Concept Design Table. Reaching such Average Flow is contingent upon completion by Developer of Necessary Improvements as required by Utilities in its Determination. Such Average Flow shall be measured by adding together the Average Flows from each Utilities approved, Developer Installed, metering station necessary to service the JCC Basin. The first such metering station is located at Utilities manhole i.d. WW. 131537. Measurement shall be in accordance with Utilities Rules and Regulations.

At the earlier of the date necessary to have the JCC Diversion operational by December 31, 2014 and when Initial Interim Pipeline reaches Construction Capacity, then Developer, at its sole cost and expense, shall commence the Install of the JCC Diversion. The JCC Diversion shall be Installed as detailed in the Concept Design Table. Interim Capacity for the JCC Basin shall be limited to a total Average Flow of 4.0 MGD. Measurement of Average Flow shall be in accordance with Utilities Rules and Regulations. Any right to new or additional wastewater connections or new Service Contracts served with Interim Capacity shall terminate if Developer has not commenced construction of the JCC Diversion as detailed above in this section. Initial Interim Capacity shall be completely replaced by Interim Capacity. At Developer’s request, Utilities will inform Developer of the status of the flows from the Interim Pipeline, the JCC Diversion, and the Phase I: Plant relative to Planning Capacity and Construction Capacity.

- B. WWFM Report.** In accordance with Utilities Rules and Regulations, Developer, at its sole cost and expense, shall submit to Utilities a modified WWFM Report reflecting the JCC Diversion as detailed in the Concept Design Table.
- C. Necessary Improvements.** As Determined by Utilities, Developer, at its sole cost and expense, shall fund all Necessary Improvements as detailed in the **Exhibit H**, attached hereto.
- D. Initial Interim Pipeline.** The Initial Interim Pipeline shall become part of the permanent Facilities once the JCC Diversion is operational, as Determined by Utilities, and Developer has delivered permanent easements in the form of **Exhibit J**

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in place of all temporary easements related to the Initial Interim Pipeline. Despite any provision in this Agreement to the contrary, in no case shall Developer be entitled to reimbursement or cost Recovery Agreements from the grantors, their successors and assigns of Initial Interim Pipeline easements for any portion of Segments 3A – Phase 1 and the Initial Interim Pipeline Segments 3A –, Phase 2, or Phase 3 as detailed in **Exhibit F** attached hereto, whether or not those Interim Facilities, or any portion of them, becomes a permanent Utilities facility, but otherwise will be so entitled from other Utilities customers that are users of the Interim Pipeline to the extent described above in this Section IV.D.

- E. JCC Diversion.** The JCC Diversion shall become permanent facilities once the Phase I: Plant is operational, as Determined by Utilities, but only to the extent that all related permanent easements in the form of **Exhibit J** have been provided to Utilities. Developer shall be eligible to use Recovery Agreements and Advance Recovery Agreements for the Install of the JCC Diversion.
- F. Initial Interim Pipeline Easements.** In some cases, when approved by Utilities for the Initial Interim Pipeline, Developer used the “Interim Pipeline Wastewater Line Easement Agreement” form attached hereto as **Exhibit K**. Developer agrees that, at its sole cost and expense, any time any Initial Interim Pipeline easement was granted to Utilities, upon Utilities’ notice to Developer that the section of Initial Interim Pipeline that is the subject of such easement shall be abandoned, Developer, at its sole cost and expense, shall become the owner of such section **AS IS, WHERE IS, AND WITH ALL FAULTS**. To provide actual notice of Developer’s ownership, the Parties shall execute the bill of sale attached hereto as **Exhibit L** as may be amended by Utilities from time to time, which may be recorded with the real property records in El Paso County. Furthermore, upon its ownership, Developer, at its sole cost and expense, shall carry out an in-place abandonment of such section. Such abandonment shall be completed within sixty (60) days of Developer’s ownership subject to force majeure and adverse weather and the abandonment shall comply with all State, Federal, and local laws, rules, and regulations, as well as all Utilities’ rules, regulations, standards, and policies, as any of them may be amended from time to time. Prior to abandonment, Developer, at its sole cost and expense, shall clean the pipeline to a point that any future discharges from the abandoned pipe will not have an impact on State waters in accordance with applicable law and Utilities Rules and Regulations.

Furthermore, the Parties expressly agree that Developer, at its sole cost and expense, is solely responsible for any and all costs arising from or associated with relocation of facilities within Initial Interim Pipeline easements required by the landowner thereof, and for all costs associated with or arising from restoring, replacing, or repairing the easement(s) to its condition prior to Developer’s relocation thereof as reasonably as may be possible.

V. FACILITIES

- A. Location.** The JCC Basin shall ultimately be served by the Facilities subject to the terms and conditions of this Agreement. Developer shall not oppose, in any forum or

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manner, the location of the Facilities provided or proposed to be provided, in accordance with this Agreement.

- B. Annexor First in Need.** Developer, as the Annexor First in Need for the Work, at its sole cost and expense, shall pay for the Work and shall be reimbursed as detailed in Section VIII.A. below.
- C. Easements.** All easements shall be in the form of the standard, Permanent Easement Agreement attached hereto as **Exhibit J**, as may be amended by Utilities from time to time. Developer, at its sole cost and expense, shall obtain all easements necessary for the Work. Utilities agrees to cooperate with the Developer's efforts to obtain permanent easements, using all commercially reasonable efforts, for such easements, at no cost, expense, or liability to Utilities. Utilities and Developer shall work together with a goal of obtaining such easements by the date necessary for each Task or Project. If Utilities Determines that good faith negotiations to obtain easement(s) have been unsuccessful, at Developer's sole cost and expense (including, but not limited to legal and courts costs and fees, and Utilities' time and materials), Utilities may condemn any such easement(s) subject to Utilities Rules and Regulations, the Manual, and applicable law. Despite any provision in this Agreement to the contrary, Developer shall grant any such easement through its own property, at no cost or expense to Utilities, in the form attached as **Exhibit J**, without objection. Utilities hereby acknowledges that Developer has, at its sole cost and expense, obtained all easements necessary for the installation of the Initial Interim Pipeline, except to the extent that Developer must still provide a permanent easement for Segment 3A-Phase 1 project 2005-S132, as well as replace or supplement the Initial Interim Pipelines to permanent Facilities and provide the easements as identified in **Exhibit F** for Segment 3A-Phase 2 project 2006-S178 and Segment 3A-Phase 3 project 2006-S179.
- D. On-going Evaluation.** At Developer's sole cost and expense, Utilities shall perform the "On-going Evaluation of Collection System Study" Project, (as detailed in the Concept Design Table) including developing an ongoing modeling program to monitor and evaluate capacity that is available in Utilities' wastewater collection system and the Facilities to service the JCC Basin. Using such modeling and monitoring, the Estimates in Concept Design Table shall be updated as Determined by Utilities.
- E. Necessary Improvements-Treatment.** As part of the design phase of each treatment Project, Utilities shall perform the "Necessary Improvements-Treatment Evaluation" (as detailed in the Concept Design Table) to Determine the treatment improvements necessary for the LVWWTP and facilities related thereto to serve the JCC Basin. Utilities shall update the Concept Design Table to reflect Projects arising from such evaluations, including, but not limited to, Projects developed due to regulatory and public processes that are part of Install for the Projects.

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F. Phase I: Plant.

1. **Design and Permitting.** Design and permitting for the Phase I: Plant shall be consistent with the Estimated costs specified on the Concept Design Table. The design of the Phase I: Plant shall begin as of the date that the JCC Diversion reaches Planning Capacity.

As necessary, Utilities shall seek approval from the appropriate agencies for the issuance or extension of any permits for the Phase I: Plant. In addition to any other release or indemnification provided by this Agreement, Utilities shall not be liable for direct or consequential damages to Developer should any such extension fail to be approved.

2. **Construction.** Construction of the Phase I: Plant shall commence as of the date that the Interim Capacity reaches Construction Capacity.

G. Phase II: Plant.

1. **Design & Permitting.** Design and permitting for the Phase II: Plant shall be consistent with the Concept Design Table Estimates. Design and permitting shall commence as of the date that the Phase I: Plant reaches Planning Capacity

As necessary, Utilities shall seek approval from the appropriate agencies for the issuance or extension of any permits for the Phase II: Plant. In addition to any other release or indemnification provided by this Agreement, Utilities shall not be liable for direct or consequential damages to Developer should any such extension fail to be approved.

2. **Construction.** Construction of the Phase II: Plant shall begin as of the date that flow from the JCC Basin has reached the Construction Capacity of the Phase I: Plant.

VI. ON-SITE LINES & OFF-SITE LINES

- A. **On-Site Lines Install.** Despite any provision in this Agreement to the contrary, the Install of the On-Site Lines shall be performed in the manner detailed in Utilities Rules and Regulations and as Estimated in the Concept Design Table except that Developer and not Utilities shall Install On-Site Lines as Determined by Utilities. At Developer's sole cost and expense, Utilities shall provide an inspector to, in accordance with Utilities' Line Extension and Service Standards, inspect and have final approval over the Install of the portions of the On-Site Lines for which Developer is responsible. Despite any provision to the contrary in this Agreement or the Utilities Rules and Regulations, as necessary, Developer shall seek approval and any extensions from the appropriate agencies for any permits or extensions for such On-Site Lines, through completion of the Install for the associated On-Site Lines. Utilities shall not be liable for direct or consequential damages to Developer should any such request fail to be approved.

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- B. Off-Site Lines Install.** Despite any provision in this Agreement to the contrary, the Install of the Off-Site Lines shall be performed in the manner detailed in Utilities Rules and Regulations and as Estimated in the Concept Design Table except that Developer and not Utilities shall Install Off-Site Lines as Determined by Utilities. At Developer's sole cost and expense, Utilities shall provide a project coordinator and inspectors to inspect and have final approval over, in accordance with Utilities' Line Extension and Service Standards, the Install of the portions of the Off-Site Lines for which Developer is responsible. Despite any provision in this Agreement to the contrary or the Utilities Rules and Regulations, as necessary, Developer shall seek approval from the appropriate agencies for any permits or related extensions for such Off-Site Lines, through completion of the Install for the associated Off-Site Lines. Utilities shall not be liable should any such extension fail to be approved.
- C. Recoveries.** Except as detailed in IV.D, Developer shall be eligible to use Recovery Agreements and Advance Recovery Agreements for its Install of any On-Site and Off-Site Lines that become a permanent Utilities facility.

VII. DISTRICT

- A. Formation.** Developer shall restate and amend the District such that it shall provide the funding required by this Agreement for the Work and assume Developer's obligations under this Agreement. When restated and amended, the District shall include all of Developer's real property as detailed in **Exhibit A**, exclusive of Lot 2, Block 13 and Lot 9, Block 15, Banning Lewis Ranch Filing No. 7, according to the recorded plat thereof, and all such property shall be subject to this Agreement. Any Annexor(s) or non-Annexor(s) within the JCC Basin shall have the right to include its property in the District so that the District will have the right to act on behalf of such Annexor(s) or non-Annexor(s) within the JCC Basin. The District shall have the authority and obligation to make decisions for and act on behalf of all property owners within the District in relation to this Agreement. The District Service Plan shall be modified to state that District's nonperformance of the obligations detailed in this Agreement shall constitute a material deviation from the District's Service Plan and a breach of the public obligations described thereunder. Such District amendment and restatement must be in full force and effect no later than March 31, 2009. Developer acknowledges that this Agreement in no way obligates the Colorado Springs City Council to approve the District or any restatement and amendment. Utilities agrees not to oppose the formation and use of the District for funding of the Facilities as contemplated in this Agreement, provided that the District meets the requirements of the City's Special District Committee and the City. Despite anything to the contrary in this Agreement, Utilities reserves the right to comment on the restatement and amendment of the District.
- B. District Funding & Assignment.** Developer shall complete Assignment no later than March 31, 2009. After restatement and amendment and Assignment, the District shall provide the funding for the Work to meet Annexors' obligations as required by the Annexation Agreement as clarified and effectuated by this Agreement with regard to wastewater service for the JCC Basin. Furthermore, Developer shall provide a mechanism for Annexors who join the District to act through a single decision making body when interacting with Utilities under this Agreement. After Assignment, the

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Developer may use the District to issue debt to fund Developer's Tasks, Financial Assurances, and/or payment obligations specified herein. Once Assignment has occurred, District shall use an independent auditor to audit its financial books and records on an annual basis. District shall provide such audit information and results to Utilities by July 15th of each year after Assignment.

Upon Assignment, the District shall have all of the rights and obligations of Developer under this Agreement except to the extent that District's rights and obligations differ under this Section VII. To the extent that the District undertakes and performs Developer's responsibilities and obligations under this Agreement, then in that event and to only that extent, Developer shall be relieved from any and all such responsibilities and obligations.

Subject to the conditions set forth below in this paragraph, District shall have the right, but not the obligation, to complete an Assignment, in the form attached hereto as **Exhibit Q**, to the Banning Lewis Ranch Metropolitan District No. 1 ("District No. 1") and upon such Assignment District No. 1 shall have all of the rights and obligations of District under this Agreement, and shall thereafter be deemed to be the "District" for all purposes under this Agreement except in reference to the term "Maximum Debt Mill Levy" below; provided, that as a condition to the Assignment to District No. 1, the District and District No. 1 shall enter into an intergovernmental agreement in a form and of substance satisfactory to Utilities which, at a minimum: (a) obligates District No. 1 to exercise and perform the rights and obligations under this Agreement in the stead of the District, (b) obligates District No. 1 to collect from the District the Maximum Debt Mill Levy, as defined in the Assignment attached hereto as **Exhibit C**, and authorizes District No. 1 to utilize the proceeds of the Maximum Debt Mill Levy to secure general obligation bonds or other forms of indebtedness issued or incurred by District No. 1 to fund District No. 1's obligations under this Agreement, (c) continues the obligation on the part of the District to fund, through District No. 1, the Install of Facilities detailed in the Concept Design Table, which obligation shall constitute a limited tax general obligation of District, payable to District No. 1 from the imposition by the District of the Maximum Debt Mill Levy and from such other revenues of the District as may be legally available to fund, as and when due, District No. 1's obligations under this Agreement, and (d) requires Utilities' express written approval to any District or District 1 intergovernmental agreement that modifies the District or entity that would perform any obligation under this Agreement.

If the District defaults in performing Developer's responsibilities and obligations under this Agreement, Developer shall perform such responsibilities and obligations. In the event of District's alleged default in performance of any of its responsibilities and obligations under this Agreement, Utilities may, in its Determination, proceed against Developer to enforce the Agreement without first proceeding against the District or any other such person, firm, corporation or governmental entity, and may, in its Determination, proceed concurrently against Developer, the District, and any other person, firm, corporation, or governmental entity.

The Parties acknowledge that, to the extent not already reimbursed under Section VIII.A., Developer may seek reimbursement from the District, if applicable, for any payments made by Developer under Sections IV.C., IV. D., IV.E., V, VI, and VIII; for the fair

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market value (as of the time of granting) and costs of easements (within and outside of the JCC Basin) granted to Utilities as needed for the Work; design and permitting costs; and the costs of the Work, unless restricted by City and Utilities' policy, and/or the District's service plan as approved by the City, and unless such easement will ultimately be required to be dedicated to the City for use as City infrastructure, including, but not limited to, a City Right-of-Way, City sidewalk, City crosswalk, or City walking trail. Developer shall notify Utilities when seeking any such reimbursements.

- C. **District Proceeds.** Within the 30-day notice period specified in Section VIII.E. for an impending Project, the District shall place in the Account all District monies collected to pay for such impending Project, including bond issuance proceeds, plus mill levies and District tap fees collected for such impending Project (excluding any such mill levies and District tap fees collected for bond repayment), tap fee proceeds that it raises or collects for such Project. In addition, the District will provide any Financial Assurances as provided in Section VIII. The District shall be entitled to hold and retain any bond proceeds obtained for Tasks, plus mill levies and District tap fees collected for Tasks to be used to fund Developer's Tasks; and, in addition, any bond proceeds, mill levies and District tap fees for Projects not yet Determined by Utilities to be impending Projects.
- D. **Exhibit R.** To obtain the one-time recovery fee detailed in Section XIV.T below, in addition to all other requirements to facilitate the collection of cost recovery for Install of Facilities, District must also comply with all requirements detailed in **Exhibit R**, attached hereto.

VIII. PAYMENT/COSTS

- A. **Cost Recovery.** Reimbursements to Developer for the Work shall be to the extent authorized in the Utilities Rules and Regulations. Total costs and expenses for the Work include, but are not limited to, actual labor and non-labor costs for planning, permitting, engineering, design, project management, inspection, construction, testing, procurement, easement procurement, advertising, fees, debt service, and legal expenses directly related to Install of the Facilities. The total cost of the Work is detailed in the Estimates and is subject to cost recovery through collected Charges as additionally detailed in Sections IV.C., IV.D., IV.E., V.C., VI.C., and VIII.B. Except as detailed in Sections IV.C. and IV.F., Developer shall be eligible to file Recovery Agreements, as established by Utilities Rules and Regulations, for actual costs expended for the Work, including for the applicable cost and fair market value of easements within Developer's property that are granted to Utilities for the On-Site Lines (valued at the time Developer is required to grant such easements) unless restricted by City and Utilities' policy, and/or the District's service plan as approved by the City, and unless such easement will ultimately be required to be dedicated to the City for use as City infrastructure, including, but not limited to, a City Right-of-Way, City sidewalk, City crosswalk, or City walking trail.
- B. **Collection of Charges.**
 - 1. **Timing.** At the time of issuance and approval of Service Contracts, Utilities shall collect Charges, including Advance Recovery Agreement charges for each JCC Basin applicant's Proportional Share of Cost for the Work, in accordance with Section XIV.T, the Utilities Rules and Regulations, the City Code, and as further detailed in this

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Agreement. Utilities may charge a fee for such collection service in accordance with Utilities Rules and Regulations. Developer acknowledges that collecting Charges as of the time of issuance and Approval of Service Contracts will result in the delay of Developer Recovery Agreement reimbursements to the time following the collections preceding issuance and approval of Service Contracts rather than the time following collections preceding at plat recordation.

- 2. Account.** Utilities shall hold any Advance Recovery Agreement charges collected for Projects in the Account subject to the escrow contract in a form substantially similar to that attached as **Exhibit M** as provided herein. The Account shall be a segregated, third-party escrow account held by a third-party financial institution having trust powers with express escrow instructions that limit the use of the funds in the Account to the purposes specified in this Agreement and for no other purpose. The escrow agreement shall specify that the funds in the Account are pledged to the specific Work under this Agreement and will be spent only in accordance with this Agreement. The Account shall bear interest at the short term treasury rate or similar interest provisions. The holder of the Account shall comply with Utilities' instructions directing disposition of the funds for payment of Work regardless of Developer's consent. The method and application of interest to any funds held in the Account shall be as Determined by Utilities, but all interest accrued shall be added to the balance of the Account fund. All escrow and other bank fees and expenses shall be paid directly from the funds held in the Account.
- 3. Escrow.** Utilities shall hold any Advance Recovery Agreement charges collected for applicable Tasks in the Escrow. The Escrow shall be a segregated, third-party escrow account held by a third-party financial institution having trust powers with express escrow instructions that limit the use of the funds in the Escrow to the purposes specified in this Agreement and for no other purpose. The escrow agreement shall specify that, except in the case of material default, the funds in the Escrow are pledged to the specific Tasks under this Agreement and will be spent only in accordance with this Agreement. In the event of a material default, the funds shall be spent in accordance with Section XIII.B. The Escrow shall bear interest at the short term treasury rate or similar interest provisions. The holder of the Escrow shall comply with Utilities' instructions directing disposition of the funds for payment of applicable Tasks regardless of Developer's consent. The method and application of interest to any funds held in the Escrow shall be as Determined by Utilities, but all interest accrued shall be added to the balance of the Escrow fund. All escrow and other bank fees and expenses shall be paid directly from the funds held in the Escrow. To request funds for a Task, the individual or entity Installing the Task must comply with the requirements detailed in the Recovery Agreement attached as **Exhibit I**.
- 4. Pledging & Assignment.** With written confirmation from Utilities that the applicable funds are not committed for current or impending Projects, Developer shall have a right to: i) Pledge, for the repayment of debt incurred for a specific Project, any Advance Recovery Agreement charges in the Account, but only to the extent that upon Pledging, Developer provides to Utilities Financial Assurances in an amount equal to that being pledged, ii) Pledge, to any third party, any Recovery Agreement charges collected for a reimbursable Task; iii) assign, to any third party, any Recovery Agreement charges

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collected for a reimbursable Task; or iv) assign, to the Account, any funds collected from Recovery Agreement charges.

- C. Estimates.** Through completion of the Work, Utilities shall review the Estimates contained in the Concept Design Table and future Estimates, at a minimum, on an annual basis. If Utilities Determines that the Estimates should be adjusted, Utilities will notify Developer in writing and such new Estimates shall replace those previously developed. Utilities shall adjust all Advance Recovery Agreement charges to reflect the changes in the Estimates.
- D. Billing & Payment.** During Install of a Project, Utilities shall pay for such Project by withdrawing applicable funds from the Account. If, at any point, the Account funds fall below the next forty-five (45) days of Project costs, as such costs are projected by Utilities, then Utilities' project manager shall invoice Developer for funds sufficient to restore the Account balance to such levels. The invoice shall be on a monthly basis and sent through Utilities' regular customer invoicing system for each month that there is the shortfall described above. Developer must pay each such invoice on or before the due date indicated on the invoice, which shall be not less than fifteen (15) calendar days. The amounts paid by Developer for such shortfall shall be held in the Account until Utilities withdraws such amounts for the applicable Project.

Within sixty (60) days after the end of each calendar year and completion of the Project, the project manager shall review all monthly billings for the previous calendar year to assure that Developer paid all shortfall amounts due. Any overpayments or underpayments shall be corrected as follows: amounts Determined to have been overpaid by Developer shall be credited towards Project amounts due from Developer and, if not already invoiced, any amounts underpaid by Developer shall be re-invoiced to Developer.

Utilities agrees to reasonably cooperate with the requirements imposed by bond holders for the issuance of debt, which may include, by example, certificates of completion of the Facilities.

- E. Financial Assurances.** At least ninety (90) days prior to entering into a contract to commence Install of a Project(s), Utilities shall provide Developer with written notice Determining whether the funds in the Account that are available in the Account for the specific Projects and non-committed to other impending (i.e., under contract, under negotiation to enter into a contract, in an Request for Proposal or Quotation or Qualification process, or is within ninety (90) days of such events) Projects equal the Estimate for the applicable Project. Upon thirty (30) days notice from Utilities, which such notice shall not be earlier than ninety (90) days after the above specified 90-day notice has been delivered, Developer shall provide Financial Assurances in the form of **Exhibit E** for the Install of such Project(s) as provided below. Developer hereby consents to assignment to the Account, the proceeds from the Financial Assurances, when disbursed in accordance with this Agreement. The Financial Assurances due, if any, shall be in an amount equal to the total Install cost of such Project(s), reduced by the amount of funds for such Project that, as of the date of the notice, are available in the Account for the specific Projects and non-committed to other impending Projects.

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At Developer's request, the Financial Assurances may be reduced once per calendar month to the extent that the then existing Account funds committed to the applicable Project are equal to the total remaining cost of the applicable Project Install.

- F. Time and Materials.** Using a form similar to the contract Time and Materials agreement attached hereto as **Exhibit N**, Utilities shall be entitled to recover all of its actual costs in accordance with Utilities standard policies and procedures, associated with any extraordinary obligations required of Utilities by Developer related to the Work, including, but not limited to costs of additional construction or pipeline Closed Circuit Television inspections necessitated by Developer's construction sequencing.
- G. Common Facilities.** The JCC Basin's proportional share of cost for the "Common Facilities" (as such term is used in the Concept Design Table) will be collected through a Wastewater Development Charge (as defined in Utilities Rules and Regulations) for the JCC Basin, subject to City Council review and approval.

IX. COVENANTS AND WARRANTIES

- A.** Developer covenants and warrants that:

Developer is in good standing with the Delaware Secretary of State and is in good standing with and authorized to do business by, the Colorado Secretary of State;

There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by this Agreement or the real property affected by this Agreement;

The Agreement has been duly authorized, approved, executed, and delivered by and on behalf of Developer and that the Agreement is a legal, valid and binding obligation of Developer enforceable in accordance with its terms;

The person(s) executing this Agreement on behalf of Developer are authorized to do so by Developer; and

Developer has submitted to Utilities a copy of the original Agreement, and the conformity of such copy to the original, as finally executed and delivered by Developer, is authentic.

- B.** Utilities covenants and warrants that this Agreement is a valid and binding agreement of Utilities, enforceable in accordance with its terms.

X. OPERATION AND SERVICE OF FACILITIES

- A.** Following completion of Phase I: Plant and thereafter, Utilities shall make the Facilities operational to serve the needs of the JCC Basin. Utilities will operate the Facilities in a professional manner in accordance with Utilities Rules and Regulations and procedures, and legal requirements.

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- B.** The Parties acknowledge and agree that Developer would not enter into this Agreement without assurance that the Facilities are intended to be available to serve the needs of the JCC Basin, including Annexors' property within the JCC Basin. Accordingly, Utilities will not enter into any agreement not contemplated by this Agreement for the use of the Facilities or permit use of the Facilities in a manner not contemplated by this Agreement that intentionally impairs Utilities' best efforts in providing wastewater service to the Annexors' property in a timely manner when needed for development, as required under the Annexation Agreement as clarified and effectuated by this Agreement.

XI. DISPUTE RESOLUTION

If a dispute arises between the Parties relating to this Agreement, the following procedure applies:

- A.** The Parties shall hold a meeting attended by persons with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution. The meeting shall be held promptly, but in no event later than eleven (11) calendar days after an initial written notice of the dispute by one of the Parties to the other. Such meeting shall not be deemed to reduce or eliminate the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled, unless otherwise agreed to by the Parties in writing.
- B.** If, within fifteen (15) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
- C.** The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within ten (10) calendar days from the conclusion of the meeting referred to above, they shall each select a mediator. The two mediators will then appoint, within five (5) calendar days of their selection, a third mediator who shall, as the sole mediator, conduct mediation for the Parties.

The Parties will schedule the mediation for a date within thirty (30) calendar days after selection of the mediator(s). The Parties agree to participate in good faith in the mediation and negotiations related thereto for a period of thirty (30) calendar days after the mediation. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to litigate the matter subject to the terms of this Agreement.

XII. NOTICE

- A.** All notices necessary or required under this Agreement (except those detailed under Section III.B above) shall be in writing and may be made by personal delivery, sent by overnight delivery service, or mailed by certified mail, postage prepaid and return receipt requested, as follows:

If to Utilities:

**Colorado Springs Utilities
System Extensions Manager**

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Utilities Development Services
111 S. Cascade Ave. Suite 105
P.O. Box 1103, Mail Code 1015
Colorado Springs, Colorado 80947-1015
Phone: (719) 668-8264

With copies to:

and

City of Colorado Springs
City Attorney/Chief Legal Officer
30 South Nevada, Suite 501
Colorado Springs, Colorado 80903
Phone: (719) 385-5518

Colorado Springs Utilities
Project Manager
P.O. Box 1103, Mail Code 1825
Colorado Springs, Colorado 80947-1825

If to Developer, except for any notice necessary or required under Section XIII below:

**The Banning Lewis Ranch
Company, LLC**

Attn: Steven O. Spelman, Jr. Chief Financial Officer
4100 MacArthur Blvd., Suite 100
Newport Beach, CA 92660
Phone: (949) 553-1151

**Banning Lewis Ranch
Management Company, LLC**

Attn: John Cassiani, V.P., Project Operations
90 S. Cascade, Suite 950
Colorado Springs, CO 80903
Phone: (719) 955-7100

Banning Lewis Ranch Development I & II, LLC

Attn: Steven O. Spelman, Jr. Chief Financial Officer
4100 MacArthur Blvd., Suite 100
Newport Beach, CA 92660
Phone: (949) 553-1151

If to Developer for any notice necessary or required under Section XIII below:

If to Developer:

The Banning Lewis Ranch Company, LLC
Attn: Steven O. Spelman, Jr. Chief Financial Officer
4100 MacArthur Blvd., Suite 100
Newport Beach, CA 92660
Phone: (949) 553-1151

With a copy to

Holland & Hart, LLP

Attn: Rebecca Wilcox Dow, Esq.
555 17th Street, Suite 3200
Denver, CO 80202

- B.** Notice by personal delivery, sent by overnight delivery service, or mailed by certified mail, postage prepaid and return receipt requested, shall be effective: (a) if delivered by messenger or by overnight courier, upon actual receipt (or if the date of actual receipt is not a business day, upon the next business day); or (b) if mailed, upon the earlier of (i) three (3) business days after deposit in the mail and (ii) the delivery as shown by return receipt therefor. Any party may change its address by giving notice in writing to the other Party of its new address in accordance with this provision.

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XIII. DEFAULT

- A. Default.** Except in the case of “material default” as detailed in Section XIII.B below, in the event either party alleges that the other is in default of this Agreement, the non-defaulting party shall first notify the defaulting party in writing of such default. The defaulting party shall have twenty (20) business days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within said period by the defaulting party and thereafter diligently pursued and if the default is not cured in a reasonable time, then the non-defaulting party may elect, at its discretion, either to cure the default and recover the cost thereof from the defaulting party or to seek to enjoin the default if of a continuing nature, or seek specific performance and/or damages.
- B. Material Default.** Despite any provision in this Agreement to the contrary, each of the following shall each be deemed a “material default” under this Agreement and shall be addressed as detailed in this Section XIII.B. rather than under Section XIII.A.:
1. After ten (10) days’ written notice to Developer, Developer’s failure to make payments and/or provide Financial Assurances as required under this Agreement;
 2. After ten (10) days’ written notice to Developer, Developer’s failure to pay in full any invoice amount under Section VIII. within thirty (30) days of delivery of the affected invoice to Developer;
 3. Dissolution of the District once Assignment has occurred;
 4. After ten (10) days’ written notice to Developer, Developer’s failure to perform under Sections IV.A.-C.

In the event of Utilities’ written notice to Developer of Developer’s material default under Section XIII.B., any right to new or additional wastewater connections or new Service Contracts served within the JCC Basin shall terminate until such default is cured.

If Financial Assurances or payments are not received within ten (10) days of written notice to Developer of the material default under XIII.B.1.: i) Utilities, at its sole option, may elect to Install any of the Facilities using any and all Charges as well as any and all Account and Escrow funds which shall be automatically assigned to Utilities upon written notice to the Account escrow agent and ii) each proposed development, development plan approval, and building permit for property described in **Exhibit A** shall be deemed to overburden the capacities of the then existing utilities per Section 7.5.502(C) of the City Code and no development plan approvals, line extension plan approvals, and no building permit issuances for the property described in **Exhibit A** shall be issued until a replacement agreement, substantially similar in form and intent to this Agreement, for the Facilities is executed by Developer and Utilities. Furthermore, all Charges, Escrow and Account funds, and other payments and fees collected shall be retained by Utilities and used for the Install of the Facilities that Utilities, in its Discretion, deems necessary to serve Annexors’ properties within the JCC Basin.

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If payments are not received within ten (10) days of written notice to Developer of the material default under XIII.B.2., Utilities shall have the right to make a demand on the Financial Assurances.

Utilities shall not be entitled to declare an event of material default against Developer under this Agreement for a default caused solely by any other Annexor or district that is provided wastewater capacity from the Facilities.

- C. Easement Default.** After thirty (30) days' written notice to Developer, if Developer has failed to cure its default in providing or paying for easements under Section V.C., Developer shall pay Utilities funds equal to 100% of the Utilities estimated cost of remaining obligations under such affected Section. In addition, Utilities shall be entitled to seek specific performance or otherwise directly cure such default.
- D. Cumulative Remedies.** None of the remedies listed in Section XIII shall be exclusive of any other remedy provided for in this Agreement or at law; however, if a remedy listed in Section XIII limits Developer's obligations in respect to a specific breach to a specific monetary amount, Utilities shall not be entitled to a direct damage amount for such specified breach with respect to that particular breach (as opposed to other breaches by Developer of the same obligation), in excess of the monetary amount expressly set forth in the associated subsection, but nothing in this sentence will be deemed to otherwise limit the remedies available to Utilities pursuant to this Agreement or otherwise at law, including, without limitation, injunctive relief, specific performance, claims for monetary damages, and indemnification pursuant to Section XIV.F.

XIV. MISCELLANEOUS

- A. Assignment.** Except as otherwise explicitly required, neither this Agreement nor any right or duty hereunder shall be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except that Utilities may assign this Agreement and its rights and duties hereunder to the City or any department or enterprise thereof without such consent. Except as detailed herein, the prohibition against assignment shall apply to assignment to any entity whether owned or operated by Utilities or Developer.
- B. Remaining Provisions.** When Developer's right to use the Initial Interim Capacity and Interim Capacity expire or otherwise terminate as provided for above, all of the remaining terms and provisions contained in this Agreement shall remain in full force and effect, including, but not limited to, all releases, indemnity, and hold harmless provisions.
- C. Annexation Agreement.** The Parties agree that this Agreement satisfies the terms and conditions of the Annexation Agreement and effectuates such terms and conditions. Should any term or condition of this Agreement conflict with that of any other agreement with Developer, such term or condition of this Agreement shall prevail. To the extent that the Annexation Agreement covers terms and conditions not addressed within this Agreement, the Annexation Agreement shall be deemed to apply.
- D. Standard Practices & Procedures.** Any Install contemplated by this Agreement shall be performed in accordance with Utilities' standard practices and procedures.

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- E. Rules, Regulations, etc.** Except as otherwise provided in the Agreement, the terms and conditions of this Agreement shall be performed in accordance with all City and Utilities Rules and Regulations, Policies and Procedures, and the City Code for the City of Colorado Springs, as such items may be amended from time to time. During the term of this Agreement, Utilities agrees not to adopt rules, regulations or policies or interpret existing or future rules or policies in a manner that Utilities Determines may adversely affect the timing or cost of the Facilities or cost recovery and reimbursement procedures under this Agreement without prior public notice which shall serve as notice to Developer.
- F. Release/Indemnification.** Developer hereby releases Utilities and shall fully protect, defend, indemnify and hold harmless Utilities, the City, their officers, City Council, Utilities Board, directors, employees, agents and representatives from and against any and all losses, claims, causes of action, or liability of any nature due to, arising from, or associated with this Agreement, regardless of Utilities' negligence (excluding Utilities' gross negligence) except that Utilities' negligence shall not be indemnified, and excluding any third-party's negligence or willful misconduct.
- G. GIA.** Nothing in this Agreement shall be interpreted to limit or prevent the protections afforded to Utilities or the City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- H. Illegal or Unenforceable Provision.** If any term or provision of this Agreement shall be found to be illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and the illegal or unenforceable term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.
- I. Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Colorado (without reference to conflicts of laws), the Colorado Springs City Charter, City Code, City ordinances, and City rules and regulations. In the event of litigation, this Agreement shall be enforceable by or against the City of Colorado Springs on behalf of Utilities as provided in Colorado Springs City Code § 12-1-108. In the event of any dispute over the Agreement's terms and conditions, the exclusive venue and jurisdiction for any litigation arising thereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
- J. Runs with the Land.** This Agreement runs with the land and each and the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, transferees, successors, and assigns of the Parties. This Agreement will be recorded against the **Exhibit A** property in the El Paso County real estate records. Despite any provision in this Agreement to the contrary, upon the issuance of a Certificate of Occupancy, this provision shall not apply to the property of any individual homeowner or property owner to whom the Certificate of Occupancy applies so long as homeowner is not an agent, heir, executor, administrator, or assign of Developer.
- K. Exhibits.** The following Exhibits are attached to this Agreement and are hereby incorporated by reference:

**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

Exhibit A	Developer's property	Exhibit J	Permanent Easement
Exhibit B	Advance Recovery Agreement	Exhibit K	Initial Interim Pipeline Wastewater Line Easement Agreement
Exhibit C	Assignment	Exhibit L	Initial Interim Pipeline Wastewater Line Bill of Sale
Exhibit D	Concept Design Table	Exhibit M	Escrow Contract
Exhibit E	Financial Assurance – Letter of Credit	Exhibit N	Time and Materials Agreement
Exhibit F	Initial Interim Pipeline	Exhibit O	Prior Work & Payments
Exhibit G	JCC Basin	Exhibit P	Graphic Depiction
Exhibit H	Necessary Improvements	Exhibit Q	District 6 Assignment Agreement to District 1
Exhibit I	Recovery Agreements	Exhibit R	One-Time Recovery Agreement Charge
		Exhibit S1-2	Joinder & Consent

- L. Time is of the Essence.** Time is of the essence in this Agreement.
- M. No Third Party Beneficiaries.** Except as expressly provided otherwise, this Agreement is intended to be solely for the benefit of the Parties and their respective successors and permitted assigns, and this Agreement shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.
- N. Non-Waiver.** The failure of Utilities to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants or agreements herein contained, or the failure of Utilities in any one or more instances to exercise any option, privilege or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants or agreements, and no forbearance by the Utilities of any default hereunder shall in any manner be construed as constituting a waiver of such default.
- O. Headings.** The headings used to designate the various sections of this Agreement are solely for the convenience of reference and shall not be construed to define or limit any of the terms or provisions hereof.
- P. Good Faith.** The Parties shall cooperate in good faith to carry out the terms and conditions of this Agreement.
- Q. Counterparts; Facsimile.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be considered one and the same instrument. This Agreement may be executed and delivered by facsimile transmission with an original to follow.
- R. Force Majeure.** Time periods under this Agreement for performance by either Party reasonably shall be delayed by act of God, war, riot or terrorism, adverse weather conditions, governmental restriction or delay, unavailability of labor or materials, or any other condition,

**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

event or circumstance beyond the reasonable control of the applicable Party (excluding the financial inability to perform).

- S. Calculation of Time.** Except as otherwise explicitly stated, any reference to “day” or “days” shall mean calendar days.
- T. Provisions Applicable to Other JCC Basin Users of the Facilities.** Utilities covenants and warrants that, as of the Effective Date, any Annexor(s) or any JCC Basin non-Annexor(s) that requests service from the Facilities will be obligated to pay its Proportional Share of Cost for the Facilities. Unless an Annexor(s) or JCC Basin non-Annexor(s) elects to be included in the District as provided in Section VII.A, then such Proportional Share of Cost will include, but not be limited to, a one-time Recovery Agreement charge, that must be paid to Utilities prior to the issuance of any building permit for the applicable property. The “Unit Recovery Charge” (as such term is used in Utilities’ standard Recovery Agreement) for such one-time Recovery Agreement charge will be modified to include, in Utilities Determination, the SFE equivalent of the items detailed in **Exhibit R**.
- Despite any provision in this Agreement to the contrary, Utilities shall not be liable should any Annexor or JCC Basin non-Annexor fail to meet such obligations or requirements, but Utilities will seek enforcement of such obligations and requirements in accordance with its Rules and Regulations.
- U. Liability.** The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC shall be jointly and severally liable under this Agreement.
- V. Recording.** Within five (5) business days of Developer’s receipt of the fully executed Agreement and subsequent amendments with all attachments, Developer, at its sole expense, shall record this Agreement and any subsequent amendments in the El Paso County real property records against all of Developer’s real property as legally described in **Exhibit A**, attached hereto.
- W. Prior Work & Payments.** Work performed or payments made for the CSRWRF Agreement shall be finalized as detailed in **Exhibit O**.
- X. Appropriation of Funds.** In accord with the Colorado Springs City Charter, performance of Utilities’ obligations under this Agreement is expressly subject to appropriation of funds by the City Council. In the event funds are not appropriated in whole or in part sufficient for performance of Utilities’ obligations under this Agreement, or appropriated funds may not be expended due to City Charter spending limitations, then this Agreement shall thereafter become null and void by operation of law, and Utilities shall thereafter have no liability for compensation or damages to the Developer in excess of Utilities’ authorized appropriation for this Agreement or the applicable spending limit, whichever is less. Utilities shall notify Developer as soon as reasonably practicable in the event of non-appropriation or in the event a spending limitation becomes applicable.

**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

- Y. Cooperation.** The Parties acknowledge that this Agreement contemplates the provision of long-term wastewater services to the JCC Basin, which may be accomplished and required over a more than 40-year period, as reflected in the Concept Design Table. The Parties further acknowledge that many factors, including technology, absorption of development, economic cycles, among others, may influence the Facilities that may be required to service the JCC Basin. The Parties agree to cooperate in good faith and will enter into modifications of this Agreement as necessary to accomplish the mutual goal of providing wastewater service to the JCC Basin for development on a cost-efficient basis.
- Z. Entire Agreement.** This Agreement and the Annexation Agreement, as limited by XIV.C. above, constitute the entire agreement between the Parties and supersedes all previous written or oral communications, understandings, and agreements between the Parties, including the CSRWRF Agreement, unless specifically stated herein. This Agreement may only be amended by written agreement signed by both Parties. E-mail and all electronic, voice, or other communications from Utilities in connection with this Agreement are for informational purposes only.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first above written.

-Signatures on Following Pages-

**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

DEVELOPER:

The Banning Lewis Ranch Company, LLC,
a Delaware limited liability company;

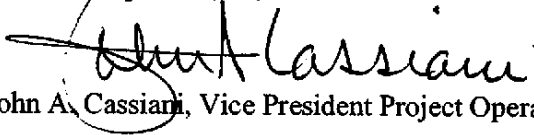
By: Banning Lewis Ranch Management Company, LLC,
a Delaware limited liability company, its co-managing member

By:



Steven O. Spelman, Jr., Chief Financial Officer

By:



John A. Cassiani, Vice President Project Operations

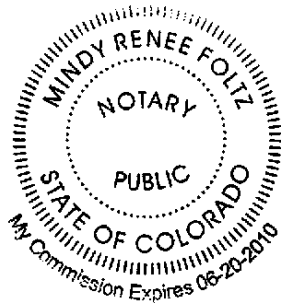
STATE OF COLORADO)
) ss.
COUNTY OF El Paso

The foregoing instrument was acknowledged before me this 10 day of February, 2009, by Steven O. Spelman, Jr. as Chief Financial Officer of Banning Lewis Ranch Management Company, LLC, a Delaware limited liability company, co-managing member of The Banning Lewis Ranch Company, LLC, a Delaware limited liability company, manager of Banning Lewis Ranch Development I & II, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: 06-20-2010

Notary Public



**MODIFIED AND RESTATED WASTEWATER FACILITIES
PARTICIPATION, UTILIZATION, AND SERVICE AGREEMENT**

STATE OF COLORADO)
COUNTY OF El Paso) ss.

The foregoing instrument was acknowledged before me this 10 day of February, 2009, by John A. Cassiani as Vice President of Project Operations of Banning Lewis Ranch Management Company, LLC, a Delaware limited liability company, co-managing member of The Banning Lewis Ranch Company, LLC, a Delaware limited liability company, manager of Banning Lewis Ranch Development I & II, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: 06-20-2010

Notary Public

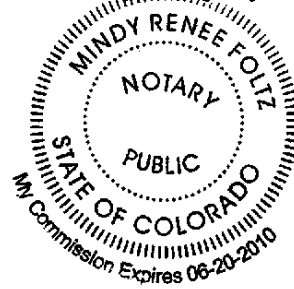


EXHIBIT A

PARCEL NO. 1:

A tract of land located in Sections 9, 10, 11, 14, 15, 21, 22, 27 and 28, all in Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Northeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Southeast corner of said Section 34 bears South 1° 14' 52" West (basis of bearing - true meridian), 5298.00 feet, Thence North 89° 33' 25" West, 5471.41 feet along the South line of Section 27, Township 13 South, Range 65 West of the 6th P.M. to the Southwest corner of said Section 27; Thence North 00° 14' 22" East, 2440.15 feet along the West line the Southwest quarter of said Section 27 to the Northwestern right-of-way line of the Chicago, Rock Island and Pacific Railway and the TRUE POINT OF BEGINNING;

Thence South 61° 11' 44" West, 1100.24 feet along the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway to a point of curve to the right;

Thence Southwesterly, 1598.92 feet along the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway and along the arc of said curve to a point of tangent, said arc having a radius of 2764.93 feet, a central angle of 33° 08' 00" and being subtended by a chord that bears South 77° 45' 44" West, 1576.73 feet;

Thence North 85° 40' 16" West, 938.88 feet along the Northern right-of-way line of said Chicago, Rock Island and Pacific Railway to a point of curve to the left;

Thence Southwesterly, 2061.64 feet along the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway and along the arc of said curve to the East line of the West 60.00 feet of Section 28, Township 13 South, Range 65 West of the 6th P.M., said arc having a radius of 2010.08 feet, a central angle of 58° 45' 56" and being subtended by a chord that bears South 64° 56' 46" West, 1972.46 feet;

Thence North 00° 14' 59" West, 2254.91 feet along the East line of the West 60.00 feet of said Section 28;

Thence South 89° 45' 01" West, 35.00 feet to the East line of the West 25.00 feet of said Section 28;

Thence South 00° 14' 59" East, 2305.00 feet along the East line of the West 25.00 feet of said Section 28 to the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway;

Thence Southwesterly, 45.39 feet along the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway and along the arc of a curve concave to the Southeast to the West line of the Southwest quarter of said Section 28, said arc having a radius of 2010.08 feet, a central angle of 01° 17' 37" and being subtended by a chord that bears South 33° 10' 29" West, 45.39 feet;

Thence North 00° 14' 59" West, 1906.41 feet along the West line of the Southwest quarter of said Section 28 to the West quarter corner of said Section 28;

Thence North 00° 14' 59" West, 2649.55 feet along the West line of the Northwest quarter of said Section 28 to the Northwest corner of said Section 28;

Thence North $00^{\circ} 02' 53''$ West, 2641.76 feet along the West line of the Southwest quarter of Section 21, Township 13 South, Range 65 West of the 6th P.M. to the West quarter corner of said Section 21;

Thence North $89^{\circ} 44' 38''$ East, 1333.34 feet along the East-West Centerline of said Section 21 to the Southwest corner of the East half of the Northwest quarter of said Section 21;

Thence North $00^{\circ} 01' 36''$ East, 2643.76 feet along the West line of the East half of the Northwest quarter of said Section 21 to the Northwest corner thereof;

Thence North $89^{\circ} 39' 32''$ East, 1336.81 feet along the North line of the Northwest quarter of said Section 21 to the North quarter corner of said Section 21;

Thence North $89^{\circ} 41' 31''$ East, 2672.73 feet along the North line of the Northeast quarter of said Section 21 to the Northeast corner of said Section 21;

Thence North $00^{\circ} 20' 46''$ East, 2646.52 feet along the West line of the Southwest quarter of said Section 15 to the West quarter corner of said Section 15;

Thence North $00^{\circ} 20' 46''$ East, 2646.52 feet along the West line of the Northwest quarter of said Section 15 to the Northwest corner of said Section 15;

Thence South $89^{\circ} 53' 41''$ West, 2681.53 feet along the South line of the Southeast quarter of Section 9, Township 13 South, Range 65 West of the 6th P.M. to the South quarter corner of said Section 9;

Thence South $89^{\circ} 52' 48''$ West, 2619.62 feet along the South line of the Southwest quarter of said Section 9 to the East line of the West 60.00 feet of the Southwest quarter of said Section 9;

Thence North $00^{\circ} 14' 49''$ East, 2655.12 feet along the East line of the West 60.00 feet of the Southwest quarter of said Section 9 to the East-West Centerline of said Section 9;

Thence South $89^{\circ} 53' 11''$ West, 60.00 feet along the East-West Centerline of said Section 9 to the West quarter corner of said Section 9;

Thence North $00^{\circ} 14' 49''$ East, 1327.56 feet along the West line of the Northwest quarter of said Section 9 to the Northwest corner of the South half of the Northwest quarter of said Section 9;

Thence North $89^{\circ} 52' 04''$ East, 2657.77 feet along the North line of the South half of the Northwest quarter of said Section 9 to the Northeast corner thereof;

Thence North $89^{\circ} 54' 15''$ East, 2652.99 feet along the North line of the South half of the Northeast quarter of said Section 9 to the Northeast corner thereof;

Thence North $89^{\circ} 58' 24''$ East, 1353.37 feet along the North line of the Southwest quarter of the Northwest quarter of said Section 10 to the Northeast corner thereof;

Thence South $00^{\circ} 12' 56''$ East, 1025.84 feet along the East line of the Southwest quarter of the Northwest quarter of said Section 10;

Thence North $89^{\circ} 51' 57''$ East, 4046.22 feet to the East line of the Northeast quarter of said Section 10;

Thence South 89° 07' 50" East, 5008.67 feet to the West line of that tract of land conveyed to Public Service Company of Colorado as described in Deed recorded in Book 2194 at Page 154 of the records of El Paso County, Colorado;

Thence South 00° 08' 47" West, 2904.83 feet along the West line of that tract of land as described in said Book 2194 at Page 154 to the South line of the Southeast quarter of said Section 11;

Thence South 00° 07' 19" West, 1690.92 feet along the West line of that tract of land as described in said Book 2194 at Page 154 to the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway;

The following courses and distances are along the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway:

Thence Southwesterly, 555.44 feet along the arc of a curve concave to the Northwest to a point tangent, said arc having a radius of 5679.64 feet, a central angle of 5° 36' 12" and being subtended by a chord that bears South 61° 18' 38" West, 555.22 feet;

Thence North 25° 53' 16" West, 50.00 feet;

Thence South 64° 06' 44" West, 4965.06 feet to the East line of the Southeast quarter of said Section 15;

Thence South 00° 43' 03" East, 55.25 feet along the East line of the Southeast quarter of said Section 15;

Thence South 64° 06' 44" West, 1610.85 feet to a point of curve to the left;

Thence Southwesterly, 3062.28 feet along the arc of said curve to a point of tangent, said arc having a radius of 2342.01 feet, a central angle of 74° 55' 00" and being subtended by a chord that bears South 26° 39' 14" West, 2848.75 feet;

Thence South 10° 48' 16" East, 2688.88 feet to a point of curve to the right;

Thence Southerly, 414.38 feet along the arc of said curve to the South line of the Southeast quarter of said Section 22, said arc having a radius of 1860.08 feet, a central angle of 12° 45' 51" and being subtended by a chord that bears South 04° 25' 21" East, 413.53 feet;

Thence North 88° 58' 07" West, 50.01 feet along the South line of the Southeast quarter of said Section 22;

Thence Southwesterly, 1870.56 feet along the arc of a curve concave to the Northwest to a point tangent, said arc having a radius of 1810.08 feet, a central angle of 59° 12' 37" and being subtended by a chord that bears South 31° 35' 26" West, 1788.43 feet;

Thence South 61° 11' 44" West, 2645.22 feet to the TRUE POINT OF BEGINNING.

Except that part conveyed to Nationwide Resources Corporation, an Arizona Corporation, in Deed recorded in Book 5074 at Page 558.

Except that part conveyed to the Cherokee Water and Sanitation District in Deed recorded in Book 5426 at Page 62.

Except that tract of land conveyed to Colorado Interstate Gas Company as described in Deed recorded in Book 1981 at Page 16 and corrected in Book 2115 at Page 137 of the records of El Paso County, Colorado.

Except that tract of land described in Deed to County of El Paso, Colorado recorded in Book 5074 at Page 209.

PARCEL NO. 2A:

A tract of land located in Southeast quarter and in the Southeast quarter of the Southwest quarter of Section 12, Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southwest corner of said Section 12, from which the West quarter corner of said Section 12 bears North $00^{\circ} 08' 47''$ East (basis of bearing - true meridian), 2627.64 feet; Thence South $89^{\circ} 18' 00''$ East, 2606.75 feet along the South line of the Southwest quarter of said Section 12 to the Southeast corner of Parcel No. 6 conveyed to the Colorado Department of Highways as described in Instrument recorded in Book 1848 at Page 84 of the records of El Paso County, Colorado; Thence North $28^{\circ} 28' 00''$ East, 33.90 feet along the Southeasterly line of said Parcel No. 6 as described in said Book 1848 at Page 84 to the North line of the South 30.00 feet of said Section 12 and the TRUE POINT OF BEGINNING;

Thence continuing North $28^{\circ} 28' 00''$ East, 4.40 feet along the Southeasterly line of said Parcel No. 6 as described in said Book 1848 at Page 84 to the most Easterly corner thereof;

Thence North $26^{\circ} 55' 00''$ West, 102.86 feet along the Northeasterly line of said Parcel No. 6 as described in said Book 1848 at Page 84 to the Southeasterly right-of-way line of U.S. Highway No. 24;

Thence North $28^{\circ} 29' 00''$ East, 13.87 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the right;

Thence Northeasterly, 651.31 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to the Southeasterly line of that strip of land conveyed to El Paso County as described in Deed recorded in Book 441 at Page 164 of the records of El Paso County, Colorado, said arc having a radius of 2815.00 feet, a central angle of $13^{\circ} 15' 24''$ and being subtended by a chord that bears North $35^{\circ} 06' 42''$ East, 649.86 feet;

Thence North $50^{\circ} 06' 44''$ East, 1078.16 feet along the Southeasterly line of that strip of land as described in said Book 441 at Page 164;

Thence North $89^{\circ} 23' 35''$ West, 46.20 feet along the Southeasterly line of that strip of land as described in said Book 441 at Page 164 to the Southeasterly right-of-way line of said U.S. Highway No. 24;

Thence North $50^{\circ} 06' 44''$ East, 851.34 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to the Southwesterly right-of-way line of 8th Street in the TOWN OF FALCON as recorded in Plat Book B at Page 37 of the records of El Paso County, Colorado;

Thence South $39^{\circ} 53' 16''$ East, 780.00 feet along the Southwesterly right of way line of said 8th Street to the Southeasterly right-of-way line of Eastern Avenue in the TOWN OF FALCON;

Thence North 50° 06' 44" East, 319.49 feet along the Southeasterly right of way line of Eastern Avenue to the Westerly right of way line of Meridian Road;

Thence South 05° 26' 00" East, 1522.94 feet along the Westerly right-of-way line of said Meridian Road to the North line of the South 30.00 feet of said Section 12;

Thence North 89° 18' 00" West, 2659.99 feet along the North line of the South 30.00 feet of said Section 12 to the TRUE POINT OF BEGINNING.

Except that part conveyed to the State Highway Commission of Colorado in Deed dated December 3, 1931 and recorded at Reception No. 20015196.

PARCEL NO. 2B:

A tract of land located in the Southeast quarter of the Southwest quarter of Section 12, Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southwest corner of said Section 12, from which the West quarter corner of said Section 12 bears North 00° 08' 47" East (basis of bearing - true meridian), 2627.64 feet, Thence South 89° 18' 00" East, 2072.37 feet along the South line of the Southwest quarter of said Section 12 to the Southeasterly right-of-way line of the Chicago, Rock Island and Pacific Railway and the TRUE POINT OF BEGINNING;

Thence North 50° 06' 44" East, 500.34 feet along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway to the Northwesterly line of that tract of land conveyed to El Paso County as described in Treasurer's Deed recorded in Book 1081 at Page 211 of the records of El Paso County, Colorado;

Thence South 24° 43' 38" West, 356.41 feet along the Northwesterly line of that tract of land as described in said Book 1081 at Page 211 to the South line of the Southwest quarter of said Section 12;

Thence North 89° 18' 00" West, 234.85 feet along the South line of the Southwest quarter of said Section 12 to the TRUE POINT OF BEGINNING.

Except that part conveyed to the State Highway Commission of Colorado in Deed dated December 3, 1931, recorded at Reception No. 20015196.

PARCEL NO. 3A:

A tract of land located in the Northwest quarter of Section 13 and in the East half of the East half of the Northeast quarter of Section 14, all in Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Beginning at the Northwest corner of said Section 13, from which the West quarter corner of Section 12, Township 13 South, Range 65 West of the 6th P.M. bears North 00° 08' 47" East (basis of bearing - true meridian), 2627.64 feet, Thence South 89° 18' 00" East, 1611.26 feet along the North line of the Northwest quarter of said Section 13 to the Northwesterly right-of-way line of the Chicago, Rock Island and Pacific Railway;

Thence South 50° 06' 44" West, 834.82 feet along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

Thence South 39° 53' 16" East, 100.00 feet along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

Thence South 50° 06' 44" West, 896.50 feet along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway to a point of curve to right;

Thence Southwesterly, 564.15 feet along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway and along the arc of said curve to the East line of that tract of land conveyed to Public Service Company of Colorado as described in Deed recorded in Book 2194 at Page 154 of the records of El Paso County, Colorado, said arc having a radius of 5679.64 feet, a central angle of 5° 41' 28" and being subtended by a chord that bears South 52° 57' 28" West, 563.92 feet;

Thence North 00° 07' 19" East, 1546.11 feet along the East line of that tract of land as described in said Book 2194 at Page 154 to the North line of the Northeast quarter of said Section 14;

Thence North 89° 50' 14" East, 100.00 feet along the North line of the Northeast quarter of said Section 14 to the POINT OF BEGINNING.

PARCEL NO. 3B:

A tract of land located in the West half of Section 13 and in the East half of the East half of Section 14, Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Northwest corner of said Section 13 from which the West quarter corner of Section 12, Township 13 South, Range 65 West of the 6th P.M bears North 00° 08' 47" East (basis of bearing – true meridian), 2627.64 feet, Thence South 89° 50' 14" West, 100.00 feet along the North line of the Northeast quarter of said Section 14 to the East line of that tract of land conveyed to Public Service Company of Colorado as described in Deed recorded in Book 2194 at Page 154; Thence South 00° 07' 19" West, 1666.71 feet along the East line of that tract of land as described in said Book 2194 at Page 154 to the Southeasterly right-of-way line of the Chicago, Rock Island and Pacific Railway and the TRUE POINT OF BEGINNING;

Thence Northeasterly, 642.08 feet along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway and along the arc of a curve concave to the Northwest to a point tangent, said arc having a radius of 5779.64 feet, and central angle of 6° 21' 55" and being subtended by a chord that bears North 53° 17' 41" East, 641.75 feet;

Thence North 50° 06' 44" East, 896.50 feet along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

Thence South 39° 53' 16" East, 100.00 feet along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

Thence North 50° 06' 44" East, 213.11 feet along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway to the East line of the Northwest quarter of the Northwest quarter of said Section 13;

Thence South 00° 08' 19" West, 710.40 feet along the East line of the Northwest quarter of the Northwest quarter of said Section 13 to the Southeast corner thereof;

Thence South 89° 34' 13" East, 350.20 feet along the North line of the Southeast quarter of the Northwest quarter of said Section 13 to the Northwesterly right-of-way line of U.S. Highway No. 24;

Thence South 28° 29' 00" West, 3744.38 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 to the East line of that tract of land as described in said Book 2194 at Page 154;

Thence North 00° 08' 48" East, 1954.86 feet along the East line of that tract of land as described in said Book 2194 at Page 154 to a point of the East-West Centerline of said Section 14;

Thence North 00° 07' 19" East, 1030.90 feet along the East line of that tract of land as described in said Book 2194 at Page 154 to the TRUE POINT OF BEGINNING.

Except that part lying within the Colorado and Southern Railroad Company right of way, and Except that part conveyed to El Paso County, Colorado in Treasurer's Deed recorded in Book 1081 at Page 211.

PARCEL NO. 4:

A tract of land located in Sections 14, 15, 22, 23, 26, 27, 28, 33 and 34, all in Township 13 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M. from which the Northeast corner of said Section 34 bears North 01° 14' 52" East (basis of bearing - true meridian), 5298.00 feet, Thence South 89° 42' 24" West, 2667.93 feet along the South line of the Southeast quarter of said Section 34 to the South quarter corner of said Section 34; Thence South 89° 42' 24" West, 1299.76 feet along the South line of the Southwest quarter of said Section 34 to the Northwesterly right-of-way line of U.S. Highway No. 24 and the TRUE POINT OF BEGINNING;

Thence continuing South 89° 42' 24" West, 1368.17 feet along the South line of the Southwest quarter of said Section 34 to the Southwest corner of said Section 34;

Thence South 89° 46' 01" West, 1406.11 feet along the South line of the Southeast quarter of Section 33, Township 13 South, Range 65 West of the 6th P.M. to the Northerly right-of-way line of Constitution Avenue according to the plat of Constitution Avenue/Peterson Road Right-of-Way as recorded in Plat Book V-3 at Page 169 of the records of El Paso County, Colorado;

Thence Westerly, 478.38 feet along the Northerly right-of-way line of said Constitution Avenue and along the arc of a curve concave to the South to a point tangent, said arc having a radius of 1897.00 feet, a central angle of 14° 26' 56" and being subtended by a chord that bears North 83° 00' 31" West, 477.12 feet;

Thence South 89° 46' 01" West, 766.41 feet along the North right-of-way line of said Constitution Avenue to the North-South Centerline of said Section 33;

Thence North 00° 07' 25" West, 5307.15 feet along the North-South Centerline of said Section 33 to the South quarter corner of Section 28, Township 13 South, Range 65 West of the 6th P.M.;

Thence North 00° 00' 08" West, 1396.00 feet along the North-South Centerline of said Section 28 to the Southerly right-of-way line of the Chicago, Rock Island and Pacific Railway;

The following courses and distances are along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway:

Thence South 85° 40' 16" East, 127.93 feet to a point of curve to the left;

Thence Northeasterly, 1714.58 feet along the arc of said curve to a point of tangent, said arc having a radius of 2964.93 feet, a central angle of 33° 08' 00" and being subtended by a chord that bears North 77° 45' 44" East, 1690.79 feet;

Thence North 61° 11' 44" East, 3745.46 feet to a point of curve to the left;

Thence Northeasterly, 2080.57 feet along the arc of said curve to the North line of the Northeast quarter of Section 27, Township 13 South, Range 65 West of the 6th P.M., said arc having a radius of 2010.08 feet, a central angle of 59° 18' 19" and being subtended by a chord that bears North 31° 32' 35" East, 1988.93 feet;

Thence North 88° 58' 07" West, 50.01 feet along the South line of the Southeast quarter of said Section 22;

Thence Northerly, 435.04 feet along the arc of a curve concave to the West to a point tangent, said arc having a radius of 1960.08 feet, a central angle of 12° 43' 00" and being subtended by a chord that bears North 04° 26' 46" West, 434.15 feet;

Thence North 10° 48' 16" West, 2888.88 feet to a point of curve to the right;

Thence Northeasterly, 2931.52 feet along the arc of said curve to a point tangent, said arc having a radius of 2242.01 feet, a central angle of 74° 55' 00" and being subtended by a chord that bears North 26° 39' 14" East, 2727.11 feet;

Thence North 64° 06' 44" East, 1563.86 feet to the East line of the Southeast quarter of said Section 15;

Thence South 00° 43' 03" East, 55.25 feet along the East line of the Southeast quarter of said Section 15;

Thence North 64° 06' 44" East, 2933.55 feet to the West line of the Southeast quarter of said Section 14;

Thence North 00° 17' 24" West, 55.44 feet along the West line of the Southeast quarter of said Section 14;

Thence North 64° 06' 44" East, 620.07 feet to the North line of the Southeast quarter of said Section 14;

Thence South 89° 55' 20" East, 114.20 feet along the North line of the Southeast quarter of said Section 14;

Thence North 64° 06' 44" East, 728.34 feet to the West line of the East half of the Northeast quarter of said Section 14;

Thence North 00° 05' 00" West, 55.54 feet along the West line of the East half of the Northeast quarter of said Section 14;

Thence North 64° 06' 44" East, 626.28 feet to a point of curve to the left;

Thence Northeasterly, 503.87 feet along the arc of said curve to the West line of that tract of land conveyed to Public Service Company of Colorado as described in Deed recorded in Book 2194 at Page 154, said arc having a radius of 5779.64 feet, a central angle of 4° 59' 42" and being subtended by a chord that bears North 61° 36' 53" East, 503.71 feet;

Thence, leaving the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway, South 00° 07' 19" West, 888.70 feet along the West line of that tract of land as described in said Book 2194 at Page 154 to the North line of the Southeast quarter of said Section 14;

Thence South 00° 08' 48" West, 2371.82 feet along the West line of that tract of land as described in said Book 2194 at Page 154 to the Northwesterly right-of-way line of U.S. Highway No. 24;

Thence South 28° 29' 00" West, 10,595.58 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the right;

Thence Southwesterly, 176.81 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to a point of tangent, said arc having a radius of 5680.00 feet, a central angle of 01° 47' 00" and being subtended by a chord that bears South 29° 22' 30" West, 176.80 feet;

Thence South 30° 16' 00" West, 7752.51 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 to the TRUE POINT OF BEGINNING;

Except that part lying within the Colorado and Southern Railroad right of way, and

Except that part conveyed to El Paso County, Colorado in Treasurer' s Deed recorded in Book 1081 at Page 211, and

Except that 60 foot road right of way conveyed to El Paso County, Colorado in Book 433 at Page 260, Book 473 at Page 263 and Book 441 at Pages 487 and 488.

PARCEL NO. 5:

A tract of land located in Sections 14, 23, 25, 26, 27, 34 and 35, Township 13 South, Range 65 West; and in Sections 1, 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, Township 14 South, Range 65 West; and in the West half Northeast quarter of Section 4, Township 15 South, Range 65 West; and in Sections 6 and 7, Township 14 South, Range 64 West, all of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Northeast corner of said Section 34 bears North 01° 14' 52" East (basis of bearing - true meridian), 5298.00 feet; Thence South 89° 42' 24" West, 2667.93 feet along the South line of the Southeast quarter of said Section 34 to the South quarter corner of said Section 34; Thence South 89° 42' 24" West, 1183.63 feet along the South line of the Southwest quarter of said Section 34 to the Southeasterly right-of-way of U.S. Highway No. 24 and the TRUE POINT OF BEGINNING;

Thence North 30° 16' 00" East, 7693.46 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the left;

Thence Northeasterly, 179.92 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to a point tangent, said arc having a radius of 5780.00 feet, a central angle of 1° 47' 00" and being subtended by a chord that bears North 29 ° 22' 30" East, 179.91 feet;

Thence North 28° 29' 00" East, 10,880.05 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to the Southerly line of Parcel No. 4 as described in Instrument recorded in Book 1848 at Page 84 of the records of El Paso County, Colorado;

Thence South 60° 30' 39" East, 116.96 feet along the Southerly line of said parcel No. 4 as described in Book 1848 at Page 84 to the East line of the Southeast quarter of Section 14, Township 13 South, Range 65 West of the 6th P.M.;

Thence South 00° 08' 48" West, 472.00 feet along the East line of the Southeast quarter of said Section 14 to the Southeast corner of said Section 14;

Thence South 00° 27' 37" East, 2638.83 feet along the East line of the Northeast quarter of Section 23, Township 13 South, Range 65 West of the 6th P.M. to the East quarter corner of said Section 23;

Thence South 00° 27' 37" East, 2638.83 feet along the East line of the Southeast quarter of said Section 23 to the Southeast corner of said Section 23;

Thence South 00° 29' 14" West, 1318.06 feet along the East line of the Northeast quarter of Section 26, Township 13 South, Range 66 West of the 6th P.M. to the Northwest corner of the Southwest quarter of the Northwest quarter of Section 25, Township 13 South, Range 65 West of the 6th P.M.;

Thence North 89° 48' 05" East, 1316.32 feet along the North line of the Southwest quarter of the Northwest quarter of said Section 25 to the Northeast corner thereof;

Thence South 00° 23' 27" West, 1319.20 feet along the East line of the Southwest quarter of the Northwest quarter of said Section 25 to the Southeast corner thereof;

Thence North 89° 51' 08" East, 1318.52 feet along the North line of the North half of the Southwest quarter of said Section 25 to the Center of said Section 25;

Thence South 00° 17' 42" West, 2640.70 feet along the North-South Centerline of said Section 25 to the South quarter corner of said Section 25;

Thence South 89° 57' 10" West, 1322.93 feet along the South line of the Southeast quarter of the Southwest quarter of said Section 25 to the Southwest corner thereof;

Thence North 00° 23' 27" East, 1319.20 feet along the West line of the Southeast quarter of the Southwest quarter of said Section 25 to the Northwest corner thereof;

Thence South 89° 54' 09" West, 1320.73 feet along the South line of the North half of the Southwest quarter of said Section 25 to the Southwest corner thereof;

Thence South 00° 29' 14" West, 1318.06 feet along the East line of the Southeast quarter of Section 26, Township 13 South, Range 65 West of the 6th P.M. to the Southeast corner of said Section 26;

Thence South 00° 29' 21" West, 2639.42 feet along the East line of the Northeast quarter of Section 35, Township 13 South, Range 65 West of the 6th P.M. to the East ¼ corner of said Section 35;

Thence South 00° 29' 21" West, 2639.42 feet along the East line of the Southeast quarter of said Section 35 to the Southeast corner of said Section 35;

Thence South 89° 52' 56" East, 2663.38 feet along the North line of the Northwest quarter of Section 1, Township 14 South, Range 65 West of the 6th P.M. to the North quarter corner of said Section 1;

Thence South 00° 01' 58" East, 1358.28 feet along the North-South Centerline of said Section 1 to the Southwest corner of Government Lot 1 in said Section 1;

Thence North 89° 49' 10" East, 1328.01 feet along the South line of said Government Lot 1 to the Southeast corner of the West half of said Government Lot 1 in said Section 1;

Thence North 00° 07' 23" East, 1351.36 feet along the East line of the West half of said Government Lot 1 in said Section 1 to the Northeast corner thereof;

Thence South 89° 52' 56" East, 1331.69 feet along the North line of the Northeast quarter of said Section 1 to the Northeast corner of said Section 1;

Thence South 00° 16' 46" West, 1344.45 feet along the East line of the Northeast quarter of said Section 1 to the Northwest corner of the South half of the Northwest quarter of Section 6, Township 14 South, Range 64 West of the 6th P.M.;

Thence South 88° 04' 33" East, 2604.35 feet along the North line of the South half of the Northwest quarter of said Section 6 to the Northeast corner thereof;

Thence South 00° 35' 19" East, 1327.14 feet along the North-South Centerline of said Section 6 to the Center of said Section 6;

Thence South 00° 35' 19" East, 1327.19 feet along the North-South Centerline of said Section 6 to the Southeast corner of the North half of the Southwest quarter of said Section 6;

Thence North 88° 51' 22" West, 1244.55 feet along the South line of the North half of the Southwest quarter of said Section 6 to the Northeast corner of the Southwest quarter of the Southwest quarter of said Section 6;

Thence South 00° 04' 06" East, 1335.24 feet along the East line of the Southwest quarter of the Southwest quarter of said Section 6 to the Southeast corner thereof;

Thence South 89° 14' 14" East, 1256.45 feet along the North line of the Northwest quarter of Section 7, Township 14 South, Range 64 West of the 6th P.M. to the North quarter corner of said Section 7;

Thence South 00° 43' 20" West, 1315.42 feet along the North-South Centerline of said Section 7, to the Southeast corner of the North half of the Northwest quarter of said Section 7;

Thence South $00^{\circ} 43' 20''$ West, 252.70 feet along the North-South Centerline of said Section 7 to the Southeast corner of that tract of land as described in Deed recorded in Book 3500 at Page 703 of the records of El Paso County, Colorado;

Thence North $89^{\circ} 20' 08''$ West, 2621.11 feet parallel with the North line of the South half of the Northwest quarter of said Section 7 and along the South line of that tract of land as described in said Book 3500 at Page 703 to the Southwest corner thereof;

Thence North $00^{\circ} 15' 51''$ East, 96.42 feet along the West line of that tract of land as described in said Book 3500 at Page 703 to the South line of that tract of land as described in Deed recorded in Book 2879 at Page 265 of the records of El Paso County, Colorado;

Thence North $88^{\circ} 38' 28''$ West, 30.00 feet along the South line of that tract of land as described in said Book 2879 at Page 265 to the East line of the Northeast quarter of Section 12, Township 14 South, Range 65 West of the 6th P.M.;

Thence North $88^{\circ} 08' 03''$ West, 1318.13 feet along the South line of that tract of land as described in Book 2101 at page 808 of the records of El Paso County, Colorado, to the East line of the Southwest quarter of the Northeast quarter of said Section 12;

Thence South $00^{\circ} 17' 12''$ West, 1199.44 feet along the East line of the Southwest quarter of the Northeast quarter of said Section 12 to the Southeast corner thereof;

Thence North $89^{\circ} 40' 13''$ West, 1318.08 feet along the East-West Centerline of said Section 12 to the Center of said Section 12;

Thence North $89^{\circ} 40' 13''$ West, 409.91 feet along the East-West Centerline of said Section 12 to the Northwest corner of that tract of land as described in Deed recorded in Book 2163 at Page 320 of the records of El Paso County, Colorado;

Thence South $00^{\circ} 15' 03''$ East, 1316.82 feet along the West line of that tract of land as described in said Book 2163 at Page 320 to the Southwest corner thereof;

Thence South $88^{\circ} 23' 29''$ East, 397.15 feet along the South line of that tract of land as described in said Book 2163 at Page 320 to the North-South Centerline of said Section 12;

Thence South $00^{\circ} 18' 32''$ West, 1314.44 feet along the North-South Centerline of said Section 12 to the South quarter corner of said Section 12;

Thence North $89^{\circ} 39' 32''$ West, 2636.56 feet along the South line of the Southwest quarter of said Section 12 to the Southwest corner of said Section 12;

Thence South $89^{\circ} 56' 48''$ West, 1336.49 feet along the South line of the Southeast quarter of Section 11, Township 14 South, Range 65 West of the 6th P.M. to the Northeast corner of the Northwest quarter of the Northeast quarter of Section 14, Township 14 South, Range 65 West of the 6th P.M.;

Thence South $00^{\circ} 16' 12''$ East, 1301.81 feet along the East line of the Northwest quarter of the Northeast quarter of said Section 14 to the Southeast corner thereof;

Thence North $89^{\circ} 47' 20''$ East, 1340.59 feet along the North line of the South half of the Northeast quarter of said Section 14 to the Northeast corner thereof;

Thence South 00° 27' 04" East, 1298.15 feet along the East line of the Northeast quarter of said Section 14 to the East quarter corner of said Section 14;

Thence South 89° 17' 05" East, 1303.16 feet along the East-West Centerline of Section 13, Township 14 South, Range 65 West of the 6th P.M. to the Southwest corner of the Southeast quarter of the Northwest quarter of said Section 13;

Thence North 00° 06' 56" West, 1302.32 feet along the West line of the Southeast quarter of the Northwest quarter of said Section 13 to the Northwest corner thereof;

Thence South 89° 28' 22" East, 1310.71 feet along the North line of the Southeast quarter of the Northwest quarter of said Section 13 to the Northeast corner thereof;

Thence South 00° 13' 05" West, 1306.54 feet along the North-South Centerline of said Section 13 to the Center of said Section 13;

Thence South 00° 13' 05" West, 2639.83 feet along the North-South Centerline of said Section 13 to the South quarter corner of said Section 13;

Thence South 00° 15' 55" West, 5250.99 feet along the North-South Centerline of Section 24, Township 14 South, Range 65 West of the 6th P.M. to the South quarter corner of said Section 24;

Thence South 89° 14' 56" East, 2635.11 feet along the North line of the Northeast quarter of Section 25, Township 14 South, Range 65 West of the 6th P.M. to the Northeast corner of said Section 25;

Thence South 00° 15' 33" West, 2630.82 feet along the East line of the Northeast quarter of said Section 25 to the East quarter corner of said Section 25;

Thence South 00° 15' 33" West, 2630.82 feet along the East line of the Southeast quarter of said Section 25 to the Southeast corner of said Section 25;

Thence North 89° 54' 54" West, 2660.50 feet along the South line of the Southeast quarter of said Section 25 to the South quarter corner of said Section 25;

Thence North 89° 52' 35" West, 30.00 feet along the South line of the Southwest quarter of said Section 25 to the West line of the East 30.00 feet of the West half of Section 36, Township 14 South, Range 65 West of the 6th P.M.;

Thence South 00° 17' 51" West, 5279.97 feet along the West line of the East 30.00 feet of the West half of said Section 36 to the South line of the Southwest quarter of said Section 36;

Thence South 89° 54' 20" West, 2627.54 feet along the South line of the Southwest quarter of said Section 36 to the Southwest corner of said Section 36;

Thence North 00° 30' 00" East, 2645.03 feet along the West line of the Southwest quarter of said Section 36 to the East quarter corner of Section 35, Township 14 South, Range 65 West of the 6th P.M.;

Thence South 89° 52' 44" West, 2666.49 feet along the East-West Centerline of said Section 35 to the Center of said Section 35;

Thence South 89° 52' 44" West, 1333.24 feet along the East-West Centerline of said Section 35 to the Northeast corner of the West half of the Southwest quarter of said Section 35;

Thence South 00° 34' 58" West, 2641.32 feet along the East line of the West half of the Southwest quarter of said Section 35 to the Southeast corner thereof;

Thence South 89° 55' 58" West, 1334.50 feet along the South line of the Southwest quarter of said Section 35 to the Southwest corner of said Section 35;

Thence South 89° 51' 19" West, 2630.71 feet along the South line of the Southeast quarter of Section 34, Township 14 South, Range 65 West of the 6th P.M. to the South quarter corner of said Section 34;

Thence South 89° 50' 25" West, 2630.56 feet along the South line of the Southwest quarter of said Section 34 to the Southwest corner of said Section 34;

Thence South 89° 57' 09" West, 1314.06 feet along the South line of the Southeast quarter of Section 33, Township 14 South, Range 65 West of the 6th P.M. to the Northeast corner of the West half of the Northeast quarter of Section 4, Township 15 South, Range 65 West of the 6th P.M.;

Thence South 00° 11' 46" East, 2660.70 feet along the East line of the West half of the Northeast quarter of said Section 4 to the Southeast corner thereof;

Thence North 89° 56' 02" West, 1337.98 feet along the East-West Centerline of said Section 4 to the Center of said Section 4;

Thence North 00° 19' 09" East, 2658.09 feet along the North-South Centerline of said Section 4 to the North quarter corner of said Section 4;

Thence North 00° 18' 19" East, 5282.47 feet along the North-South Centerline of said Section 33 to the South quarter corner of Section 28, Township 14 South, Range 65 West of the 6th P.M.;

Thence South 89° 20' 50" West, 662.98 feet along the South line of the Southwest quarter of said Section 28 to the Southwest corner of the East half of the East half of the Southwest quarter of said Section 28;

Thence North 00° 03' 50" East, 2620.18 feet along the West line of the East half of the East half of the Southwest quarter of said Section 28 to the Northwest corner thereof;

Thence North 00° 08' 00" East, 2639.27 feet along the West line of the East half of the East half of the Northwest quarter of said Section 28 to the Southwest corner of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 21, Township 14 South, Range 65 West of the 6th P.M.;

Thence North 00° 05' 28" West, 729.54 feet;

Thence North 59° 24' 45" East, 766.46 feet to the Southwesterly line of that 100 foot wide strip of land conveyed to El Paso County as described in Deed recorded in Book 834 at Page 422 of the records of El Paso County, Colorado;

Thence South 30° 35' 15" East, 5.69 feet along the Southwesterly line of that 100 foot wide strip of land as described in said Book 834 at Page 422 to the West line of the Southeast quarter of said Section 21;

Thence North 00° 05' 27" West, 197.05 feet along the West line of the Southeast quarter of said Section 21 to the Northeasterly line of that 100 foot wide strip of land as described in said Book 834 at Page 422;

Thence North 30° 35' 15" West, 1556.41 feet along the Northeasterly line of that 100 foot wide strip of land as described in said Book 834 at Page 422 to the South line of the Northwest quarter of said Section 21;

Thence North 89° 59' 09" West, 116.18 feet along the South line of the Northwest quarter of said Section 21 to the Southwest corner of that 100 foot wide strip of land conveyed to County of El Paso as described in Quit-Claim Deed recorded in Book 752 at Page 305 of the records of El Paso County, Colorado;

Thence North 30° 35' 15" West, 781.17 feet along the Southwesterly line of that 100 foot wide strip of land as described in said Book 752 at Page 305 to a point of curve to the left;

Thence Northwesterly, 265.46 feet along the Southwesterly line of that 100 foot wide strip of land as described in said Book 752 at Page 305 and along the arc of said curve to a point tangent, said arc having a radius of 1382.69 feet, a central angle of 11° 00' 00" and being subtended by a chord that bears North 36° 05' 15" West, 265.05 feet;

Thence North 41° 35' 15" West, 200.00 feet along the Southwesterly line of that 100 foot wide strip of land as described in said Book 752 at Page 305 to a point of curve to the right;

Thence Northwesterly, 358.44 feet along the Southwesterly line of that 100 foot wide strip of land as described in said Book 752 at Page 305 and along the arc of said curve to the Southwesterly line of that 60 foot wide strip of land conveyed to El Paso County as described in Deed recorded in Book 752 at Page 365 of the records of El Paso County, Colorado, said arc having a radius of 1196.28 feet, a central angle of 17° 10' 04" and being subtended by a chord that bears North 33° 00' 13" West, 357.10 feet;

Thence North 34° 54' 57" West, 1534.95 feet along the Southwesterly line of that 60 foot wide strip of land as described in said Book 752 at Page 365 to the West line of the Northwest quarter of said Section 21;

Thence North 00° 10' 48" West, 52.65 feet along the West line of the Northwest quarter of said Section 21 to the Northwest corner of said Section 21;

Thence South 89° 58' 53" East, 36.59 feet along the north line of the Northwest quarter of said Section 21 to the Northeasterly line of that 60 foot wide strip of land as described in said Book 752 at Page 365;

Thence South 34° 54' 57" East, 232.15 feet along the Northeasterly line of that 60 foot wide strip of land as described in said Book 752 at Page 365 to the South line of that tract of land as described in Deed recorded in Book 2547 at Page 364 of the records of El Paso County, Colorado;

Thence South 89° 55' 58" East, 2492.30 feet along the South line of that tract of land as described in said Book 2547 at Page 364 to the West line of the Northeast quarter of said Section 21;

Thence North $00^{\circ} 05' 27''$ West, 192.43 feet along the West line of the Northeast quarter of said Section 21 to the North quarter corner of said Section 21;

Thence South $89^{\circ} 52' 42''$ East, 2665.30 feet along the North line of the Northeast quarter of said Section 21 to the Northeast corner of said Section 21;

Thence North $00^{\circ} 04' 27''$ East, 5046.40 feet along the West line of Section 15, Township 14 South, Range 65 West of the 6th P.M. to the Northerly right-of-way line of Colorado State Highway No. 94 as described in Instrument recorded in Book 2161 at Page 200 of the records of El Paso County, Colorado;

Thence North $77^{\circ} 56' 14''$ West, 1137.08 feet along the Northerly right-of-way line of said Colorado State Highway No. 94 as described in said Book 2161 at Page 200 to the North line of the Northeast quarter of Section 16, Township 14 South, Range 65 West of the 6th P.M.;

Thence continuing North $77^{\circ} 56' 14''$ West, 286.48 feet along the Northerly right-of-way line of Colorado State Highway No. 94 to a point of curve to the left;

Thence Westerly, 140.28 feet along the Northerly right-of-way line of said Colorado State Highway No. 94 and along the arc of said curve to the Easterly line of Parcel No. 1 conveyed to the State Department of Highways as described in Instrument recorded in Book 3415 at Page 831 of the records of El Paso County, Colorado, said arc having a radius of 1482.40 feet, a central angle of $5^{\circ} 25' 18''$ and being subtended by a chord that bears North $80^{\circ} 38' 54''$ West, 140.22 feet;

Thence North $07^{\circ} 37' 25''$ East, 15.13 feet along the Easterly right-of-way line of Colorado State Highway No. 94 as described in said Book 3415 at Page 831 to the Northeast corner thereof;

Thence Westerly, 786.93 feet along the Northerly right-of-way of Colorado State Highway No. 94 as described in said Book 3415 at Page 831 and along the arc of a curve concave to the South to a point tangent, said arc having a radius of 1502.50, a central angle of $30^{\circ} 00' 30''$ and being subtended by a chord that bears South $83^{\circ} 18' 25''$ West, 777.96 feet;

Thence South $68^{\circ} 18' 10''$ West, 14.70 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 3415 at Page 831 to a point on the North line of the Northeast quarter of Section 16 from which the northeast corner of said Section 16 bears South $89^{\circ} 55' 35''$ East, 2315.10 feet;

Thence North $00^{\circ} 00' 00''$ East, 7205.97 feet to the Southeasterly right-of-way line of U.S. Highway No. 24;

Thence North $53^{\circ} 49' 00''$ East, 3222.01 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the left;

Thence Northeasterly, 1198.13 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to a point tangent, said arc having a radius of 2915.00 feet, a central angle of $23^{\circ} 33' 00''$ and being subtended by a chord that bears North $42^{\circ} 02' 30''$ East, 1189.72 feet;

Thence North $30^{\circ} 16' 00''$ East, 747.64 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to the TRUE POINT OF BEGINNING.

Except that part conveyed to El Paso County, Colorado in Instrument recorded in Book 441 at Page 533, 547 and 548,

Except that part conveyed to El Paso County, Colorado in Instrument recorded in Book 752 at Page 337,

Except that part conveyed to El Paso County, Colorado in Instruments recorded in Book 433 at Pages 179, 180, 187 and 416,

Except that part conveyed to El Paso County, Colorado in Instrument recorded in Book 752 at Page 365,

Except that part conveyed to El Paso County, Colorado in Instruments recorded in Book 752 at Page 305 and in Book 5074 at Page 209,

Except that part owned by Frank Aries described in Partial Release recorded in Book 5558 at Page 601,

Except that part conveyed to the Springs Company, an Arizona General Partnership, in Deed recorded in Book 5584 at Page 1427,

Except that part conveyed to Colorado Springs Land Associates, a New York General Partnership, in Deed recorded in Book 5484 at Page 300,

Except that part conveyed to Centennial Investment and Development Corporation, a Delaware Corporation, in Deed recorded in Book 5535 at Page 1,

Except that part conveyed to Springs Center Land Corp., a Delaware Corporation, in Deed recorded in Book 5479 at Page 1344,

Except that part lying within the Colorado & Southern Railroad right of way, Except that part conveyed to El Paso County, Colorado in Treasurer's Deed recorded in Book 1081 at Page 211,

Except that part conveyed to the United States Olympic Committee, a Non-Profit Corporation in Deed recorded in Book 5407 at Page 287,

Except that part lying within the Chicago, Kansas and Nevada Railway Company right of way in Instrument recorded in Book 92 at Page 229,

Except that part conveyed to El Paso County, Colorado in Instrument recorded in Book 602 at Page 348,

Except that part conveyed to Stuart A. Benson, William Landbert, Nationwide Resources Corporation, an Arizona Corporation, and CS Ranch Company, an Arizona General Partnership, in Deed recorded in Book 5074 at Page 479,

Except the South half of the South half of the Southeast quarter of Section 35, Township 13 South, Range 65 West of the 6th P.M.

Except the " 35-acre parcel" conveyed to Carla Worsham Lewis as described in Quit Claim Deed recorded in Book 3500 at Page 501 of the records of El Paso County, Colorado, located in the East half of Section 9, Township 14 South, Range 65 West of the 6th P.M.

Except that tract of land conveyed to Mountain View Electric Association, Inc. as described in Quit Claim Deed recorded in Book 1060 at Page 423 of the records of El Paso County, Colorado, located in the Northwest quarter of the Northwest quarter of Section 15, Township 14 South, Range 65 West of the 6th P.M.

Except a strip of land, 30.00 feet in width, located in the East half of Section 15, Township 14 South, Range 65 West of the 6th P.M., said strip being 15.00 feet on east side of the following described Centerline:

Commencing at the Southeast corner of said Section 15, Thence North 00° 22' 24" West, 1320.00 feet along the East line of the Southeast quarter of said Section 15 to the TRUE POINT OF BEGINNING; Thence North 28° 00' West, 360.00 feet; Thence North 40° 00' West, 460.00 feet; Thence North 36° 00' West, 315.00 feet; Thence North 10° 00' West, 252.00 feet; Thence North 30° 00' West, 1887.2 feet, more or less, to the Southerly right-of-way line of Colorado State Highway No. 94 and the point of termination.

Except the South 1320.00 feet of the West 1020 feet of Section 14; the South 1320 feet of the East 630.00 feet of Section 15; the North 1320.00 feet of the East 630.00 feet of Section 22; and the North 1320 feet of the West 1020.00 feet of Section 23, all in Township 14 South, Range 65 West of the 6th P.M.

Except that part conveyed to the City of Colorado Springs, a Municipal Corporation in Deed recorded in Book 6284 at Page 1163.

Except that part conveyed to the City of Colorado Springs, a Municipal Corporation in Deed recorded in Book 6494 at Page 586.

Except that part lying within Corral Bluffs recorded in Plat Book L2 at Page 77.

PARCEL NO. 6:

[Deleted - Not annexed into Colorado Springs under the Annexation Agreement dated September 23, 1988.]

PARCEL NO. 7:

A tract of land located in the North half of Sections 10 and 11, all in Township 13 South Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Northeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Southeast corner of said Section 34, bears South 01° 14' 52" West (basis of bearing – true meridian), 5298.00 feet; Thence North 18° 42' 40" West, 16,816.94 feet to the Southwest corner of said Section 10; Thence North 00° 28' 40" West, 2655.21 feet along the West line of the Southwest quarter of said Section 10 to and the West quarter corner of said Section 10; Thence continuing North 00° 28' 40" West, 1327.61 feet along the West line of the Northwest quarter of said Section 10 to the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 10; Thence North 89° 58' 24" East, 1353.37 feet along the North line of the Southwest quarter of the Northwest quarter of said Section 10 to the Northeast corner thereof and the TRUE POINT OF BEGINNING;

Thence South 00° 12' 56" East, 1025.84 feet along the East line of the Southwest quarter of the Northwest quarter of said Section 10;

Thence North 89° 51' 57" East, 4046.22 feet to the East line of the Northeast quarter of said Section 10;

Thence South 89° 07' 50" East, 5008.67 feet to the West line of that tract of land conveyed to Public Service Company of Colorado as described in Deed recorded in Book 2194 at Page 154 of the records of El Paso County, Colorado;

Thence North 00° 08' 47" East, 486.30 feet along the West line of that tract of land as described in said Book 2194 at Page 154 to the Southeast corner of that tract of land conveyed to the City of Colorado Springs as described in Deed recorded in Book 2609 at Page 177 of the records of El Paso County, Colorado;

Thence North 89° 07' 50" West, 1120.00 feet along the South line of that tract of land as described in said Book 2609 at Page 177 to the Southwest corner thereof;

Thence North 00° 08' 47" East, 145.14 feet along the West line of that tract of land as described in said Book 2609 at Page 177;

Thence North 89° 07' 50" West, 3884.05 feet to the East line of the Northeast quarter of said Section 10;

Thence South 89° 51' 57" West, 3954.82 feet to the East line of the West 100.00 feet of the East half of the Northwest quarter of said Section 10;

Thence North 00° 12' 56" West, 1724.62 feet along the East line of the West 100.00 feet of the East half of the Northwest quarter of said Section 10 to the North line of the Northwest quarter of said Section 10;

Thence South 89° 51' 57" West, 100.00 feet along the North line of the Northwest quarter of said Section 10 to the Northwest corner of the East half of the Northwest quarter of said Section 10;

Thence South 00° 12' 56" East, 1330.13 feet along the West line of the East half of the Northwest quarter of said Section 10 to the TRUE POINT OF BEGINNING.

Except any portion lying within Woodmen Road.

PARCEL NO. 8:

A tract of land located in the East half of Section 16, Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Northeast corner of said Section 34 bears North $01^{\circ} 14' 52''$ East (basis of bearing - true meridian), 5298.00 feet; Thence South $26^{\circ} 28' 52''$ West, 11,909.65 feet to the Northeast corner of said Section 16; Thence South $0^{\circ} 04' 27''$ West, 338.43 feet along the East line of the Northeast quarter of said Section 16 to the Southerly line of that tract of land conveyed to Colorado Department of Highways as described in Instrument recorded in Book 2161 at Page 200 of the records of El Paso County, Colorado, and the TRUE POINT OF BEGINNING;

Thence North $77^{\circ} 56' 14''$ West, 1444.79 feet along the Southerly line of that tract of land as described in said Book 2161 at Page 200 to a point of curve to the left;

Thence Westerly, 809.48 feet along the Southerly line of that tract of land as described in said Book 2161 at Page 200 and along the arc of said curve to a point tangent, said arc having a radius of 1382.40 feet, a central angle of $33^{\circ} 33' 00''$ and being subtended by a chord that bears South $85^{\circ} 17' 16''$ West, 797.96 feet;

Thence South $68^{\circ} 30' 46''$ West, 492.30 feet along the Southerly line of that tract of land as described in said Book 2161 at Page 200 to the North-South Centerline of said Section 16;

Thence South $0^{\circ} 03' 46''$ West, 4994.55 feet along the North-South Centerline of said Section 16 to the South quarter corner of said Section 16;

Thence South $89^{\circ} 52' 42''$ East, 965.30 feet along the South line of the Southeast quarter of said Section 16 to the Southwest corner of that tract of land conveyed to Joseph Bonicelli and Michael A. Bonicelli as described in Warranty Deed recorded in Book 2830 at Page 723 of the records of El Paso County, Colorado;

Thence North $0^{\circ} 04' 27''$ East, 1250.00 feet along the West line of that tract of land as described in said Book 2830 at Page 723;

Thence South $89^{\circ} 52' 42''$ East, 400.00 feet along the North line of that tract of land as described in said Book 2830 at Page 723;

Thence North $0^{\circ} 04' 27''$ East, 1250.00 feet along the West line of that tract of land as described in said Book 2830 at Page 723;

Thence South $89^{\circ} 52' 42''$ East, 300.00 feet along the North line of that tract of land as described in said Book 2830 at Page 723;

Thence North $0^{\circ} 04' 27''$ East, 500.00 feet along the West line of that tract of land as described in said Book 2830 at Page 723;

Thence South $89^{\circ} 52' 42''$ East, 1000.00 feet along the north line of that tract of land as described in said Book 2830 at Page 723 to the East line of the Northeast quarter of said Section 16;

Thence North 0° 04' 27" East, 1944.17 feet along the East line of the Northeast quarter of said Section 16 to the TRUE POINT OF BEGINNING.

Except that part lying within the Colorado & Southern Railroad right of way and within the Chicago, Kansas and Nebraska Railway Company right of way in Instrument recorded in Book 92 at Page 229.

Except that portion of land conveyed to the Department of Transportation, State of Colorado described as Parcel No. 9, in Deed recorded July 30, 1992 in Book 6016 at Page 192.

PARCEL NO. 9:

A tract of land in the East half of Section 16, Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, more particularly described as follows: Beginning at the Southeast corner of said Section 16, thence (1) North on the East line of said Section 16, 3,000.00 feet; (2) North 89° 57' 40" West, 1,000.00 feet; (3) South, 500.00 feet; (4) North 89° 57' 40" West, 300.00 feet; (5) South 1,250.00 feet; (6) North 89° 57' 40" West, 400.00 feet; (7) South, 1,250.00 feet; (8) South 89° 57' 40" East on the South line of said Section 16, 1,700.00 feet to the Point of Beginning, together with an easement for road way purposes, being 60.00 feet in width, 30.00 feet on either side of the following described center line: Commencing at the Southeast corner of said Section 16; Thence North on the East line of said Section 16, 3,000.00 feet; Thence North 89° 57' 40" West, 732.20 feet to the point of beginning of the easement to be described herein; Thence (1) North 31° 50' 33" West, 324.75 feet; (2) on a curve to the right, said curve having a radius of 196.40 feet, a central angle of 28° 34' 00" for an arc length of 97.92 feet; (3) North 16° 08' 40" West, 348.07 feet; (4) on a curve to the left, said curve having a radius of 421.74 feet, a central angle of 26° 40' 42" for an arc length of 196.37 feet; (5) North 42° 49' 22" West, 168.22 feet; (6) on a curve to the left, said curve having a radius of 877.69 feet, a central angle of 13° 00' 00" for an arc length of 199.14 feet; (7) North 55° 49' 22" West, 1069.50 feet; (8) on a curve to the right, said curve having a radius of 474.49 feet, a central angle of 35° 05' 12" for an arc length of 290.57 feet; (9) North 20° 44' 10" West to a point on the Southeasterly right of way line of State Highway 94, said point being the point of terminus.

PARCEL NO. 10:

A tract of land located in Sections 4, 8, 9, 16 and 17, all in Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M. from which the Northeast corner of said Section 34 bears North 01° 14' 52" East (basis of bearing - true meridian), 5298.00 feet; Thence South 26° 28' 52" West, 11,909.65 feet to the Northeast corner of said Section 16; Thence North 89° 55' 35" West, 2315.10 feet along the north line of the Northeast quarter of said Section 16 to a point on the Northerly line of parcel No. 1 conveyed to the State Department of highways as described in Instrument recorded in Book, 3415 at Page 831 of the records of El Paso County, Colorado and the TRUE POINT OF BEGINNING;

Thence North 00° 00' 00" East, 7205.97 feet to the Southeasterly right-of-way line of U.S. Highway No. 24;

Thence South 53° 49' 00" West, 2655.85 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the left;

Thence Southwesterly, 990.81 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to a point tangent, said arc having a radius of 2815.00 feet,

a central angle of 20° 10' 00" and being subtended by a chord that bears South 43° 44' 00" West, 985.70 feet;

Thence South 33° 39' 00" West, 269.11 feet along the Southeasterly right-of-way line of said U.S. Highway No. 24 to the Easterly line of Parcel No. 3 conveyed to the State Department of highways as described in Instrument recorded in Book 1848 at Page 84 of the records of El Paso County, Colorado;

Thence South 16° 48' 39" West, 36.00 feet along the Easterly line of said Parcel No. 3 as described in said Book 1848 at Page 84;

Thence South 00° 00' 21" East, 230.10 feet along the Easterly line of said Parcel No. 3 as described in said Book 1848 at Page 84;

Thence South 89° 59' 39" West, 29.80 feet along the South line of said Parcel No. 3 as described in said Book 1848 at page 84 to the West line of the Northwest quarter of said Section 9;

Thence South 00° 00' 21" East, 1748.60 feet along the West line of the Northwest quarter of said Section 9 to the West quarter corner of said Section 9;

Thence South 00° 02' 50" West, 1342.28 feet along the West line of the Southwest quarter of said Section 9 to the northeast corner of the Southeast quarter of the Southeast quarter of said Section 8;

Thence North 89° 59' 58" West, 1784.80 feet along the North line of the South half of the Southeast quarter of said Section 8 to the Northeasterly right-of-way line of the Colorado and Southern Railway (now abandoned);

Thence South 13° 39' 00" East, 172.60 feet along the Northeasterly right-of-way line of said Colorado and Southern Railway to a point of curve to the left;

Thence Southeasterly, 853.29 feet along the northeasterly right-of-way line of said Colorado and Southern Railway and along the arc of said curve to a point tangent, said arc having a radius of 905.37 feet, a central angle of 54° 00' 00" and being subtended by a chord that bears South 40° 39' 00" East, 822.06 feet;

Thence South 67° 39' 00" East, 200.00 feet along the Northeasterly right-of-way line of said Colorado & Southern Railway to a point of curve to the right;

Thence Southeasterly, 465.80 feet along the Northeasterly right-of-way line of said Colorado & Southern Railway and along the arc of said curve to a point tangent, said arc having a radius of 1482.69 feet, a central angle of 18° 00' 00" and being subtended by a chord that bears South 58° 39' 00" East, 463.89 feet;

Thence South 49° 39' 00" East, 646.57 feet along the Northeasterly right-of-way line of said Colorado & Southern Railway to the Northerly right-of-way line of Colorado State Highway No. 94;

Thence South 70° 39' 00" East, 455.59 feet along the Northerly right-of-way line of said Colorado State Highway No. 94 and along the Northerly line of Parcel No. 2 conveyed to El Paso County as described in Instrument recorded in Book 840 at Page 408 of the records of El Paso County, Colorado, to a point of curve to the left;

Thence Easterly, 727.14 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 840 at Page 408 and along the arc of said curve to a point tangent, said arc having a radius of 2815.00 feet, a central angle of 14° 48' 00" and being subtended by a chord that bears South 78° 03' 00" East, 725.12 feet;

Thence South 85° 27' 00" East, 288.00 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 840 at page 408 to a point of curve to the left;

Thence Easterly, 218.15 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 840 at Page 408 and along the arc of said curve to the Northerly line of said Parcel No. 1 as described in said Book 3415 at Page 831, said arc having a radius of 1860.00 feet, a central angle of 6° 43' 11" and being subtended by a chord that bears South 88° 48' 36" East, 218.02 feet;

Thence North 68° 28' 10" East, 1079.51 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 3415 at Page 831;

Thence South 73° 02' 20" East, 128.10 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 3415 at Page 831;

Thence North 68° 18' 10" East, 407.80 feet along the Northerly right-of-way line of Colorado State Highway No. 94 as described in said Book 3415 at Page 831 to the TRUE POINT OF BEGINNING.

Except that part conveyed to Centennial Investment and Development Corporation, a Delaware Corporation, in Deed recorded in Book 5535 at Page 1 (Claremont Parcel),

Except that part conveyed to Colorado Springs Land Associates, a New York General Partnership, in Deed recorded in Book 5484 at Page 300.

Except those parcels described as "Parcel No. 6" and Parcel No. 8", conveyed to the Department of Transportation, State of Colorado by Deed recorded July 30, 1992 in Book 6016 at Page 192.

PARCEL NO. 11:

A portion of the Chicago, Rock Island and Pacific Railway right-of-way located in Sections 12, 13, 14, 15, 22, 27, 28, 29 and 32 in Township 13 South, Range 65 West and in Sections 5 and 6 in Township 14 South, Range 65 West, all of the 6th P.M., County of El Paso, State of Colorado, said portion of the right-of-way extending Southwesterly from the North line of the Southwest quarter of the Southeast quarter of said Section 12 to the North line of the Southeast quarter of said Section 6, Except that portion of said right-of-way as described in Deed recorded in Book 2589 at Page 308 of the records of El Paso County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Southeast corner of said Section 34 bears South 01° 14' 52" West (basis of bearing - true meridian), 5298.00 feet, Thence north 89° 33' 25" West, 5471.41 feet along the South line of said Section 27 to the Southwest corner of said Section 27; Thence North 00° 14' 22" East, 2440.15 feet along the West line of the Southwest quarter of said Section 27 to the Northwesterly right-of-way line of the Chicago, Rock Island and Pacific Railway and the TRUE POINT OF BEGINNING;

The following courses and distances are along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway:

Thence South $61^{\circ} 11' 44''$ West, 1100.24 feet to a point of curve to the right;

Thence Southwesterly, 1598.92 feet along the arc of said curve to a point tangent, said arc having a radius of 2764.93 feet, a central angle of $33^{\circ} 08' 00''$ and being subtended by a chord that bears South $77^{\circ} 45' 44''$ West, 1576.73 feet;

Thence North $85^{\circ} 40' 16''$ West, 938.88 feet to a point of curve to the left;

Thence Southwesterly, 3283.72 feet along the arc of said curve to a point tangent, said arc having a radius of 2010.08 feet, a central angle of $93^{\circ} 36' 00''$ and being subtended by a chord that bears South $47^{\circ} 31' 44''$ West, 2930.57 feet;

Thence South $00^{\circ} 43' 44''$ West, 553.00 feet to a point of curve to the right;

Thence Southwesterly, 2179.84 feet along the arc of said curve to a point of tangent, said arc having a radius of 1810.08 feet, a central angle of $69^{\circ} 00' 00''$ and being subtended by a chord that bears South $35^{\circ} 13' 44''$ West, 2050.48 feet;

Thence South $69^{\circ} 43' 44''$ West, 903.10 feet to a point of curve to the left;

Thence Southwesterly, 2110.90 feet along the arc of said curve to a point tangent, said arc having a radius of 2010.08 feet, a central angle of $60^{\circ} 10' 10''$ and being subtended by a chord that bears South $39^{\circ} 38' 29''$ West, 2015.23 feet;

Thence South $09^{\circ} 33' 34''$ West, 2593.97 feet to a point of curve to the right;

Thence Southwesterly, 3844.10 feet along the arc of said curve to the North line of the Southeast quarter of said Section 6, said arc having a radius of 1810.08 feet, a central angle of $121^{\circ} 40' 49''$ and being subtended by a chord that bears South $70^{\circ} 23' 58''$ West, 3161.35 feet;

Thence leaving the Northwestern right-of-way line of said Chicago, Rock Island and Pacific Railway South $89^{\circ} 46' 40''$ West, 351.97 feet along the North line of the Southeast quarter of said Section 6 to the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

The following courses and distances are along the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway:

Thence Easterly, 1511.42 feet along the arc of a curve concave to the North, said arc having a radius of 2060.08 feet, a central angle of $42^{\circ} 02' 10''$ and being subtended by a chord that bears South $62^{\circ} 25' 21''$ East, 1477.75 feet;

Thence North $06^{\circ} 33' 34''$ East, 50.00 feet;

Thence Northeasterly, 3052.18 feet along the arc of a curve concave to the Northwest to a point tangent, said arc having a radius of 2010.08 feet, a central angle of $87^{\circ} 00' 00''$ and being subtended by a chord that bears North $53^{\circ} 03' 34''$ East, 2767.30 feet;

Thence North $09^{\circ} 33' 34''$ East, 2593.97 feet to a point of curve to the right;

Thence Northeasterly, 1900.86 feet along the arc of said curve to a point tangent, said arc having a radius of 1810.08 feet, a central angle of $60^{\circ} 10' 10''$ and being subtended by a chord that bears North $39^{\circ} 38' 39''$ East, 1814.71 feet;

Thence North $69^{\circ} 43' 44''$ East, 903.10 feet to a point of curve to the left;

Thence Northeasterly, 2420.69 feet along the arc of said curve to a point tangent, said arc having a radius of 2010.08 feet, a central angle of $69^{\circ} 00' 00''$ and being subtended by a chord that bears North $35^{\circ} 13' 44''$ East, 2277.04 feet;

Thence North $00^{\circ} 43' 44''$ East, 553.00 feet to a point of curve to the right;

Thence Northeasterly, 2957.00 feet along the arc of said curve to a point tangent, said arc having a radius of 1810.08 feet, a central angle of $93^{\circ} 36' 00''$ and being subtended by a chord that bears North $47^{\circ} 31' 44''$ East, 2638.98 feet;

Thence South $85^{\circ} 40' 16''$ East, 938.88 feet to a point of curve to the left;

Thence Northeasterly, 1714.58 feet along the arc of said curve to a point tangent, said arc having a radius of 2964.93 feet, a central angle of $33^{\circ} 08' 00''$ and being subtended by a chord that bears North $77^{\circ} 45' 44''$ East, 1690.79 feet;

Thence North $61^{\circ} 11' 44''$ East, 3745.46 feet to a point of curve to the left;

Thence Northeasterly, 2080.57 feet along the arc of said curve to the North line of the Northeast quarter of said Section 27, said arc having a radius of 2010.08 feet, a central angle of $59^{\circ} 18' 19''$ and being subtended by a chord that bears North $31^{\circ} 32' 35''$ East, 1988.93 feet;

Thence North $88^{\circ} 58' 07''$ West, 50.01 feet along the South line of the Southeast quarter of said Section 22;

Thence Northerly, 435.04 feet along the arc of a curve concave to the West to a point tangent, said arc having a radius of 1960.08 feet, a central angle of $12^{\circ} 43' 00''$ and being subtended by a chord that bears North $04^{\circ} 26' 46''$ West, 434.15 feet;

Thence North $10^{\circ} 48' 16''$ West, 2888.88 feet to a point of curve to the right;

Thence Northeasterly, 2931.52 feet along the arc of said curve to a point tangent, said arc having a radius of 2242.01 feet, a central angle of $74^{\circ} 55' 00''$ and being subtended by a chord that bears North $26^{\circ} 39' 14''$ East, 2727.11 feet;

Thence North $64^{\circ} 06' 44''$ East, 1563.86 feet to the East line of the Southeast quarter of said Section 15;

Thence South $00^{\circ} 43' 03''$ East, 55.25 feet along the East line of the Southeast quarter of said Section 15;

Thence North $64^{\circ} 06' 44''$ East, 2933.55 feet to the West line of the Southeast quarter of said Section 14;

Thence North $00^{\circ} 17' 24''$ West, 55.44 feet along the West line of the Southeast quarter of said Section 14;

Thence North 64° 06' 44" East, 620.07 feet to the North line of the Southeast quarter of said Section 14;

Thence South 89° 55' 20" East, 114.20 feet along the North line of the Southeast quarter of said Section 14;

Thence North 64° 06' 44" East, 728.34 feet to the West line of the East half of the Northeast quarter of said Section 14;

Thence North 00° 05' 00" West 55.54 feet along the West line of the East half of the Northeast quarter of said Section 14;

Thence North 64° 06' 44" East, 626.28 feet to a point of curve to the left;

Thence Northeasterly, 1412.23 feet along the arc of said curve to a point tangent, said arc having a radius of 5779.64 feet, a central angle of 14 ° 00' 00" and being subtended by a chord that bears North 57° 06' 44" East, 1408.72 feet;

Thence North 50° 06' 44" East, 896.50 feet;

Thence South 39° 53' 16" East, 100.00 feet;

Thence North 50° 06' 44" East, 3212.44 feet to the North line of the Southwest quarter of the Southeast quarter of said Section 12;

Thence leaving the Southeasterly right-of-way line of said Chicago, Rock Island and Pacific Railway North 89° 23' 02" West, 461.89 feet along the North line of the Southwest quarter of the Southeast quarter of said Section 12 to the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway;

The following courses and distances are along the Northwesterly right-of-way line of said Chicago, Rock Island and Pacific Railway:

Thence South 50° 06' 44" West, 2861.24 feet;

Thence South 39° 53' 16" East, 100.00 feet;

Thence South 50° 06' 44" West, 896.50 feet to a point of curve to the right;

Thence Southwesterly, 1387.80 feet along the arc of said curve to a point of tangent, said arc having a radius of 5679.64 feet, a central angle of 14° 00' 00" and being subtended by a chord that bears South 57° 06' 44" West, 1384.35 feet;

Thence North 25° 53' 16" West, 50.00 feet;

Thence South 64° 06' 44" West, 4965.06 feet to the East line of the Southeast quarter of said Section 15;

Thence South 00° 43' 03" East, 55.25 feet along the East line of the Southeast quarter of said Section 15;

Thence South 64° 06' 44" West, 1610.85 feet to a point of curve to the left;

Thence Southwesterly, 3062.28 feet along the arc of said curve to a point tangent, said arc having a radius of 2342.01 feet, a central angle of $74^{\circ} 55' 00''$ and being subtended by a chord that bears South $26^{\circ} 39' 14''$ West, 2848.75 feet;

Thence South $10^{\circ} 48' 16''$ East, 2888.88 feet to a point of curve to the right;

Thence Southerly, 414.38 feet along the arc of said curve to the South line of the Southeast quarter of said Section 22, said arc having a radius of 1860.08 feet, a central angle of $12^{\circ} 45' 51''$ and being subtended by a chord that bears South $04^{\circ} 25' 21''$ East, 413.53 feet;

Thence North $88^{\circ} 58' 07''$ West, 50.01 feet along the South line of the Southeast quarter of said Section 22;

Thence Southwesterly, 1870.56 feet along the arc of a curve concave to the Northwest to a point tangent, said arc having a radius of 1810.08 feet, a central angle of $59^{\circ} 12' 37''$ and being subtended by a chord that bears South $31^{\circ} 35' 26''$ West, 1788.43 feet;

Thence South $61^{\circ} 11' 44''$ West, 2645.22 feet to the TRUE POINT OF BEGINNING.

Except that part conveyed to the Board of County Commissioners of El Paso County, Colorado in Deed recorded at Reception No. 98008287.

Except any portion lying within Constitution Avenue as platted in Plat Book V-3 at Page 169.

COMBINED PARCELS NO. 12, 13 AND 14:

A tract of land located in the West half of Section 16 and in the Northwest quarter of Section 21, all in Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Northeast corner of said Section 34 bears North $01^{\circ} 14' 52''$ East (basis of bearing - true meridian), 5298.00 feet, Thence South $43^{\circ} 58' 04''$ West, 15,285.73 feet to the intersection of the East line of the West 30.00 feet of the Northwest quarter of said Section 16 with the Southerly right-of-way line of Colorado State Highway No. 94 as described in Parcel No. 2 in Deed recorded in Book 840 at Page 408 of the records of El Paso County, Colorado, and the TRUE POINT OF BEGINNING;

Thence South $00^{\circ} 01' 22''$ West, 4925.13 feet parallel with the West line of the Northwest quarter of said Section 16 and with the West line of the Southwest quarter of said Section 16 to the Northeasterly line of that 60 foot wide strip of land conveyed to El Paso County as described in Book 752 at Page 365 of the records of El Paso County, Colorado;

Thence South $34^{\circ} 54' 57''$ East, 243.68 feet along the Northeasterly line of that 60 foot wide strip of land as described in said Book 752 at Page 365 to the South line of that tract of land as described in Deed recorded in Book 2547 at Page 364 of the records of El Paso County, Colorado;

Thence South 89° 55' 58" East, 2492.30 feet along the South line of that tract of land as described in said Book 2547 at Page 364 to the East line of the Northwest quarter of said Section 21;

Thence North 00° 05' 27" West, 192.43 feet along the East line of the Northwest quarter of said Section 21 to the North quarter corner of said Section 21;

Thence North 00° 03' 46" East, 5003.56 feet along the North-South Centerline of said Section 16 to the Southerly right-of-way line of said Colorado State Highway No. 94;

The following courses and distances are along the Southerly right-of-way line of said Colorado State Highway No. 94:

Thence South 68° 37' 00" West, 547.54 feet to a point of curve to the right;

Thence Westerly, 887.14 feet along the arc of said curve to a point tangent, said arc having a radius of 1960.00 feet, a central angle of 25 ° 56' 00" and being subtended by a chord that bears South 81° 35' 00" West, 879.59 feet;

Thence North 85 °, 27' 00" West, 288.00 feet to a point of curve to the right;

Thence Northwesterly, 752.97 feet along the arc of said curve to a point tangent, said arc having a radius of 2915.00 feet, a central angle of 14 ° 48' 00" and being subtended by a chord that bears North 78° 03' 00" West, 750.88 feet;

Thence North 70° 39' 00" West, 247.27 feet to the TRUE POINT OF BEGINNING.

Except that part lying within the Colorado & Southern Railroad right of way in Instrument recorded in Book 232 at Page 269 and within the Chicago, Kansas and Nebraska Railway Company right of way in Instrument recorded in Book 92 at Page 229.

Except that part conveyed to Stuart A. Benson, William Landberg and Colorado Ranch Associates in Deed recorded in Book 5562 at Page 342,

Except that part conveyed to the Gordon K. Freshman Living Trust Under Trust Agreement Dated August 26, 1985 in Deed recorded in Book 5590 at Page 1302,

Except that part conveyed to F & D Associates, a Colorado Corporation, in Deed recorded in Book 5590 at Page 1312,

Except that part conveyed to Harold Blankenstein in Deed recorded in Book 5590 at Page 1321,

Except that part conveyed to Judy S. Aries in Deed recorded in Book 5590 at Page 1330,

Except that part conveyed to Melvin Ritter in Deed recorded in Book 5590 at Page 1339,

Except that part conveyed to Feit & Ahrens, a New York Corporation, in Deed recorded in Book 5590 at Page 1348,

Except that part conveyed to Michael Landon in Deed recorded in Book 5580 at Page 355,

Except that part conveyed to Church Associates in Deed recorded in Book 5580 at Page 366,

Except that part conveyed to Super Family VI in Deed recorded in Book 5580 at Page 377.

Except that part conveyed to the Saul H. Syde and Bess Syde Revocable Trust dated June 3, 1982, in Deed recorded in Book 5580 at Page 388,

Except that part conveyed to Colorado Springs Enterprises, an Arizona General Partnership, in Deed recorded in Book 5580 at Page 399.

PARCEL NO. 15:

[Deleted - Not annexed into Colorado Springs under the Annexation Agreement dated September 23, 1988.]

PARCEL NO. 18:

A tract of land being a portion of the South half of Section 35, Township 14 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The South line of the Southeast quarter of Section 35, Township 14 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 38' 31" East.

Commencing at the Southeast corner of said Section 35; Thence North 00° 32' 34" East and along the East line of the Southeast quarter of said Section 35 a distance of 30.00 feet to a point on the Northerly right-of-way line of existing Drennan Road, said point being the point of beginning; Thence Westerly along the Northerly right-of-way line of existing Drennan Road the following two (2) courses:

(1) South 89° 58' 31" West and along a line 30.00 feet North of and parallel with the South line of the Southeast quarter of said Section 35 a distance of 2669.11 feet; (2) South 89° 58' 57" West and along a line 30.00 feet North of and parallel with the South line of the Southwest quarter of said Section 35 a distance of 1334.29 feet to a point on the West line of the East half of the Southwest quarter of said Section 35;

Thence North 00° 37' 28" East and along the West line of the East half of the Southwest quarter of said Section 35 a distance of 2611.32 feet to the Northwest corner of the East half of the Southwest quarter of said Section 35; Thence North 89° 55' 24" East and along the North line of the East half of the Southwest quarter of said Section 35 a distance of 1333.28 feet to the center corner of said Section 35; Thence North 89° 55' 24" East and along the North line of the Southeast quarter of said Section 35 a distance of 2666.44 feet to the East quarter corner of said Section 35; Thence South 00° 32' 34" West and along the East line of the Southeast quarter of said Section 35 a distance of 2615.10 feet to the point of beginning.

Except the following described parcel: (Continental Tract)

A tract of land being a portion of the Southeast quarter of Section 35, Township 14 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The South line of the Southeast quarter of Section 35, Township 14 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 58' 31" East.

Commencing at the Southeast corner of said Section 35; Thence North 00° 32' 34" East and along the East line of the Southeast quarter of said Section 35 a distance of 30.00 feet to a point on the Northerly right-of-way line of existing Drennan Road, thence South 89° 58' 31" West and along a line 30.00 feet North of and parallel with the South line of the Southeast quarter of said Section 35 a distance of 338.02 feet to the point of beginning; Thence South 89° 58' 31" West and along a line 30.00 feet North of and parallel with the South line of the Southeast quarter of said Section 35 a distance of 1082.78 feet; Thence North 00° 32' 34" East a distance of 2613.80 feet to a point on the north line of the Southeast quarter of said Section 35; Thence North 89° 55' 24" East and along the North line of the Southeast quarter of said Section 35 a distance of 1082.79 feet; Thence South 00° 32' 34" West a distance of 2614.78 feet to the point of beginning, and

Except that part conveyed to Jonathan Aries in Deed recorded in Book 5578 at Page 1.

PARCEL 19:

A tract of land being a portion of Sections 3, 4, 9, and 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: North line of the Northwest quarter of Section 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 02' 55" East.

Commencing at the Southwest corner of said Section 3; Thence North 87° 13' 46" East a distance of 1,154.17 feet to a point of the Westerly right-of-way line of Marksheffel Boulevard, said point being the point of beginning; Thence Southerly along said Westerly right-of-way line the following two (2) courses:

(1) South 00° 05' 44" West a distance of 906.43 feet; (2) South 06° 17' 31" West a distance of 528.08 feet to a point on the Northerly right-of-way line of New Drennan Road (now known as Bradley Road);

Thence North 89° 54' 16" West and along the Northerly right-of-way line of New Drennan Road a distance of 1,084.00 feet to a point on the Easterly line of a tract of land as described in Book 3966 at Page 0255 of the El Paso County records; Thence Northerly and Westerly along said Easterly line the following three (3) courses:

(1) North 00° 05' 44" East a distance of 368.11 feet; (2) North 44° 38' 25" West a distance of 64.03 feet to a point on the West line of said Section 10; (3) North 44° 38' 25" West a distance of 306.98 feet to a point on curve, said point being on the Easterly right-of-way line of Aerospace Boulevard;

Thence Northerly along the Easterly right-of-way line of Aerospace Boulevard the following two (2) courses:

(1) Along a curve to the left whose center bears North 44° 38' 23" West having a delta of 45° 15' 53" , having a radius of 610.00 feet, a distance of 481.91 feet as measured along the arc to a point of tangent; (2) continuing along said Easterly right-of-way line North 00° 05' 44" East a distance of 366.45 feet to a point on the Southerly line of a tract of land as recorded in Book 3966 at Page 0255 of the El Paso County records;

Thence Easterly along said Southerly line the following two (2) courses:

(1) South 89° 54' 16" East a distance of 68.05 feet to a point on the West line of said Section 3; (2) South 89° 54' 16" East a distance of 1,153.42 feet to the point of beginning.

Except any portion hereof dedicated as New Drennan Road by plat recorded January 27, 1987 in Book 5507 at Page 1472.

Except that part conveyed to KVI Colorado Corp., a Nebraska Corporation, and Frank R. Krejci in Deed recorded in Book 5563 at Page 647.

Except that part conveyed to the Board of County Commissioners of the County of El Paso, State of Colorado in Decree Quieting Title recorded in Book 6759 at Page 907.

PARCEL 20:

A tract of land located in the Northwest quarter of Section 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northwest quarter of Section 10, Township 15 South, Range 65 West of the Sixth principal Meridian, being considered North 89° 02' 55" East.

Commencing at the Northwest corner of said Section 10; Thence South 86 ° 43' 27" East a distance of 2116.12 feet to a point on the Easterly right-of-way line of the Marksheffel Boulevard/New Drennan Road interchange and also on the Southerly boundary line of Colorado Center Residential Filing No. 2 as described in Plat Book A-4 at Page 4 of the El Paso County records, said point being the point of beginning; Thence along said Southerly boundary line the following two (2) courses:

(1) North 44° 24' 57" East a distance of 170.00 feet; (2) South 80° 33' 03" East a distance of 100.00 feet to the Southwesterly boundary line of Colorado Centre Residential Filing No. 1 as recorded in Plat Book Z-3 at Page 36 of the El Paso County records;

Thence along said Southwesterly boundary line the following three (3) courses:

(1) South 80° 35' 03" East a distance of 380.00 feet; (2) South 00° 05' 44" West a distance of 484.66 feet to a point of curve; (3) along a curve to the right having a delta of 90° 00' 00" , a radius of 100.00 feet, a distance of 157.08 feet as measured along the arc to a point of tangent on the Northerly right-of-way line of New Drennan Road;

Thence North 89° 54' 16" West and along said Northerly right-of-way line of New Drennan Road a distance of 420.00 feet to a point on the Easterly right-of-way line of Marksheffel Boulevard/New Drennan Road interchange; Thence along said Easterly right-of-way line the following two (2) courses:

(1) North 00° 05' 44" East a distance of 500.08 feet; (2) North 60° 35' 03" West a distance of 83.09 feet to the point of beginning;

Except that part conveyed to Colorado Centre Metropolitan District in Deed recorded in Book 5536 at Page 373.

Except that part conveyed to El Paso County, Colorado in Treasurer' s Deed recorded in Book 1081 at Page 211.

PARCEL 21:

A tract of land being a portion of Sections 2, 3, 10, 11, 12, 13, 14 and 15, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The East-West centerline of Section 14, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered to bear North 89°

48' 51" West;

Commencing at the East quarter corner of said Section 15, said point being the point of beginning; Thence South 89° 56' 35" West and along the South line of the Northeast quarter of said Section 15, a distance of 496.40 feet to a point on curve, said point being on the Easterly line of the right-of-way for New Marksheffel Boulevard; Thence Northerly along said Easterly right-of-way line the following eight (8) courses:

1) Along a curve to the left whose center bears North 87° 42' 44" West having a delta of 38° 03' 18" , a radius of 1705.00 feet, a distance of 1132.44 feet as measured along the arc; (2) North 02° 36' 27" West a distance of 480.51 feet; (3) North 42° 02' 29" West a distance of 690.00 feet; (4) South 47° 57' 31" West a distance of 295.00 feet; (5) North 42° 02' 29" West a distance of 2829.32 feet to a point of curve; (6) Along a curve to the right having a delta of 42° 08' 13" , a radius of 1495.00 feet, a distance of 1099.47 feet as measured along the arc to a point of tangent; (7) North 00° 05' 44" East a distance of 754.26 feet; (8) North 06° 17' 31" East a distance of 528.09 feet to a point on the Southerly right-of-way line of New Drennan Road (now known as Bradley Road).

Thence South 89° 54' 16" East and along said Southerly right-of-way line a distance of 1298 feet; Thence North 00° 05' 44" East a distance of 210.00 feet to a point on the Northerly right-of-way line of New Drennan Road; Thence Easterly along said Northerly right-of-way line the following (2) courses:

(1) South 89° 54' 16" East a distance of 356.52 feet to a point of curve; (2) along a curve to the left having a delta of 04° 24' 02" , a radius of 1495.00 feet, a distance of 114.82 feet as measured along the arc to a point on curve;

Thence North 40° 14' 50" West a distance of 98.73 feet; Thence North 32° 44' 49" East a distance of 316.29 feet; Thence North 67° 14' 26" East a distance of 248.30 feet; Thence North 01° 23' 21" East a distance of 96.43 feet; Thence North 37° 04' 19" East a distance of 187.92 feet; Thence South 62° 10' 53" East a distance of 198.88 feet; Thence North 49° 10' 16" East a distance of 205.87 feet; Thence North 00° 45' 11" West a distance of 121.98 feet; Thence North 46° 53' 27" East a distance of 577.62 feet; Thence North 28° 13' 56" East a distance of 232.87 feet; Thence North 23° 37' 44" East a distance of 105.55 feet; Thence North 24° 34' 29" West a distance of 90.41 feet; Thence North 27° 16' 55" West a distance of 75.68 feet; Thence North 01° 16' 11" East a distance of 229.61 feet; Thence North 12° 40' 27" East a distance of 875.93 feet to a point on the North line of the South half of the South half of said Section 3; Thence South 89° 24' 57" West and along the North line of the South half of said Section 3 a distance of 3302.91 feet to a point on the Easterly right-of-way line of Marksheffel Boulevard; Thence Northerly along the Easterly right-of-way line of Marksheffel Boulevard the following five (5) courses:

(1) North 00° 05' 44" East a distance of 2708.74 feet to a point of curve; (2) along a curve to the right having a delta of 89° 47' 22" , a radius of 300.00 feet, a distance of 470.14 feet as measured along the arc to a point of tangent; (3) North 01° 40' 27" East a distance of 80.00 feet to a point on curve; (4) along a curve to the right whose center bears North 00° 06' 54" West having a delta of 90° 12' 38" , a radius of 300.00 feet, a distance of 472.34 feet as measured along the arc to a point of tangent; (5) North 00° 05' 44" East a distance of 588.79 feet to a point on the Southerly right-of-way line of existing Drennan Road;

Thence North 89° 53' 06" East and along a line 30.00 feet South of and parallel with the North line of the Northwest quarter of said Section 3 a distance of 517.16 feet; Thence South 00° 05' 44" West a distance of 2113.97 feet; Thence North 89° 24' 57" East a distance of 1958.02 feet; Thence North 00° 00' 00" West a distance of 1837.18 feet; Thence North 58° 00' 07" West a distance of 386.30 feet; Thence North 00° 00' 00" East a distance of 55.18 feet to a point on the

Southerly right-of-way line of existing Drennan Road; Thence Easterly along the Southerly right-of-way line of existing Drennan Road the following two (2) courses:

(1) North 89° 53' 55" East and along a line 30.00 feet South of and parallel with the North line of the Northeast quarter of said Section 3 a distance of 1682.88 feet; (2) North 89° 58' 57" East and along a line 30.00 feet South of and parallel with the North line of the Northwest quarter of said Section 2, a distance of 1933.45 feet;

Thence South 04° 37' 34" East a distance of 146.20 feet; Thence South 37° 09' 04" West a distance of 1605.00 feet; Thence South 06° 25' 04" West a distance of 2540.00 feet to a point on the North line of the South half of the Southwest quarter of said Section 2; Thence South 89° 45' 38" East and along the North line of the South half of the Southwest quarter of said Section 2 a distance of 1964.45 feet to the Northeast corner of the South half of the Southwest quarter of said Section 2; Thence South 00° 11' 01" West and along the East line of the South half of the Southwest quarter of said Section 2 a distance of 1319.06 feet to the South quarter corner of said Section 2; Thence South 00° 25' 10" West and along the East line of the Northwest quarter of said Section 11 a distance of 2642.22 feet to the center corner of said Section 11; Thence South 89° 53' 31" East and along the North line of the Southeast quarter of said Section 11 a distance of 2665.97 feet to the East quarter corner of said Section 11; Thence North 89° 52' 37" East and along the North line of the Southwest quarter of said Section 12 a distance of 1323.82 feet to the Northeast corner of the West half of the Southwest quarter of said Section 12; Thence South 00° 28' 13" West and along the East line of the West half of the Southwest quarter of said Section 12 a distance of 2644.70 feet to the Northwest corner of the East half of the Northwest quarter of said Section 13; Thence South 89° 54' 19" East and along the North line of the East half of the Northwest quarter of said Section 13 a distance of 1323.81 feet to the North quarter corner of said Section 13; Thence South 00° 13' 22" West and along the East line of the Northwest quarter of said Section 13 a distance of 2634.36 feet to the center corner of said Section 13; Thence North 89° 58' 42" West and along the South line of the Northwest quarter of said Section 13 a distance of 2654.31 feet to the East quarter corner of said Section 14; Thence North 89° 48' 51" West and along the East/West centerline of said Section 14 a distance of 5301.72 feet to the East quarter corner of said Section 15, said point being the point of beginning.

Except the following 4 parcels:

Exception No. 1 - a portion of Horizonview Drive

A tract of land being 80.00 feet in width over and across a portion of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being 40.00 feet on each side of the hereon described centerline:

Basis of bearings: The East line of the Southeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 00° 10' 17" East.

Commencing at the Southeast corner of said Section 3; Thence North 56° 07' 30" West a distance of 2336.88 feet to a point on the South line of the North half of the Southeast quarter of said Section 3, said point being the point of beginning; Thence Northerly along the centerline of Horizonview Drive the following five (5) courses:

(1) North 00° 05' 44" East a distance of 188.97 feet to a point of curve; (2) along a curve to the left having a delta of 56° 02' 55" , a radius of 584.36 feet, a distance of 571.64 feet as measured along the arc to a point of tangent; (3) North 55° 57' 11" West a distance of 1065.93 feet to a point of curve; (4) along a curve to the right having a delta of 56° 02' 55" , a radius of 584.36 feet, a

distance of 571.64 feet as measured along the arc to a point of tangent; (5) North 00° 05' 44" East a distance of 2203.28 feet to a point on the Southerly right-of-way line of existing Drennan Road, said point being the point of terminus, from whence the Southeast corner of said Section 3 bears South 32° 21' 26" East a distance of 6229.08 feet;

Exception No. 2 - Parcel No. 28

A tract of land being a portion of the South half of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The East line of the Southeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 00° 10' 17" East.

Commencing at the Southwest corner of said Section 3; Thence North 44° 54' 25" East a distance of 1933.57 feet to a point on the Easterly right-of-way line of Marksheffel Boulevard, said point being on the South line of the North half of the South half of said Section 3, said point also being the point of beginning; Thence North 00° 05' 44" East and along said Easterly right-of-way line a distance of 740.76 feet; Thence North 89° 24' 57" East a distance of 1455.67 feet to a point on the Westerly right-of-way line of Horizonview Drive; Thence Southerly along said Westerly right-of-way line the following three (3) courses:

(1) South 55° 57' 11" East a distance of 170.53 feet to a point of curve; (2) along curve to the right having a delta of 56° 02' 55", a radius of 544.36 feet, a distance of 532.51 feet as measured along the arc to a point of tangent; (3) South 00° 05' 44" West a distance of 189.44 feet to a point on the South line of the North half of the South half of said Section 3;

Thence South 89° 24' 57" West and along the South line of the North half of the South half of said Section 3 a distance of 1837.49 feet to the point of beginning.

Exception No. 3 - Keith Development

A tract of land located in Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: North line of the Northeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian being considered North 89° 53' 55" East.

Commencing at the Northeast corner of said Section 3; Thence South 35° 32' 24" West a distance of 1941.76 feet to the point of beginning; Thence South 22° 40' 38" East a distance of 313.21 feet; Thence South 34° 16' 47" East a distance of 233.80 feet; Thence South 62° 33' 26" East a distance of 98.30 feet; Thence South 76° 01' 10" East a distance of 233.73 feet; Thence South 43° 14' 07" East a distance of 179.31 feet; Thence South 09° 29' 53" East a distance of 311.63 feet; Thence South 35° 29' 36" East a distance of 144.29 feet; Thence South 62° 06' 13" East a distance of 133.06 feet; Thence South 36° 49' 53" East a distance of 214.33 feet; Thence South 14° 54' 51" West a distance of 89.01 feet; Thence South 37° 01' 25" West a distance of 111.79 feet; Thence South 50° 28' 58" West a distance of 224.70 feet; Thence South 35° 18' 15" West a distance of 127.05 feet; Thence South 17° 05' 43" West a distance of 147.56 feet; Thence South 07° 29' 57" West a distance of 133.00 feet; Thence South 12° 40' 27" West a distance of 341.16 feet; Thence South 89° 24' 57" West a distance of 534.24 feet; Thence North 12° 40' 27" East a distance of 359.46 feet; Thence North 90° 00' 00" West a distance of 764.65 feet; Thence

South 68° 35' 33" West a distance of 186.26 feet to a point on curve, said point being on the Easterly right-of-way line of proposed Horizonview Drive; Thence along said Easterly right-of-way line and along a curve left whose center bears South 80° 36' 36" West, having a delta of 35° 03' 39" , a radius of 624.36 feet, a distance of 382.06 feet measured along the arc; Thence North 00° 05' 44" East a distance of 412.61 feet; Thence north 90° 00' 00" East a distance of 478.46 feet; Thence North 00° 00' 00" East a distance of 822.98 feet; Thence North 89° 24' 57" East a distance of 260.00 feet; Thence North 00° 00' 00" East a distance of 550.00 feet; Thence North 90° 00' 00" East a distance of 226.55 feet to the point of beginning.

Exception No. 4 - Elementary School Site No. 6

A tract of land being a portion of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 53' 55" East.

Commencing at the Northeast corner of said Section 3; Thence South 37 ° 08' 21" West a distance of 2675.31 feet to the point of beginning; Thence South 00° 00' 00" West a distance of 822.98 feet; Thence North 90° 00' 00" West a distance of 478.46 feet; Thence North 00° 05' 44" East a distance of 818.12 feet; Thence North 89° 24' 57" East a distance of 477.12 feet to the point of beginning.

And except that part conveyed to El Paso County, Colorado in Treasurer' s Deed recorded in Book 1081 at Page 211.

And except that part conveyed to the Board of County Commissioners of El Paso County, Colorado in Deed recorded at Reception No. 98121227.

PARCEL 22:

A portion of Sections 9, 10, 15, and 16, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North/South centerline of Section 9, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being considered North 00° 15' 30" East.

Commencing at the South quarter corner of said Section 9, said point being the point of beginning; Thence North 00° 15' 30" East and along the West line of the East half of said Section 9 a distance of 3638.69 feet to a point on the Southerly right-of-way line of New Drennan Road (now known as Bradley Road); Thence South 89° 54' 16" East and Easterly along said Southerly right-of-way line a distance of 3226.76 feet to a point on the Westerly right-of-way line of Marksheffel Boulevard; Thence Southerly along said Westerly right-of-way line of Marksheffel Boulevard the following ten (1) courses:

(1) South 00° 05' 44" West a distance of 500.08 feet; (2) South 60° 35' 03" East a distance of 503.09 feet; (3) South 29° 25' 07" East a distance of 439.19 feet; (4) South 00° 05' 44" West a distance of 150.62 feet to a point of curve; (5) along a curve to the left having a delta of 42° 08' 13", a radius of 1705.00 feet, a distance of 1253.91 feet as measured along the arc to a point of tangent; (6) South 42° 02' 29" East a distance of 1659.33 feet; (7) South 01° 44' 23" West a

distance of 498.62 feet; (8) South 42° 02' 29" East a distance of 1500.00 feet; (9) South 86° 01' 33" East a distance of 483.89 feet to a point on curve; (10) along a curve to the right whose center bears South 54° 13' 57" West, having a delta of 38° 23' 06" , a radius of 1495.00 feet, a distance of 1001.57 feet as measured along the arc to a point on curve, said point being on the South line of the Northeast quarter of said Section 15;

Thence South 89° 56' 35" West and along said South line of the Northeast quarter of said Section 15 a distance of 1927.50 feet to the center quarter of said Section 15; Thence South 00° 09' 37" West and along the East line of the Southeast quarter of said Section 15 a distance of 2606.48 feet to a point on the Northerly right-of-way line of Fontaine Boulevard; Thence Westerly along said Northerly right-of-way line the following two (2) courses:

(1) South 89° 55' 53" West and along a line 30.00 feet Northerly of and parallel with the South line of the Southwest quarter of said Section 15 a distance of 2631.73 feet; (2) South 89° 50' 47" West and along a line 30.00 feet Northerly of and parallel with the South line of the East half of said Section 16 a distance of 2645.72 feet to the North/South centerline of said Section 16;

Thence North 00° 09' 02" East and along the North/South centerline of said Section 16 a distance of 5230.70 feet to the point of beginning.

Except any portion hereof dedicated as New Drennan Road (now known as Bradley Road) by plat recorded January 27, 1987 in Book 5307 at Page 1472.

Except for the following described parcel:

A tract of land located in the Southwest quarter of Section 10 and the North half of Section 15, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The West line of the Southwest quarter of Section 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 00° 16' 07" East.

Commencing at the Southwest corner of said Section 10; Thence North 41° 30' 11" East a distance of 949.91 feet to a point on the Easterly right-of-way line of a proposed 100-foot collector, said point being the point of beginning; Thence along said Easterly right-of-way line the following three (3) courses:

(1) North 00° 26' 49" West a distance of 220.30 feet to a point of curve; (2) along a curve to the left having a delta of 18° 42' 42", a radius of 1050.00 feet, a distance of 342.91 feet as measured along the arc to a point of tangent; (3) North 19° 09' 31" West a distance of 218.54 feet;

Thence North 70° 50' 29" East a distance of 900.00 feet to a point on curve, said point being on the Westerly right-of-way line of Marksheffel Boulevard; Thence along said Westerly right-of-way line the following four (4) courses:

(1) Along a curve to the left whose center bears North 70° 50' 29" East having a delta of 22° 52' 58" , a radius of 1705.00 feet, a distance of 680.94 feet as measured along the arc to a point of tangent; (2) South 42° 02' 29" East a distance of 1659.33 feet; (3) South 01° 44' 23" West a distance of 498.62 feet; (4) South 42° 02' 29" East a distance of 252.37 feet;

Thence South 51° 30' 45" West a distance of 650.70 feet to a point on curve, said point being on the Easterly right-of-way line of proposed 100-foot collector; Thence along said Easterly right-of-way line the following six (6) courses:

(1) Along a curve to the left whose center bears South 45° 31' 54" West, having a delta of 27° 23' 17" , a radius of 650.00 feet, a distance of 310.71 feet as measured along the arc to a point of tangent; (2) North 71° 51' 23" West a distance of 227.85 feet to a point of curve; (3) along a curve to the right having a delta of 25° 12' 52" , a radius of 450.00 feet, a distance of 198.03 feet as measured along the arc to a point of tangent; (4) North 46 ° 38' 31" West a distance of 1372.77 feet to a point of curve; (5) along a curve to the right having a delta of 46° 11' 42" , a radius of 550.00 feet, a distance of 443.44 feet as measured along the arc to a point of tangent; (6) North 00° 26' 49" West a distance of 175.00 feet to the point of beginning.

Except that part conveyed to El Paso County, a Political Subdivision of the State of Colorado in Deed recorded in Book 5873 at Page 653.

Except that part conveyed to the Board of County Commissioners of the County of El Paso, State of Colorado in Decree Quieting Title recorded in Book 6759 at Page 907.

PARCEL NO. 23:

A tract of land being a portion of Sections 3, 4, 9 and 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, which includes Lot 3 and Tract B in Colorado Centre Foreign Trade Zone and Business Park Filing No. 1, being more particularly described as follows:

Basis of bearing: The North line of the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being considered North 89° 53' 06" East.

Commencing at the Northwest corner of said Section 3; Thence South 00 ° 03' 32" East a distance of 30.00 feet to a point on the Southerly right-of-way line of existing Drennan Road, said point being the point of beginning; Thence North 89° 53' 06" East and along said Southerly right-of-way line of existing Drennan Road being a line 30.00 feet South of and parallel with the North line of the Northwest quarter of said Section 3, a distance of 699.34 feet; Thence South 00° 06' 54" West a distance of 10.00 feet to a point on the proposed Southerly right-of-way line of existing Drennan Road; Thence North 89 ° 53' 06" East and along said Southerly right-of-way line being a line 40.00 feet South of and parallel with the North line of the Northwest quarter of said Section 3 a distance of 424.65 feet to a point of curve; Thence along a curve to the right having a deita of 90° 12' 38" , a radius of 100.00 feet, a distance of 157.45 feet as measured along the arc to a point on the Westerly right-of-way line of Marksheffel Boulevard; Thence Southerly along said Westerly right-of-way line of Marksheffel Boulevard the following six (6) courses:

(1) South 00° 05' 44" West a distance of 480.63 feet to a point of curve; (2) along a curve to the right having a delta of 89° 47' 22" , a radius of 300.00 feet, a distance of 470.14 feet as measured along the arc to a point of tangent; (3) South 01° 40' 27" West a distance of 80.04 feet to a point on curve; (4) along a curve to the right whose center bears South 00° 06' 54" East, having a delta of 90° 12' 38" , a radius of 300.00 feet, a distance of 472.34 feet as measured along the arc to a point of tangent; (5) South 00° 05' 44" West a distance of 4926.22 feet; (6) South 06° 17' 31" West a distance of 528.08 feet to a point on the Northerly right-of-way line of New Drennan Road (now known as Bradley Road).

Thence North $89^{\circ} 54' 16''$ West and along said Northerly right-of-way line of New Drennan Road a distance of 3824.16 feet to a point on the West line of the Northeast quarter of said Section 9; Thence North $00^{\circ} 15' 30''$ East and along said West line of the Northeast quarter of said Section 9 a distance of 1403.83 feet to the South quarter corner of said Section 4; Thence North $00^{\circ} 21' 38''$ East and along the West line of the Southeast quarter of said Section 4 a distance of 2681.33 feet to the center corner of said Section 4; Thence South $89^{\circ} 53' 24''$ East and along the North line of the Southeast quarter of said Section 4 a distance of 1337.93 feet to the Southwest corner of the East half of the Northeast quarter of said Section 4; Thence North $00^{\circ} 09' 17''$ West and along the West line of the East half of the Northeast quarter of said Section 4 a distance of 2630.77 feet to a point on the Southerly right-of-way line of existing Drennan Road; Thence South $90^{\circ} 00' 00''$ East and along the Southerly right-of-way line of existing Drennan Road, being a line 30.00 feet South of and parallel with the North line of the Northeast quarter of said Section 4, a distance of 1313.95 feet to the point of beginning.

Except any portion hereof dedicated as New Drennan Road (now known as Bradley Road) by plat recorded January 27, 1987 in Book 5307 at Page 1472.

Except the following 13 parcels:

Exception No. 1 - Foreign Trade Zone Boulevard and Import Court and the Southerly Portion of Aerospace Boulevard

A tract of land being a portion of Sections 4 and 9, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northeast quarter of Section 4, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered South $90^{\circ} 00' 00''$ East.

Commencing at the Northeast corner of said Section 4; Thence North $90^{\circ} 00' 00''$ West and along the North line of the Northeast quarter of said Section 4 a distance of 118.96 feet; Thence South $00^{\circ} 00' 00''$ West a distance of 30.00 feet to a point on the Southerly right-of-way line of existing Drennan Road, said point being the point of beginning; Thence Southerly along the Easterly right-of-way line of Foreign Trade Zone Boulevard the following seven (7) courses:

(1) South $00^{\circ} 05' 44''$ West a distance of 2235.09 feet to a point of curve; (2) along a curve to the right having a delta of $45^{\circ} 00' 00''$, a radius of 970.00 feet, a distance of 761.84 feet as measured along the arc to a point of tangent; (3) South $45^{\circ} 05' 44''$ West a distance of 1013.26 feet to a point of curve; (4) along a curve to the left having a delta of $44^{\circ} 44' 06''$, a radius of 890.00 feet, a distance of 694.89 feet as measured along the arc to a point of tangent; (5) South $00^{\circ} 21' 38''$ West a distance of 1889.74 feet; (6) South $89^{\circ} 38' 22''$ East a distance of 10.00 feet; (7) South $00^{\circ} 21' 38''$ West a distance of 30.09 feet to a point on the Northerly right-of-way line of Aerospace Boulevard;

Thence Easterly along the Northerly right-of-way line and Northerly along the Westerly right-of-way line of said Aerospace Boulevard the following three (3) courses:

(1) South $89^{\circ} 54' 16''$ East a distance of 772.04 feet to a point of curve; (2) along a curve to the left having a delta of $90^{\circ} 00' 00''$, a radius of 530.00 feet, a distance of 832.52 feet as measured along the arc to a point of tangent; (3) North $00^{\circ} 05' 44''$ East a distance of 608.59 feet;

Thence South $89^{\circ} 54' 16''$ East a distance of 80.00 feet to a point on the Easterly right-of-way line of Aerospace Boulevard; Thence Southerly along the Easterly right-of-way line and Westerly along the Southerly right-of-way line of said Aerospace Boulevard the following three (3) courses:

(1) South $00^{\circ} 05' 44''$ West a distance of 608.59 feet to a point of curve; (2) along a curve to the right having a delta of $90^{\circ} 00' 00''$, a radius of 610.00 feet, a distance of 958.19 feet as measured along the arc to a point of tangent; (3) North $89^{\circ} 54' 16''$ West a distance of 772.41 feet to a point on the Easterly right-of-way line of Foreign Trade Zone Boulevard;

Thence Southerly along the Easterly right-of-way line of said Foreign Trade Zone Boulevard the following two (2) courses:

(1) South $00^{\circ} 21' 38''$ West a distance of 304.30 feet to a point of curve; (2) along a curve to the left having a delta of $90^{\circ} 15' 54''$, a radius of 150.00 feet, a distance of 236.31 feet as measured along the arc to a point of tangent, said point being on the Northerly right-of-way line of New Drennan Road;

Thence North $89^{\circ} 54' 16''$ West and along said Northerly right-of-way line a distance of 400.00 feet to a point on curve, said point being on the Westerly right-of-way line of Foreign Trade Zone Boulevard; Thence Northerly along the Westerly right-of-way line of Foreign Trade Zone Boulevard the following four (4) courses:

(1) along a curve to the left whose center bears North $00^{\circ} 05' 44''$ East, having a delta of $89^{\circ} 44' 06''$, a radius of 150.00 feet, a distance of 234.93 feet as measured along the arc to a point of tangent; (2) North $00^{\circ} 21' 38''$ East a distance of 416.24 feet; (3) South $89^{\circ} 38' 22''$ East a distance of 10.00 feet; (4) North $00^{\circ} 21' 38''$ East a distance of 1354.10 feet to a point on the Southerly right-of-way line of Import Court;

Thence Westerly along the Southerly right-of-way line and Northerly along the Westerly right-of-way line and Easterly along the Northerly right-of-way line of said Import Court the following five (5) courses:

(1) North $89^{\circ} 54' 16''$ West a distance of 570.77 feet to a point of curve; (2) along a curve to the right having a delta of $202^{\circ} 30' 00''$, a radius of 55.00 feet, a distance of 194.39 feet as measured along the arc to a point of tangent; (3) South $67^{\circ} 24' 16''$ East a distance of 47.45 feet to a point of curve; (4) along a curve to the left having a delta of $22^{\circ} 30' 00''$, a radius of 100.55 feet, a distance of 39.48 feet as measured along the arc to a point of tangent; (5) South $89^{\circ} 54' 16''$ East a distance of 467.77 feet to a point on the Westerly right-of-way line of Foreign Trade Zone Boulevard;

Thence Northerly along the Westerly right-of-way line of Foreign Trade Zone Boulevard the following five (5) courses:

(1) North $00^{\circ} 21' 38''$ East a distance of 455.64 feet to a point of curve; (2) along a curve to the right having a delta of $44^{\circ} 44' 06''$, a radius of 970.00 feet, a distance of 757.35 feet as measured along the arc to a point of tangent; (3) North $45^{\circ} 05' 44''$ East a distance of 1013.26 feet to a point of curve; (4) along a curve to the left having a delta of $45^{\circ} 00' 00''$, a radius of 890.00 feet, a distance of 699.00 feet as measured along the arc to a point of tangent; (5) North $00^{\circ} 05' 44''$ East a distance of 2234.96 feet to a point on the Southerly right-of-way line of existing Drennan Road;

Thence South $90^{\circ} 00' 00''$ East and along the Southerly right-of-way line of existing Drennan Road a distance of 80.00 feet to the point of beginning.

Exception No. 2 - A portion of Aerospace Boulevard being from the Southerly right of way line of existing Drennan Road to the Northerly right of way line of proposed Satellite Way.

A tract of land located in the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearing: North line of the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian being considered North 89° 53' 06" East.

Commencing at the Northwest corner of said Section 3; Thence North 89° 53' 06" East and along the North line of the Northwest quarter of said Section 3 a distance of 619.34 feet; Thence South 00° 06' 54" East a distance of 30.00 feet to a point on the Southerly right-of-way line of existing Drennan Road, said point being the point of beginning; Thence North 89° 53' 06" East and along said Southerly right-of-way line a distance of 80.00 feet to a point on the Easterly right-of-way line of Aerospace Boulevard; Thence South 00° 05' 44" West and along said Easterly right-of-way line a distance of 889.90 feet; Thence South 89° 53' 06" West a distance of 80.00 feet to a point on the Westerly right-of-way line of Aerospace Boulevard; Thence North 00° 05' 44" East along said Westerly right-of-way line a distance of 889.90 feet to the point of beginning.

Exception No. 3 - Lockheed Site

A tract of land located in the East half of Section 4, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northeast quarter of Section 4, Township 15 South, Range 65 West of the Sixth Principal Meridian being considered North 90° 00' 00" East.

Commencing at the Northeast corner of said Section 4; Thence South 90° 00' 00" West along the North line of the Northeast quarter of said Section 4 a distance of 198.98 feet; Thence South 00° 00' 00" East a distance of 40.00 feet to a point on the Westerly line of the proposed right-of-way for Foreign Trade Zone Boulevard, said point being the point of beginning;

Thence Southerly and along said proposed Westerly right-of-way line the following three (3) courses:

(1) South 00° 05' 44" West a distance of 2224.96 feet to a point of curve; (2) along a curve to the right having a delta of 45° 00' 00" , a radius of 890.00 feet, a distance of 699.00 feet measured along the arc to a point of tangent; (3) South 45° 05' 44" West a distance of 762.57 feet;

Thence North 44° 54' 16" West a distance of 1090.39 feet to a point on the South line of the Northeast quarter of said Section 4; Thence South 89° 53' 24" East and along said South line a distance of 467.45 feet to the Southwest corner of the East half of the Northeast quarter of said Section 4; Thence North 00° 09' 17" East and along the West line of the East half of the Northeast quarter of said Section 4 a distance of 2620.77 feet; Thence North 90° 00' 00" East and along a line 40.00 feet South of and parallel with the North line of the Northeast quarter of said Section 4 a distance of 1114.92 feet to the point of beginning.

Exception No. 4 - ISI Building Site

A tract of land being a portion of the Southeast quarter of Section 4, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: South line of the Southeast quarter of Section 4, Township 15 South,
Range 65 West of the Sixth Principal Meridian being considered South 89°
16' 17" East.

Commencing at the South quarter corner of said Section 4; Thence North 00° 21' 38" East and along the West line of the Southeast quarter of said Section 4 a distance of 515.76 feet; Thence South 89° 54' 16" East a distance of 593.92 feet to the point of beginning; Thence South 89° 54' 16" East and along the Southerly right-of-way line of proposed Import Court a distance of 593.77 feet to a point on the Westerly right-of-way line of Foreign Trade Zone Boulevard; Thence South 00° 21' 38" West and along said Westerly right-of-way line a distance of 366.81 feet; Thence North 89° 54' 16" West a distance of 386.59 feet; Thence South 57° 24' 03" West a distance of 57.81 feet; Thence North 02° 35' 57" West a distance of 37.11 feet; Thence North 89° 54' 16" West a distance of 138.48 feet; Thence North 00° 21' 38" East a distance of 366.81 feet to the point of beginning.

Exception No. 5 - P-C Limited/Pentax Site

A tract of land being a portion of the Northeast quarter of Section 9, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearing: North line of the Northeast quarter of Section 9, Township 15 South, Range
65 West of the Sixth Principal Meridian being considered South 89° 16' 17"
East.

Commencing at the North quarter corner of said Section 9; Thence South 00° 15' 30" West and along the West line of the Northeast quarter of said Section 9 a distance of 217.81 feet to the point of beginning; Thence South 89° 54' 16" East a distance of 1187.30 feet to a point on the Westerly right-of-way line of Foreign Trade Zone Boulevard; Thence Southerly along said Westerly right-of-way line the following four (4) courses:

(1) South 00° 21' 38" West a distance of 620.53 feet; (2) North 89° 38' 22" West a distance of 10.00 feet; (3) South 00° 21' 38" West a distance of 416.24 feet to a point of curve; (4) along a curve to the right having a delta of 89° 44' 06" , a radius of 150.00 feet, a distance of 234.93 feet measured along the arc to a point of tangent, said point being on the Northerly right-of-way line of New Drennan Road;

Thence North 89° 54' 16" West and along said Northerly right-of-way line a distance of 1025.87 feet to a point on the West line of the Northeast quarter of said Section 9; Thence North 00° 15' 30" East and along said West line a distance of 1186.02 feet to the point of beginning.

Exception No. 6 - Westport

A tract of land being a portion of Sections 4 and 9, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northeast quarter of Section 9, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 16' 17" West.

Commencing at the Southeast corner of said Section 4; Thence North 89° 6' 17" West and along the South line of the Southeast quarter of said Section 4 a distance of 148.74 feet to a point on the Westerly right-of-way line of proposed Aerospace Boulevard, said point being the point of beginning; Thence Southwesterly along said Westerly right-of-way line the following three (3) courses:

(1) South 00° 05' 44" West a distance of 310.38 feet to a point of curve; (2) along a curve to the right having a delta of 90° 00' 00" , a radius of 530.00 feet, a distance of 832.52 feet as measured along the arc to a point of tangent; (3) North 89° 54' 16" West a distance of 772.04 feet to a point on the Easterly right-of-way line of proposed Foreign Trade Zone Boulevard;

Thence Northerly along said Easterly right-of-way line the following three (3) courses:

(1) North 00° 21' 38" East a distance of 30.09 feet; (2) North 89° 38' 22" West a distance of 10.00 feet; (3) North 00° 21' 38" East a distance of 1394.47 feet;

Thence South 89° 54' 16" East a distance of 647.82 feet to a point of curve; Thence along a curve to the right having a delta of 58° 26' 38" , a radius of 300.00 feet, a distance of 306.01 feet as measured along the arc to a point of reverse curve; Thence along a curve to the left having a delta of 58° 26' 38" , a radius of 300.00 feet, a distance of 306.01 feet as measured along the arc to a point of tangent; Thence South 89° 54' 16" East a distance of 146.36 feet to a point on the Westerly right-of-way line of proposed Aerospace Boulevard; Thence South 00° 05' 44" West and along said Westerly right-of-way line a distance of 298.21 feet to the point of beginning.

Exception No. 7 – (Parcel No. 19 below) - L-P Associates tract North of New Drennan Road and West of Marksheffel Boulevard.

A tract of land being a portion of Sections 3, 4, 9, and 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: North line of the Northwest quarter of Section 10, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 02' 55" East.

Commencing at the Southwest corner of said Section 3; Thence North 87° 13' 46" East a distance of 1,154.17 feet to a point on the Westerly right-of-way line of Marksheffel Boulevard, said point being the point of beginning; Thence Southerly along said Westerly right-of-way line the following two (2) courses:

(1) South 00° 05' 44" West a distance of 906.43 feet; (2) South 06° 17' 31" West a distance of 528.08 feet to a point on the Northerly right-of-way line of New Drennan Road;

Thence North 89° 54' 16" West and along the Northerly right-of-way line of New Drennan Road a distance of 1,084.00 feet to a point on the Easterly line of a tract of land as described in Book 3968 at Page 0255 of the El Paso County records; Thence Northerly and Westerly along said Easterly line of the following three (3) courses:

(1) North 00° 05' 44" East a distance of 368.11 feet; (2) North 44° 38' 25" West a distance of 64.03 feet to a point on the West line of said Section 10; (3) North 44° 38' 25" West a distance of 306.98 feet to a point on a curve, said point being on the Easterly right-of-way line of Aerospace Boulevard;

Thence Northerly along the Easterly right-of-way line of Aerospace Boulevard the following two (2) courses;

(1) Along a curve to the left whose center bears North 44° 38' 23" West, having a delta of 45° 15' 53" , having a radius of 610.00 feet, a distance of 481.91 feet as measured along the arc to a point of tangent; (2) continuing along said Easterly right-of-way line North 00° 05' 44" East a distance of 366.45 feet to a point on the Southerly line of a tract of land as recorded in Book 3966 at Page 0255 of the El Paso County records;

Thence Easterly along said Southerly line the following two (2) courses:

(1) South 89° 54' 16" East a distance of 68.05 feet to a point on the West line of said Section 3; (2) South 89° 54' 16" East a distance of 153.42 feet to the point of beginning;

Exception No. 8 -(Parcel No. 25 below) - C.B.B. Joint Venture No. 1.

A tract of land being a portion of Sections 3 and 4, all in Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The South line of the Southwest Quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 02' 55" East.

Commencing at the Southeast corner of said Section 4; Thence North 49 ° 53' 37" West a distance of 89.75 feet to a point on the Easterly right-of-way line of proposed Aerospace Boulevard, said point being the point of beginning; Thence along said Easterly right-of-way line the following four (4) courses:

(1) North 00° 05' 44" East a distance of 677.14 feet to a point of curve; (2) along a curve to the right having a delta of 40° 00' 00", a radius of 612.58 feet, a distance of 427.66 feet as measured along the arc to a point of tangent; (3) North 40° 05' 44" East a distance of 407.06 feet to a point of curve; (4) along a curve to the left having a delta of 20° 14' 42", a radius of 740.00 feet, a distance of 261.47 feet as measured along the arc to a point on curve;

Thence South 70° 08' 58" East and along a radial line a distance of 251.74 feet; Thence South 89° 54' 16" East a distance of 449.99 feet to a point on the Westerly right-of-way line of Marksheffel Boulevard; Thence South 00° 05' 44" West and along said Westerly right-of-way line a distance of 1523.18 feet; Thence North 89° 54' 16" West a distance of 1221.47 feet to the point of beginning.

Exception No. 9 - Spacecom

A tract of land located in the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearing: North line of the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian being considered North 89° 53' 06" East.

Commencing at the Northwest corner of said Section 3; Thence North 89° 53' 06" East and along the North line of the Northwest quarter of said Section 3 a distance of 699.45 feet; Thence South 00° 05' 44" West a distance of 40.00 feet to a point on the proposed Southerly right-of-way line of existing Drennan Road, said point being the point of beginning; Thence North 89° 53' 06" East and along the proposed Southerly right-of-way line of existing Drennan Road, being a line 40.00 feet South of and parallel with the North line of the Northwest quarter of said Section 3 a distance of 424.65 feet to a point of curve; Thence along a curve to the right having a delta of 90° 12' 38" , a radius of 100.00 feet, a distance of 157.45 feet as measured along the arc to a point of tangent, said point being on the Westerly right-of-way line of Marksheffel Boulevard; Thence South 00° 05' 44" West and along said Westerly right-of-way line a distance of 480.63 feet to a point of curve; Thence along a curve to the right having a delta of 89° 47' 22" , a radius 300.00 feet, a distance of 470.14 feet as measured along the arc to a point of tangent; Thence South 89° 53' 06" West a distance of 226.12 feet to a point on the Easterly right-of-way line of Aerospace Boulevard; Thence North 00° 05' 44" East and along said Easterly right-of-way line a distance of 879.90 feet to the point of beginning.

Exception No. 10 - Conveyed to Colorado Centre J.V., an Arizona General Partnership, in Deed recorded in Book 5428 at Page 734.

A portion of Sections 3 and 4, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The North line of the Northwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being considered North 89° 53' 06" East.

Commencing at the Northwest corner of said Section 3, Thence South 00° 03' 32" East a distance of 30.00 feet to a point on the Southerly right-of-way line of Drennan Road, said point being the point of beginning; Thence North 89° 53' 06" East and along a said Southerly right-of-way line being a line 30.00 feet Southerly of and parallel with the north line of the Northwest quarter of said Section 3 a distance of 619.37 feet to a point on the Westerly right-of-way line of Aerospace Boulevard as platted in Colorado Centre Foreign Trade Zone and Business Park Filing No. 2 as described in Plat Book B-4 at Page 48 of the El Paso County records; Thence Southerly along the Westerly line and Easterly along the Southerly line of said Colorado Centre Foreign Trade Zone and Business Park Filing No. 2 the following three (3) courses:

(1) South 00° 05' 44" West and along the Westerly right-of-way line of said Aerospace Boulevard a distance of 889.90 feet; (2) North 89° 53' 06" East a distance of 306.12 feet to a point of curve; (3) along a curve to the left having a delta of 89° 47' 22" , a radius of 300.00 feet, a distance of 470.14 feet as measured along the arc to a point of tangent on the Westerly right-of-way line of Marksheffel Boulevard as described in Book 5120 at Page 92 of the El Paso County records;

Thence South 00° 05' 44" West and along said Westerly right-of-way line of Marksheffel Boulevard a distance of 1578.79 feet; Thence North 89° 54' 16" West a distance of 643.37 feet to the proposed Easterly right-of-way line of Aerospace Boulevard; Thence along said Easterly right-of-way line the following two (2) courses:

(1) North 00° 05' 44" East a distance of 337.39 feet to a point of curve; (2) along a curve to the right having a delta of 09° 42' 05" , a radius of 829.15 feet a distance of 140.39 feet as measured along the arc to a point on curve.

Thence North 89° 54' 16" West a distance of 711.86 feet to the Easterly right-of-way line of Foreign Trade Zone Boulevard as platted in Colorado Centre Foreign Trade Zone and Business Park Filing No. 1 as described in Plat Book B-4 at Page 47 of the El Paso County records; Thence North 00° 05' 44" East and along said Easterly right-of-way line of Foreign Trade Zone Boulevard a distance of 1687.98 feet to a point on the Southerly right-of-way line of Drennan Road; Thence South 90° 00' 00" East and along said Southerly right-of-way line, being a line 30.00 feet South of and parallel with the North line of the Northeast quarter of said Section 4 a distance of 118.99 feet to the point of beginning.

Exception No. 11 - conveyed to the Venture West Group, Inc., a Delaware Corporation, and Venwest Development Limited Partnership 1, an Arizona Limited Partnership, in Deed recorded in Book 5523 at Page 42; and

Exception No. 12 - conveyed to Colorado Centre J.V., an Arizona General Partnership, in Deed recorded in Book 5533 at Page 782.

Exception No. 13 - conveyed to the Board of County Commissioners of the County of El Paso, State of Colorado in Decree Quieting Title recorded in Book 6759 at Page 907.

PARCEL 24:

A tract of land being a portion of the Southeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The East line of the Southeast quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 00° 10' 17" East.

Commencing at the Southeast corner of said Section 3; Thence North 00° 10' 17" East and along the East line of the Southeast quarter of said Section 3 a distance of 1322.46 feet to the Northeast corner of the South half of the Southeast quarter of said Section 3; Thence South 89° 24' 57" West and along the North line of the South half of the Southeast quarter of said Section 3 a distance of 1053.07 feet to the point of beginning; Thence South 12° 40' 27" West a distance of 635.54 feet; Thence North 77° 19' 33" West a distance of 617.53 feet to a point of curve; Thence along a curve to the right having a delta of 11° 35' 20" , a radius of 792.47 feet, a distance of 160.29 feet as measured along the arc to a point on curve, said point being on the Easterly right-of-way line of Horizonview Drive; Thence Northerly along the Easterly right-of-way line of Horizonview Drive the following two (2) courses:

- (1) Along a curve to the left whose center bears North 68° 33' 21" West, having a delta of 21° 20' 55", a radius of 610.00 feet, a distance of 227.29 feet as measured along the arc to a point of tangent; (2) North 00° 05' 44" East a distance of 203.20 feet to a point on the North line of the South half of the Southeast quarter of said Section 3;

Thence North 89° 24' 57" East and along the North line of the South half of the Southeast quarter of said Section 3 a distance of 851.18 feet to the point of beginning.

PARCEL 26:

A tract of land located in the South half of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of bearings: The South line of the Southwest quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 89° 02' 55" East.

Commencing at the Southwest corner of said Section 3; Thence North 89° 02' 55" East and along the South line of the Southwest quarter of said Section 3 a distance of 1362.96 feet to a point on the Easterly right-of-way line of Marksheffel Boulevard, said point being on the West line of Tract B as platted in Colorado Centre Residential Filing No. 2 as recorded in Plat Book A-4 at Page 4 of the El Paso County records; Thence North 00° 05' 44" East and along said Easterly right-of-way line of Marksheffel Boulevard and the West line of Tract "B" as platted in Colorado Centre Residential Filing No. 2 a distance of 894.53 feet to the Northwest corner of Tract B as platted in Colorado Centre Residential Filing No. 2, said point being the point of beginning;

Thence North 00° 05' 44" East and along said Easterly right-of-way line of Marksheffel Boulevard a distance of 452.30 feet; Thence North 89° 24' 57" East a distance of 1837.49 feet to a point on the Westerly right-of-way line of Horizonview Drive; Thence Southerly along said Westerly right-of-way line the following two (2) courses:

(1) South 00° 05' 44" West a distance of 202.25 feet to a point of curve; (2) along a curve to the right having a delta of 28° 14' 34" , a radius of 530.00 feet, a distance of 261.25 feet as measured along the arc to a point on curve, said point being the Northeast corner of Tract B as platted in Colorado Centre Residential Filing No. 3 as recorded in Plat Book A-4 at Page 13 of the El Paso County records;

Thence South 89° 24' 57" West and along the North line of Colorado Centre Residential Filing No. 3 a distance of 1180.91 feet to the Northwest corner of Colorado Centre Residential Filing No. 3, said point also being the Northeast corner of Colorado Centre Residential Filing No. 2; Thence South 89° 24' 57" West and along the North line of Colorado Centre Residential Filing No. 2 a distance of 593.47 feet to the point of beginning.

Except that part conveyed to El Paso County, Colorado in Treasurer' s Deed recorded in Book 1081 at Page 211.

PARCEL 28:

A tract of land being a portion of the South half of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, being more particularly described as follows:

Basis of Bearings: The East line of the Southeast Quarter of Section 3, Township 15 South, Range 65 West of the Sixth Principal Meridian, being considered North 00° 10' 17" East,

Commencing at the Southwest corner of said Section 3; Thence North 44° 54' 23" East a distance of 1933.57 feet to a point on the Easterly right-of-way line of Marksheffel Boulevard, said point being on the South line of the North half of the South half of said Section 3, said point also being the point of beginning; Thence North 00° 05' 44" East and along said Easterly right-of-way line a distance of 740.76 feet; Thence North 89° 24' 57" East a distance of 1455.67 feet to a point on the Westerly right-of-way line of Horizonview Drive; Thence Southerly along said Westerly right-of-way line the following three (3) courses:

(1) South 55° 57' 11" East a distance of 170.53 feet to a point of curve; (2) along a curve to the right having a delta of 56° 02' 55" , a radius of 544.36 feet, a distance of 532.51 feet as measured along the arc to a point of tangent; (3) South 00° 05' 44" West a distance of 189.44 feet to a point on the South line of the North half of the South half of said Section 3;

Thence South 89° 24' 57" West and along the South line of the North half of the South half of said Section 3 a distance of 1837.49 feet to the point of beginning.

Except that part conveyed to El Paso County, Colorado in Treasurer' s Deed recorded in Book 1081 at Page 211.

PARCEL 30:

A tract of land located in Sections 27, 28 and 34, all in Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of said Section 34, from which the Northeast corner of said Section 34 bears North 00° 36' 38" East (basis of bearing true-meridian), 5280.16 feet, Thence South 89 ° 51' 19" West, 2630.71 feet along the South line of the Southeast quarter of Said Section 34 to the South quarter corner thereof; Thence South 89° 50' 25" West, 1301.12 feet along the South line of the Southwest quarter of said Section 34; Thence North 00 ° 03' 03" East, 76.95 feet to the Northwesterly line of that 60.00 foot strip of land conveyed to El Paso County as described in Deed recorded in Book 752 at Page 337 of the records of El Paso County, Colorado, and the TRUE POINT OF BEGINNING:

Thence continuing North 00° 03' 03" East, 440.80 feet to a point of curve to the right;

Thence Northerly, 1328.78 feet along the arc of said curve to a point tangent, said arc having a radius of 5000.00 feet, a central angle of 15° 13' 36" and being subtended by a chord that bears North 07 ° 39' 51" East, 1324.87 feet;

Thence North 15° 16' 39" East, 1571.62 feet to a point of curve to the left;

Thence Northerly, 2297.47 feet along the arc of said curve, said arc having a radius of 3000.00 feet, a central angle of 43° 52' 43" and being subtended by a chord that bears North 06° 39' 42" West, 2241.74 feet;

Thence North 28° 36' 04" West, 1832.17 feet to a point of curve to the right;

Thence Northwesterly, 483.77 feet along the arc of said curve, said arc having a radius of 6000.00 feet, a central angle of 4° 37' 11" and being subtended by a chord that bears North 26° 17' 29" West, 483.64 feet;

Thence South 76° 40' 04" West, 745.95 feet;

Thence Northwesterly, 602.39 feet along the arc of a curve concave to the Northeast to a point tangent, said arc having a radius of 2000.00 feet, a central angle of 17° 15' 26" and being subtended by a chord that bears North 21° 57' 32" West, 600.11 feet;

Thence North 30° 35' 15" West, 1431.66 feet to the Southwesterly line of that 200.00 foot strip of land conveyed to El Paso County as described in Book 752 at Page 305 of the records of El Paso County, Colorado;

The following courses and distances are along the Southwesterly and Westerly lines of that 200.00 foot strip of land and that 100.00 foot strip of land as described in said Book 752 at Page 305:

Thence South 43° 35' 15" East, 1153.17 feet to a point of curve to the left;

Thence Southeasterly, 508.26 feet along the arc of said curve to a point tangent, said arc having a radius of 1532.69 feet, a central angle of 19 ° 00' 00" and being subtended by a chord that bears South 53° 05' 15" East, 505.93 feet;

Thence South 62° 35' 15" East, 424.13 feet to the East-West Centerline of said Section 27;

Thence North 89° 36' 33" East, 107.20 feet along the East-West Centerline of said Section 27 and along the East end of said 200.00 foot strip of land to the Westerly line of said 100.00 foot strip of land;

Thence South 62° 35' 15" East, 171.05 feet to a point of curve to the right;

Thence Southeasterly, 876.99 feet along the arc of said curve to a point tangent, said arc having a radius of 905.37 feet, a central angle of 55 ° 30' 00" and being subtended by a chord that bears South 34° 50' 15" East, 843.11 feet;

Thence South 07° 05' 15" East, 410.00 feet to a point of curve to the left;

Thence Southeasterly, 931.60 feet along the arc of said curve to a point tangent, said arc having a radius of 1482.69 feet, a central angle of 36 ° 00' 00" and being subtended by a chord that bears South 25° 05' 15" East, 916.35 feet;

Thence South 43° 05' 15" East, 840.00 feet to a point of curve to the right;

Thence Southeasterly, 579.18 feet along the arc of said curve to a point tangent, said arc having a radius of 1382.69 feet, a central angle of 24 ° 00' 00" and being subtended by a chord that bears South 31° 05' 15" East, 574.98 feet;

Thence South 19° 05' 15" East, 560.00 feet to a point of curve to the left;

Thence Southeasterly, 348.94 feet along the arc of said curve to a point tangent, said arc having a radius of 1960.08 feet, a central angle of 10 ° 12' 00" and being subtended by a chord that bears South 24° 11' 15" East, 348.48 feet;

Thence South 29° 17' 15" East, 200.00 feet to a point of curve to the right;

Thence Southerly, 1232.53 feet along the arc of said curve to a point tangent, said arc having a radius of 905.37 feet, a central angle of 78 ° 00' 00" and being subtended by a chord that bears South 09° 42' 45" West, 1139.54 feet;

Thence South 48° 42' 45" West, 300.00 feet to a point of curve to the left;

Thence Southwesterly, 842.26 feet along the arc of said curve to a point tangent, said arc having a radius of 1005.37 feet, a central angle of 48 ° 00' 00" and being subtended by a chord that bears South 24° 42' 45" West, 817.84 feet;

Thence South 00° 42' 45" West, 317.51 feet to the Northwesterly line of that 60.00 foot strip of land as described in said Book 752 at Page 337;

Thence leaving the Westerly line of that 100.00 foot strip of land as described in said Book 752 at Page 305, South 33° 00' 00" West, 1556.75 feet along the Northwesterly line of that 60.00 foot strip of land as described in said Book 752 at Page 337 to the TRUE POINT OF BEGINNING.

PARCEL NO. 31:

A tract of land located in the South half of Section 21, the Southwest quarter of the Southwest quarter of Section 22, in the Northwest quarter of the Northwest quarter of Section 27 and in the North half of Section 28, all in Township 13 South, Range 65 West of the 6th P.M., County of El Paso State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Northeast corner of said Section 34 bears North 01° 14' 52" East (basis of bearings - true meridian), 5298.00 feet, Thence South 89° 42' 24" West, 2667.93 feet along the South line of the Southeast quarter of said Section 34 to the South quarter corner of said Section 34; Thence continuing South 89 ° 42' 24" West, 2667.93 feet along the South line of the Southwest quarter of said Section 34 to the Southwest corner thereof; Thence North 00° 12' 53" West, 2683.20 feet along the West line of the Southwest quarter of said Section 34 to the West quarter corner of said Section 34; Thence continuing North 00° 12' 53" West, 2683.20 feet along the West line of the Northwest quarter of said Section 34 to the Northwest corner thereof; Thence North 00° 14' 22" East, 2648.24 feet along the East line of the Southeast quarter of said Section 28 to the East quarter corner of said Section 28; Thence continuing North 00° 14' 22" East, 1324.12 feet along the East line of the Northeast quarter of said Section 28 to the Southwest corner of the North half of the Northwest quarter of said Section 27; Thence South 89 ° 09' 53" East, 1144.70 feet along the South line of the North half of the Northwest quarter of said Section 27 to a point on a line that is 150.00 feet Westerly of, as measured at right angles from and parallel with, the East line of that tract of land conveyed to Nationwide Resources Corporation as described in Special Warranty Deed recorded in Book 5074 at Page 558 of the records of El Paso County, Colorado and the TRUE POINT OF BEGINNING;

Thence North 00° 14' 25" East, 247.54 feet parallel with the East line of that tract of land as described in said Book 5074 at Page 558 to a point of curve to the left;

Thence Northwesterly, 1119.27 feet along the arc of said curve to a point tangent, said arc having a radius of 920.00 feet, a central angle of 69 ° 42' 21" and being subtended by a chord that bears North 34° 36' 45" West, 1051.51 feet;

Thence North 69° 27' 56" West, 338.62 feet;

Thence North 88° 58' 07" West, 375.31 feet to a point of curve to the right;

Thence Northwesterly, 683.10 feet along the arc of said curve to a point tangent, said arc having a radius of 1605.00 feet, a central angle of $24^{\circ} 23' 07''$ and being subtended by a chord that bears North $76^{\circ} 46' 33''$ West, 677.95 feet;

Thence North $64^{\circ} 35' 00''$ West, 1958.46 feet to a point of curve to the left;

Thence Northwesterly, 1282.08 feet along the arc of said curve to a point tangent, said arc having a radius of 2970.00 feet, a central angle of $24^{\circ} 44' 00''$ and being subtended by a chord that bears North $76^{\circ} 57' 00''$ West, 1272.15 feet;

Thence North $89^{\circ} 19' 00''$ West, 1472.90 feet to the East line of the West 30.00 feet of the Southwest quarter of said Section 21;

Thence North $00^{\circ} 02' 53''$ West, 105.48 feet parallel with the West line of the Southwest quarter of said Section 21 to the North line of the South half of the Southwest quarter of said Section 21;

Thence North $89^{\circ} 46' 42''$ East, 2141.37 feet along the North line of the South half of the Southwest quarter of said Section 21 to a point from which the Northeast corner of the South half of the Southwest quarter of said Section 21 bears North $89^{\circ} 46' 42''$ East, 491.86 feet;

Thence Southeasterly, 700.89 feet along the arc of a curve concave to the Southwest to a point tangent, said arc having a radius of 3180.00 feet, a central angle of $12^{\circ} 37' 42''$ and being subtended by a chord that bears South $70^{\circ} 53' 51''$ East, 699.47 feet;

Thence South $64^{\circ} 35' 00''$ East, 1958.46 feet to a point of curve to the left;

Thence Southeasterly, 593.72 feet along the arc of said curve to a point tangent, said arc having a radius of 1395.00 feet, a central angle of $24^{\circ} 23' 07''$ and being subtended by a chord that bears South $76^{\circ} 46' 33''$ East, 589.25 feet;

Thence South $88^{\circ} 58' 07''$ East, 633.45 feet;

Thence North $01^{\circ} 01' 53''$ East, 256.01 feet to a point of curve to the right;

Thence Northeasterly, 427.64 feet along the arc of said curve to a point tangent, said arc having a radius of 442.00 feet, a central angle of $55^{\circ} 26' 04''$ and being subtended by a chord that bears North $28^{\circ} 44' 55''$ East, 411.16 feet;

Thence North $56^{\circ} 27' 56''$ East, 272.85 feet to a point of curve to the left;

Thence Northeasterly, 510.29 feet along the arc of said curve to a point on a line that is 150.00 feet Westerly of, as measured at right angle from and parallel with, the East line of that tract of land as described in said Book 5074 at Page 558 and to a point tangent, said arc having a radius of 520.00 feet, a central angle of $56^{\circ} 13' 31''$ and being subtended by a chord that bears North $28^{\circ} 21' 11''$ East, 490.06 feet;

Thence North $00^{\circ} 14' 25''$ East, 9.43 feet parallel with the East line of that tract of land as described in said Book 5074 at Page 558 to the North line of the South half of the Southwest quarter of said Section 22;

Thence South $88^{\circ} 59' 56''$ East, 150.01 feet along the North line of the South half of the Southwest quarter of said Section 22 to the Northeast corner of that tract of land as described in said Book 5074 at Page 558;

Thence South 00° 14' 25" West, 2644.50 feet along the East line of that tract of land as described in said Book 5074 at Page 558 to the Southeast corner thereof;

Thence North 89° 09' 53" West, 150.01 feet along the South line of the North half of the Northwest quarter of said Section 27 to the TRUE POINT OF BEGINNING.

PARCEL NO. 32:

A tract of land located on both sides of CONSTITUTION AVENUE/PETERSON ROAD RIGHT-OF-WAY, a Subdivision recorded in Plat Book V-3 at Page 169 of the records of El Paso County, Colorado, and in the Northwest quarter of Section 3 and in the Northeast quarter of Section 4, all in Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Commencing at the Southeast corner of Section 34, Township 13 South, Range 65 West of the 6th P.M., from which the Northeast corner of said Section 34 bears North 01° 14' 52" East (basis of bearing - true meridian), 5298.00 feet, Thence South 89° 42' 24" West, 2667.93 feet along the South line of the Southeast quarter of said Section 34 to the South quarter corner of said Section 34; Thence South 89° 42' 24" West, 1299.76 feet along the North line of the Northwest quarter of said Section 3 to the Northwesterly right-of-way line of U.S. Highway No. 24 and the TRUE POINT OF BEGINNING;

Thence continuing South 89° 42' 24" West, 1368.17 feet along the North line of the Northwest quarter of said Section 3 to the Northwest corner of said Section 3.

Thence South 89° 46' 01" West, 1406.11 feet along the North line of the Northeast quarter of said Section 4 to the Northeasterly right-of-way line of Constitution Avenue according to said CONSTITUTION AVENUE/PETERSON ROAD RIGHT-OF-WAY;

Thence Southeasterly, 1291.43 feet along the Northeasterly right-of-way line of said Constitution Avenue and along the arc of a curve concave to the Northeast to a point tangent, said arc having a radius of 1897.00 feet, a central angle of 39° 00' 19" and being subtended by a chord that bears South 56° 16' 53" East, 1266.63 feet;

Thence South 36° 46' 44" East, 390.81 feet along the Northeasterly right-of-way line of said Constitution Avenue;

Thence South 53° 13' 16" West, 120.00 feet to the Southwesterly right-of-way line of said Constitution Avenue;

Thence South 21° 13' 16" West, 269.83 feet to a point of curve to the right;

Thence Southwesterly, 948.26 feet along the arc of said curve to a point tangent, said arc having a radius of 1900.00 feet, a central angle of 28° 35' 44" and being subtended by a chord that bears South 35° 31' 08" West, 938.45 feet;

Thence South 49° 49' 00" West, 73.17 feet;

Thence South 46° 54' 52" West, 295.54 feet;

Thence South 36° 11' 00" East, 75.00 feet to the Northwesterly right-of-way line of said U.S. Highway No. 24;

Thence North 53° 49' 00" East, 1656.13 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 to a point of curve to the left;

Thence Northeasterly, 1157.03 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 and along the arc of said curve to a point tangent, said arc having a radius of 2815.00 feet, a central angle of 23° 33' 00" and being subtended by a chord that bears North 47° 02' 30" East, 1148.90 feet;

Thence North 30° 16' 00" East, 688.59 feet along the Northwesterly right-of-way line of said U.S. Highway No. 24 to the TRUE POINT OF BEGINNING.

Excepting therefrom any portion lying within Constitution Avenue as platted in Plat Book V-3 at Page 169.

PARCEL NO. 33:

A portion of the Northwest one quarter (NW1/4) and the Northeast one quarter (NE1/4) of Section 10, Township 13 South, Range 65 West of the 6th P.M., El Paso County, Colorado, described as follows: Beginning at the North one quarter corner of said Section 10; Thence North 89° 51' 57" East along the North line of the Northeast one quarter (NE1/4) of said Section 10, a distance of 2550.50 feet; Thence South 00° 08' 03" East, a distance of 1724.62 feet to a point on the North line of Parcel No. 7 as described in Book 5074, Page 71 of the records of said El Paso County, Thence South 89° 51' 57" West along said North line, a distance of 3807.50 feet to the East line of the West 100.00 feet of the East one half (E1/2) of the Northwest one quarter (NW1/4) of said Section 10; Thence North 00° 12' 56" West along said East line, and along the East line of said Parcel No. 7, a distance of 1724.62 feet to the North line of the Northwest one quarter (NW1/4) of said Section 10; Thence North 89° 51' 57" East along the North line of the Northwest one quarter (NW1/4) of said Section 10, a distance of 1259.45 feet to the point of beginning.

Except any portion lying within Woodmen Road.

PARCEL NO. 34:

A tract of land located in the Southeast quarter of Section 35, Township 14 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of said Section 35; Thence North 00° 32' 50" East, 30.00 feet to the point of beginning, which point is also on the existing northerly right-of-way of Old Drennan Road; Thence continue North 00° 32' 50" East along the East line of said Section 35, 2614.87 feet to the East quarter corner thereof; Thence South 89° 55' 33" West along the centerline of said Section 35, 1420.81 feet; Thence South 00° 32' 50" West, 2613.48 feet to a point on the Northerly right-of-way line of said Old Drennan Road; Thence North 89° 58' 55" East along said Northerly right-of-way, 1420.81 feet to the point of beginning.

Except that part conveyed to Jonathan Aries in Deed recorded in Book 5578 at Page 1.

Excepting from all of the above parcels 1-34 any portion of subject property deeded to the Department of Transportation, State of Colorado by the Warranty Deed recorded September 26, 2003 at Reception No. 203226533.

And also excepting

Any portion of subject property taken through condemnation proceedings by The City of Colorado Springs, a home rule City and a Colorado Municipal Corporation as evidenced by The Rule and Order issued out of the El Paso County, Colorado, District Court, Case No. 96 CV 1074, recorded March 12, 2004 at Reception No. 204040734,

County of El Paso,
State of Colorado.

Exhibit B

**COLORADO SPRINGS UTILITIES
ADVANCE RECOVERY CHARGE FOR
INSTALLATION OF WASTEWATER FACILITIES**

APRA # _____

THIS Advance Recovery Charge (hereinafter called "Charge") is made pursuant to Colorado Springs Utilities Rules and Regulations this 7th day of September, 2007, by Colorado Springs Utilities, an enterprise of the City of Colorado Springs, a Colorado home rule city and municipal corporation, with its principal place of business at 121 S. Tejon Street, Colorado Springs, Colorado 80903 (hereinafter called "Utilities"), to disclose that Utilities and/or Future Development Entity (hereinafter called "Developer"), shall be entitled to cost recovery pursuant to Utilities Rules and Regulations, to wit:

RECITALS

- I. Utilities has determined that additional facilities will be required to provide service to the area shown in Exhibit "A", **including**

****Description****

pursuant to the Code of the City of Colorado Springs 2001, as amended, and Utilities' Rules and Regulations; this Charge provides for the recovery of costs to construct the following types of such wastewater facilities.

- II. The facilities contemplated herein will comply with all applicable regulations and requirements;
- III. This Charge shall provide for the collection of the reasonable, proportional charges described in Exhibit B hereto from properties within the area shown in Exhibit "A," and for disbursement of recovered funds to Developer; and
- IV. Utilities reserves the right to review and amend the charges provided herein using construction cost guidelines from Dodge, Engineering News Record, or other generally accepted industry sources of information.

DEFINITIONS

The following capitalized terms shall have the following meanings:

- A. "Allowable Construction Costs" means those direct costs related to the installation of wastewater facilities, including engineering, project management, construction, permits, recovery agreement application fees, and easement or right-of-way costs. It does not include indirect or unrelated costs such as Utilities' overhead expenses, cost of financing or cost of service lines.

Exhibit B

- B. "Line Extension and Service Standards" means the latest edition of Utilities' Wastewater Line Extension and Service Standards.
- C. "Advance Recovery Charge" means any charges assessed by Utilities pursuant to this Charge.
- D. "Advance Recovery Area" means the properties located within a defined service area that will benefit from the additional wastewater facilities extensions contemplated by this Charge.
- E. "Unit Advance Participation Charge" shall mean the amount estimated as Allowable Construction Costs for purposes of this Charge, divided by the number of lots, acres or single family equivalents which are intended to receive service from the facilities described herein.
- F. "Rules And Regulations" shall mean the latest effective revision of the Utilities Rules and Regulations–Water and Utilities Rules and Regulations–Wastewater approved by Colorado Springs City Council.

CHARGE

In consideration of the Recitals, the Rules and Regulations, and Utilities' tariffs, the following are hereby established:

1. The Advance Recovery Area is as described on Exhibit "A."
2. The estimated total Allowable Construction Costs and description of the future wastewater facilities, as certified on Exhibit "B," is \$_____.
3. Utilities shall collect from the owner of any real property within the Advance Recovery Area an Advance Recovery Charge upon request for connection for wastewater service from Utilities (at the time of Service Contract). The Unit Advance Recovery Charge shall be \$_____ for each SFE as determined in accordance with the Utilities Rules and Regulations, and the amount of \$_____ per acre will be assessed for all other land uses that will be served by this proposed facility.
4. All amounts paid pursuant to this Charge shall be held by Utilities in an interest bearing account until payable to the Developer after acceptance and approval of all facilities by Utilities, or until such funds become distributed as otherwise permitted under all applicable laws, contracts, ordinances, or Rules and Regulations.
5. At completion of the facilities described in Exhibit "B," Developer shall submit evidence of the actual direct costs for the extension(s) to Utilities. Only the total of the costs specifically approved by Utilities shall be considered to be the actual total Allowable Construction Costs of the facilities.

Exhibit B

6. After Utilities has examined the completed facilities and approved the extension(s) through written preliminary acceptance, as defined in the Line Extension and Service Standards, all Advance Recovery Charges collected pursuant to this Charge, plus any interest earned, less any amount Utilities is entitled to withhold as provided by this Charge or the Rules and Regulations but no more than the actual Allowable Construction Costs, will be paid to Developer. Remittance of such sum shall constitute Utilities' total obligation to Developer under this Charge.
7. Utilities and Developer may enter into a further recovery agreement for the benefit of Developer that will provide for the recovery of costs for any construction costs exceeding the amount remitted as collected Advance Recovery Charges, but Utilities is not obligated to do so and is not liable for any shortfall in collections compared to actual costs.
8. Upon payment to Developer of all funds collected hereunder, no further collections shall be made from owners in the Advance Recovery Area and this Charge shall terminate.
9. Utilities may amend the original Advance Recovery Area boundaries, in its sole and complete discretion, if Utilities determines that development, platting, grading, or other activities may change or has changed or affected properties in or near the original Advance Recovery Area such that the basis for collection of costs for extension(s) should be re-determined. Utilities shall be under no duty or obligation to amend the original Advance Recovery Area. In addition, Utilities may recalculate the unit recovery charge for properties and/or future customers in any such amended Advance Recovery Area based on a calculation or method determined solely by Utilities. In no event will any person, property or customer who has paid an Advance Recovery Charge under this Charge, or that is already connected to Utilities' wastewater system as of any date the Advance Recovery Area is amended, be subject or entitled to an adjustment (either refund or additional payment) of any Advance Recovery Charge already assessed under this Charge.
10. Any connections to the facilities extension(s) described herein by owners of property within the Advance Recovery Area are expressly subject to the approval of Utilities and shall comply with Utilities' Rules and Regulations, specifications and requirements effective at the time any future connections are requested. Furthermore, connections to the facilities described in this Charge are expressly subject and limited to the availability of wastewater service at the time connection permits are requested, and nothing in this Charge shall be construed as a promise, guarantee, obligation or representation that Utilities will provide wastewater service for connections in the future, or to require Utilities to furnish wastewater service in any manner except as Utilities determines the service is available on its system at the time a request is made.
11. Except as otherwise expressly provided in this Charge, any notice or other communication required under this Charge shall be in writing and sent by courier or certified mail with return receipt. A copy may also be sent by facsimile or other electronic means. Any communication shall be addressed as follows and, if so addressed, shall be effective upon actual receipt.

Exhibit B

If to UTILITIES: Customer Contract Administration
 2880 International Circle, Suite 210
 P.O. Box 1103, Mail Code 1376
 Colorado Springs, CO 80947-1376
 Phone: 719-668-8111
 Fax: 719-668-8130

IN WITNESS WHEREOF, Utilities has executed this document as of the day and year first above written.

COLORADO SPRINGS UTILITIES
an enterprise of the City of Colorado Springs

By: _____

Name: _____

This document is approved as to form by the City Attorney's Office—Utilities Division on September 26, 2006.

Exhibit B

EXHIBIT "A"
ADVANCE RECOVERY CHARGE SERVICE AREA

Exhibit B

EXHIBIT "B"

WORKSHEET AWWRA # _____

Estimated Total Interceptor Pipeline Costs: \$ _____

Projected net number of SFE's served by this facility: _____

$$\frac{\text{_____ acres}}{\text{_____ SFE's/acre}} = \text{_____}$$

Cost per SFE = \$

Cost per Commercial/Industrial Acre =

Worksheet prepared by Chris Quinn on ____ / ____ / _____

Notes:

EXHIBIT C

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2009, by and between the City Of Colorado Springs, on Behalf Of Its Utility Enterprise, Colorado Springs Utilities (“Utilities”), The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (together, “Developer”), whose address is 4100 MacArthur Boulevard, Suite 100, Newport Beach, CA 92660, and Banning Lewis Ranch Regional Metropolitan District, formerly known as Banning Lewis Ranch Metropolitan District No. 6, a special district formed under C.R.S. §32-1-101 et. seq., a copy of which is filed and of record with the El Paso County District Court in Case No. 05CV3836, as such District was amended and restated as required in Section VII.A of the “Modified Wastewater Agreement” as defined below (“District”), whose address is _____. Utilities, Developer and District hereinafter together referred to as the “Parties.”

Recitals

- A. Developer is subject to the Banning Lewis Ranch Annexation Agreement with the City of Colorado Springs, a Colorado home rule municipal corporation (“City”), recorded in the real estate records of the El Paso County Clerk and Recorder on September 23, 1988, in Book 5557 at Page 405, as clarified by that settlement agreement dated September, 2004 addressing issues raised in the declaratory judgment action, Case No. 01-CV-0566 recorded on March 16, 2005 at Reception No. 20503781 (together as the “Annexation Agreement”).
- B. Said Annexation Agreement has been further clarified and effectuated by that Wastewater Facilities Participation, Utilization and Service Agreement effective January 24, 2006, and recorded in the real estate records of the El Paso County Clerk and Recorder on February 16, 2006 at Reception No. 206024599, as amended and restated in its entirety by that certain Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement dated _____, 2009 and recorded at _____ in the El Paso County real estate records (collectively, the “Modified Wastewater Agreement”).
- C. Said Modified Wastewater Agreement permits the rights and obligations of Developer to be assigned to the District (except as detailed in Section VII of the Modified Wastewater Agreement), but only to the extent that the District undertakes and performs Developer’s responsibilities and obligations under the Modified Wastewater Agreement, then in that event and to only that extent, Developer shall be relieved from any and all such responsibilities and obligations.

EXHIBIT C

- D. Developer has in fact amended the District as required in Section VII.A of the Modified Wastewater Agreement, and intends, by virtue of this Agreement, to assign its rights and obligations under the Modified Wastewater Agreement, as provided herein.**

- E. This Agreement may be executed in counterparts, each of which will be an original, but all of which together shall constitute one and the same instrument.**

WHEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows.

Terms and Conditions

- 1. Developer hereby assigns its rights and obligations to District as provided in this Agreement and the Modified Wastewater Agreement, to which the form of this Agreement is an exhibit.**

- 2. In making said assignment, Developer and District hereto understand, acknowledge, and agree that said assignment shall only relieve Developer from any and all obligations it has to the Utilities to the extent that the District undertakes and performs Developer's responsibilities and obligations under this Agreement and the Modified Wastewater Agreement, then in that event and to only that extent, Developer shall be relieved from any and all such responsibilities and obligations. In the event of District's alleged default in the performance of any of its responsibilities and obligations under this Agreement, Utilities may, in its Determination, proceed concurrently against Developer, the District, and any other person, firm, corporation, or governmental entity.**

- 3. Unless and until the District has pledged the proceeds of its mill levies to bonds or other debt used to fund its obligations under the Modified Wastewater Agreement, and notwithstanding anything in the Modified Wastewater Agreement to the contrary, the obligation on the part of the District to fund the Install of Facilities defined in the Concept Design Table shall constitute a limited tax general obligation on the part of the District, payable from (1) the imposition by the "Maximum Debt Mill Levy" as such term is defined and calculated in the District's approved Service Plan and (2) such other revenues of the District as may be legally available to pay, as and when due, the obligations under this Agreement; provided, that nothing in the foregoing shall limit the District's power or ability to acquire the funds necessary to perform its rights and obligations under the Modified Wastewater Agreement from any other source, including, but not limited to, the exercise of the District's power, independent of this Agreement, to assess fees and charges as described in Section 32-1-1001, C.R.S.**

EXHIBIT C

4. Upon this assignment, this Agreement becomes an intergovernmental agreement between the City and the District. This assignment is conditioned upon approval of this Agreement by the City Council, on behalf of Utilities.
5. District agrees that the City and Colorado Springs Utilities are third party beneficiaries of this Agreement with the right to enforce the assigned obligations.
6. Any terms not defined in this Agreement shall have the meaning given in the Modified Wastewater Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

-Signatures on Following Pages-

EXHIBIT C

UTILITIES:

The City of Colorado Springs, on behalf of its enterprise, Colorado Springs Utilities

By: _____
Name: _____
Title: _____
Date: _____
Attest: _____
Title: City Clerk

Approved as to form:

By: _____
City Attorney's Office – Utilities Division

Date: _____

EXHIBIT C

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2009, by John A. Cassiani as Vice President of Project Operations of Banning Lewis Ranch Management Company, LLC, a Delaware limited liability company, co-managing member of The Banning Lewis Ranch Company, LLC, a Delaware limited liability company, manager of Banning Lewis Ranch Development I & II, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

DISTRICT

Banning Lewis Ranch Regional Metropolitan District, formerly known as Banning Lewis Ranch Metropolitan District No. 6

By: _____
Name: _____
Title: _____
Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2009, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Exhibit D: Concept Design Table*

Note: All costs in 2007 dollars and the Level 5 estimates with a -50% to -50% accuracy

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
BLR Flow	0.00	0.01	0.06	0.15	0.25	0.68	0.96	1.18	1.45	1.70	8480
SFE'S	0	60	260	760	1280	3420	4780	5760	7230	8480	
Cumulative Common Facility Charge (\$348/SFE)	\$0	\$20,880	\$90,480	\$264,480	\$438,480	\$1,190,180	\$1,083,440	\$2,011,440	\$2,216,040	\$2,951,040	

Wastewater Treatment Facilities

Project	Phase I: Final average day (includes \$5M CSRF/RFE Design)	100% of Project	\$	40,500,000
Project	Phase II: Final average day	100% of Project	\$	116,500,000

Total Wastewater Facilities Costs

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Total	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Tasks: Common Off-Site

Task: Diversion to JCPWRF (UCC Diversion) (King)	Total	\$3,000,000	Total	\$500,000	\$4,500,000
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Tasks: North Basin Off-Site Interceptors

Task	Cost	Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Original Evaluation of collection system	\$440,000				\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Stage I: Paine Ave pipe	\$108,000				\$70,000	\$20,000	\$20,000	\$20,000	\$108,000	\$108,000	\$108,000	\$1,593,800	\$1,593,800
Stage II: Paine Ave pipe	\$3,984,000				\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000	\$4,600,000
Stage III: Paine Ave pipe	\$1,680,000				\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000	\$1,680,000
Spring Creek Interceptor	\$23,034,000				\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000	\$23,034,000
Initial interim pipeline conversion to permanent	\$2,000,000				\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Total	\$3,126,000				\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$1,613,800

Total Treatment and BLR North Costs

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Total	\$2,926,000	\$0	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$1,613,800

Tasks: South Collection Facilities

Task	Cost	Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Stage I: BLR south lift station (King AADF and storage tank)	\$1,576,000				\$167,600	\$1,418,400							
Stage I: BLR south lift station	\$4,920,000				\$492,000	\$4,428,000							
Stage I: MLP Flow from Foreman to Academy	\$5,947,000				\$5,947,000								
Stage II: BLR south lift station (20nd AADF)	\$480,000				\$480,000								
Stage III: BLR south lift station (Buildout)	\$7,200,000				\$7,200,000								
Stage II: BLR foreman (Buildout)	\$11,400,000				\$11,400,000								
Stage II: BLR lift station storage tank (Buildout)	\$2,236,000				\$2,236,000								
Stage II: MLP Flow to SCPS	\$1,100,000				\$1,100,000								
SCPS capacity	\$6,000,000				\$6,000,000								
SDPS Overflow tank	\$1,587,000				\$1,587,000								
SCPS Foreman	\$5,040,000				\$5,040,000								
Total	\$1,189,400				\$2,378,800								

Projects: Necessary Improvements - Treatment

Project	Cost	Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
LWVWTF Odor Control	Unknown												
LWVWTF Flies Protection	Unknown												
LWVWTF Floodplain Issues	Unknown												
Foreman Creek Stream Protection/Diversion Structures	Unknown												

Total BLR South Costs

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Total	\$1,488,000	\$0	\$689,600	\$5,888,400	\$20,000	\$1,208,400	\$3,380,800	\$12,443,000	\$12,443,000	\$12,443,000	\$12,443,000

Tasks Grand Total

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
Total	\$148,422,000	\$0	\$689,600	\$5,888,400	\$20,000	\$1,208,400	\$3,380,800	\$11,164,200	\$12,443,000	\$12,443,000	\$12,443,000

*The information detailed in this Exhibit D is based on Estimates.

Exhibit D: Concept Design Table*

Note: All costs in 2007 dollars and are Level 5 estimates with a +50% to -3%

	10	11	12	13	14	15	16	17	18	19	20	21
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
	2.04	2.29	2.72	2.97	3.31	3.74	3.99	4.38	4.96	5.16	6.66	6.03
	10180	11430	13580	14630	16530	18680	19930	21880	24280	25780	27730	30130
Cumulative Common Facility	\$3,542,640	\$3,977,640	\$4,725,840	\$5,160,840	\$5,752,440	\$6,500,640	\$6,935,640	\$7,614,240	\$8,449,440	\$8,971,440	\$9,650,040	\$10,485,240

Wastewater Treatment Facilities

Project: Phase I: 8mgd average day (includes \$5M CSRRWF Design)		\$500,000	\$3,550,000	\$3,550,000	\$10,650,000	\$14,200,000	\$3,550,000					
Project: Phase II: 8mgd average day												
Total Wastewater Facilities Costs	\$0	\$500,000	\$3,550,000	\$3,550,000	\$10,650,000	\$14,200,000	\$3,550,000	\$0	\$0	\$0	\$0	\$0

Tasks: Common Off-Site

Task: Diversion to JDPWRF (JCC Diversion) (4mgd)												
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Tasks: North Basin Off-Site Interceptors

Ongoing Evaluation of collection system	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Stage I: Platte Ave pipe												
Stage II: Platte Ave pipe												
Stage III: Platte Ave pipe						\$932,000	\$1,864,000	\$1,864,000				
Spring Creek Interceptor				\$239,340	\$2,154,060	\$7,180,200	\$9,573,600	\$4,786,800				
Initial interim pipeline capacity increase									\$2,000,000			
Initial interim pipeline easement conversion to permanent												
Off-Site Interceptors Costs North BLR	\$20,000	\$20,000	\$20,000	\$259,340	\$2,174,060	\$8,132,200	\$11,457,600	\$6,670,800	\$2,020,000	\$20,000	\$20,000	\$20,000

Total Treatment and BLR North Costs

Cumulative	\$8,272,000	\$8,792,000	\$13,382,000	\$17,171,340	\$29,895,400	\$52,327,600	\$67,335,200	\$74,006,000	\$76,026,000	\$76,046,000	\$76,066,000	\$76,086,000
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Tasks: South Collection Facilities

Stage I: BLR south lift station (1mgd AADF and storage tank)												
Stage I: BLR south forcemain												
Stage I: MP Pkwy from Powers to Academy												
Stage II: BLR south lift station (2mgd AADF)								\$480,000				
Stage III: BLR south lift station (Buildout)												
Stage II: BLR forcemain (Buildout)												
Stage II: BLR liftstation storage tank (Buildout)												
Stage II: MP Pkwy to SCPS												
SCPS capacity												
SDPS Overflow tank												
SCPS Forceman												

Projects: Necessary Improvements - Treatm

LVWWTP Odor Control												
LVWWTP Fire Protection												
LVWWTP Floodplain Issues												
Fountain Creek Stream Protection/Drop Structures												

Total BLR South Costs

Cumulative	\$12,443,000	\$12,443,000	\$12,443,000	\$12,443,000	\$12,443,000	\$12,443,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000
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Tasks Grand Total

Cumulative	\$26,715,000	\$27,235,000	\$30,805,000	\$34,614,340	\$47,438,400	\$69,770,600	\$85,258,200	\$91,929,000	\$93,949,000	\$93,969,000	\$93,989,000	\$94,009,000
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Exhibit D: Concept Design Table*

Note: All costs in 2007 dollars and are Level 5 estimates with a +50% to -3%

	22	23	24	25	26	27	28	29	30	31	32	33	34
	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041
	6.33	6.72	7.11	7.55	7.85	8.29	8.72	9.16	9.64	10.13	10.61	11.10	11.58
	31850	33580	35530	37750	39250	41425	43800	45775	48200	50625	53050	55475	57900
Cumulative Common Facility	\$11,007,240	\$11,685,840	\$12,364,440	\$13,137,000	\$13,659,000	\$14,415,900	\$15,172,800	\$15,929,700	\$16,773,600	\$17,617,500	\$18,461,400	\$19,305,300	\$20,149,200

Wastewater Treatment Facilities

Project: Phase I: 8mgd average day (includes \$5M CSRWRF Design)													
Project: Phase II: 8mgd average day	\$1,680,000	\$1,680,000	\$5,040,000	\$6,720,000	\$1,680,000								
Total Wastewater Facilities Costs	\$1,680,000	\$1,680,000	\$5,040,000	\$6,720,000	\$1,680,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Tasks: Common Off-Site

Task: Diversion to JDPWRF (JCC Diversion) (4mgd)													
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Tasks: North Basin Off-Site Interceptors

Ongoing Evaluation of collection system	\$20,000	\$20,000											
Stage I: Plato Ave pipe													
Stage II: Plato Ave pipe													
Stage III: Plato Ave pipe													
Spring Creek Interceptor													
Initial interim pipeline capacity increase													
Initial interim pipeline easement conversion to permanent													
Off-Site Interceptors Costs North BLR	\$20,000	\$20,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Total Treatment and BLR North Costs

Cumulative	\$1,700,000	\$1,700,000	\$5,040,000	\$6,720,000	\$1,680,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
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Tasks: South Collection Facilities

Stage I: BLR south lift station (1mgd AADF and storage tank)													
Stage I: BLR south forcemain													
Stage I: MP Pkwy from Powers to Academy													
Stage II: BLR south lift station (2mgd AADF)													
Stage III: BLR south lift station (Buildout)													
Stage II: BLR forcemain (Buildout)													
Stage II: BLR liftstation storage tank (Buildout)													
Stage II: MP Pkwy to SCPS													
SCPS capacity													
SDPS Overflow tank													
SCPS Forcemain													

Projects: Necessary Improvements - Treatm

LVWWTP Odor Control													
LVWWTP Fire Protection													
LVWWTP Floodplain Issues													
Fountain Creek Stream Protection/Drop Structures													
Total BLR South Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000
Tasks Grand Total	\$1,700,000	\$1,700,000	\$5,040,000	\$6,720,000	\$1,680,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative	\$35,709,000	\$37,409,000	\$102,449,000	\$106,169,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000

Exhibit D: Concept Design Table*

Note: All costs in 2007 dollars and are Level 5 estimates with a +50% to -30%

	35	36	37	38	39	40	41	42	43
	2042	2043	2044	2045	2046	2047	2048	2049	2050
	12.07	12.55	13.04	13.52	14.01	14.49	14.98	15.46	15.95
	60325	62750	65175	67600	70025	72450	74875	77300	79725
Cumulative Common Facility	\$20,993,100	\$21,637,000	\$22,280,900	\$22,924,800	\$23,568,700	\$24,212,600	\$24,856,500	\$25,500,400	\$26,144,300

Wastewater Treatment Facilities

Project: Phase I: 8mgd average day (includes \$5M CSRWRF Design)
Project: Phase II: 8mgd average day

Total Wastewater Facilities Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
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Tasks: Common Off-Site

Task: Diversion to JDPWRF (JCC Diversion) (4mgd)
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Tasks: North Basin Off-Site Interceptors

Ongoing Evaluation of collection system
Stage I: Platte Ave pipe
Stage II: Platte Ave pipe
Stage III: Platte Ave pipe
Spring Creek Interceptor
Initial interim pipeline easement conversion to permanent

Off-Site Interceptors Costs North BLR	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
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Total Treatment and BLR North Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000	\$92,926,000

Tasks: South Collection Facilities

Stage I: BLR south lift station (1mgd AADF and storage tank)								
Stage I: BLR south forcemain								
Stage I: MP Pkwy from Powers to Academy								
Stage II: BLR south lift station (2mgd AADF)								
Stage III: BLR south lift station (Buildout)								
Stage II: BLR forcemain (Buildout)				\$114,000	\$1,026,000	\$2,880,000	\$4,320,000	
Stage II: BLR liftstation storage tank (Buildout)					\$223,600	\$1,118,000	\$664,400	
Stage II: MP Pkwy to SCPS					\$510,000	\$2,550,000	\$2,040,000	
SCPS capacity					\$200,000	\$3,000,000	\$2,400,000	
SDPS Overflow tank					\$159,700	\$798,500	\$638,800	
SCPS Forceman					\$504,000	\$2,520,000	\$2,018,000	

Projects: Necessary Improvements - Treatm

LVWWTP Odor Control
LVWWTP Fire Protection
LVWWTP Floodplain Issues
Fountain Creek Stream Protection/Drop Structures

Total BLR South Costs	\$0	\$0	\$0	\$0	\$114,000	\$3,023,300	\$17,996,500	\$17,439,200	\$0
Cumulative	\$12,923,000	\$12,923,000	\$12,923,000	\$12,923,000	\$13,037,000	\$16,060,300	\$34,056,800	\$51,496,000	\$51,496,000

Tasks Grand Total	\$0	\$0	\$0	\$0	\$114,000	\$3,023,300	\$17,996,500	\$17,439,200	\$0
Cumulative	\$110,849,000	\$110,849,000	\$110,849,000	\$110,849,000	\$110,963,000	\$113,986,300	\$131,982,800	\$149,422,000	\$149,422,000

*The information detailed in this Exhibit D is based on Estimates.

Exhibit E
IRREVOCABLE LETTER OF CREDIT

Date of Issue: _____
Place of Issue: _____

To: Colorado Springs Utilities
Planning and Engineering Dept - System Extensions
P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015

Irrevocable Letter of Credit No.: _____ Expiration Date: _____
Account Party: _____ Address: _____

Beneficiary: Colorado Springs Utilities
Attention Brent Schubloom
P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015

Gentlemen:

_____ hereby unconditionally issues this Irrevocable Letter of Credit in your favor for the amount of \$_____, which may be drawn on by you at any time and from time to time, which is available for payment in the United States dollars by drafts at sight for payment, and which demand we shall honor without enquiring whether you have a right to make such demand and without recognizing any claim of our Account Party when such demand is accompanied by the following documents:

A written statement from Colorado Springs Utilities that the Account Party has failed to pay for the following:

Subdivision: _____

This Letter of Credit shall not be transferable and it shall be governed by the laws of the State of Colorado. This letter of credit shall be automatically renewed, without amendment, for additional one year periods from each present or future expiration date, unless we notify Colorado Springs Utilities, Planning and Engineering Department – System Extensions, in writing by certified or express mail at least one hundred twenty (120) days prior to any such expiration date that we elect not to renew our commitment.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. Our obligation under this Irrevocable Letter of Credit is our individual obligation and is in no way contingent upon reimbursement with respect thereto.

_____ hereby agrees to honor each draft for payment made in compliance with the terms of this credit if duly presented, together with any documents as specified herein, on or before the expiration date of this letter. In addition, if an out-of-City of Colorado Springs financial institution, we hereby agree to honor each draft for payment made in compliance with the terms of this Letter of Credit if duly presented by registered mail or overnight courier, together with any documents, as specified herein, on or before the expiration date of this Letter of Credit.

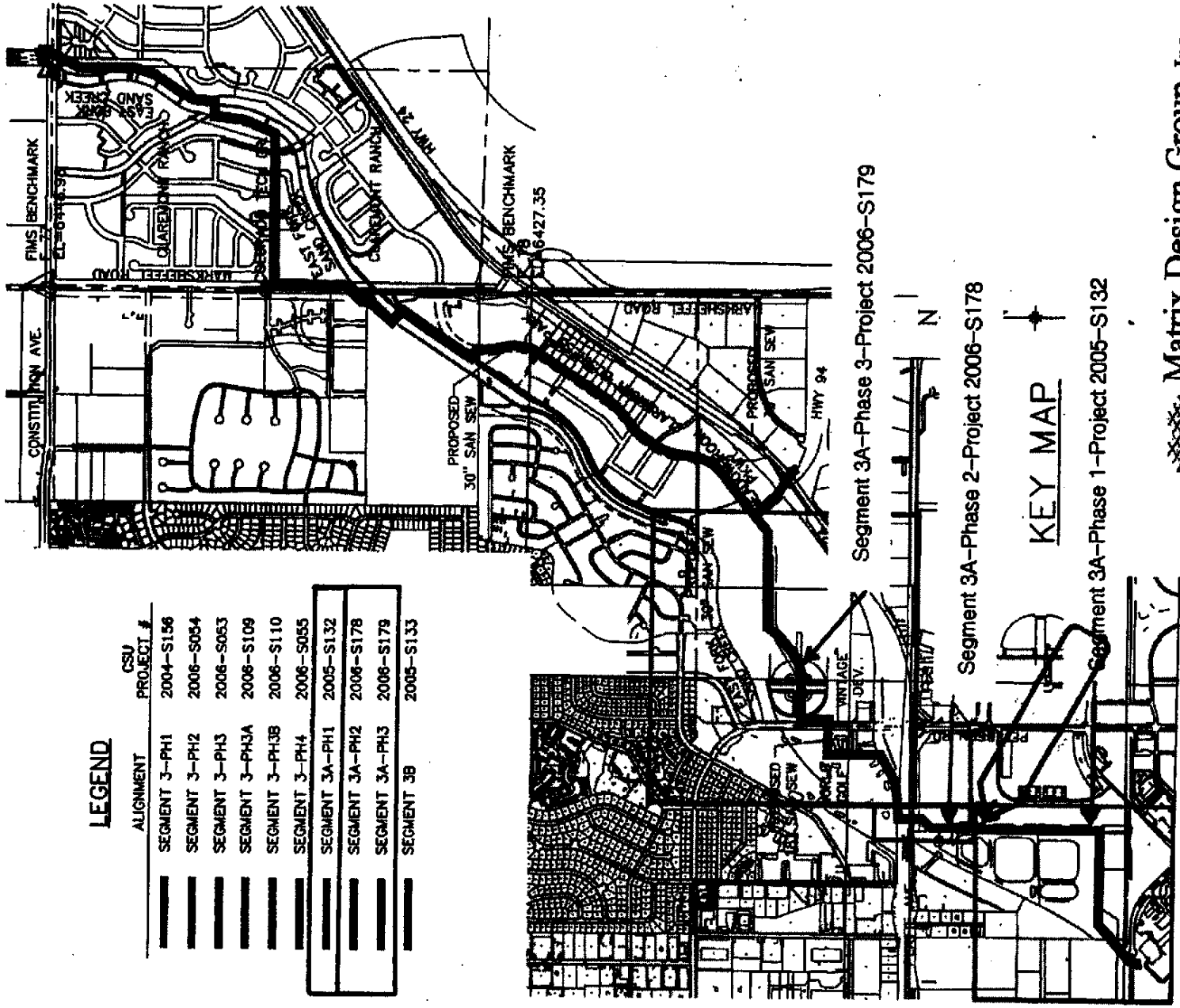
Lending Institution:

Address:

Telephone

Lending Institution Officer

Exhibit F



LEGEND

ALIGNMENT	CSU PROJECT #
—	SEGMENT 3-PH1 2004-S156
—	SEGMENT 3-PH2 2006-S034
—	SEGMENT 3-PH3 2006-S053
—	SEGMENT 3-PH3A 2006-S109
—	SEGMENT 3-PH3B 2006-S110
—	SEGMENT 3-PH4 2006-S055
—	SEGMENT 3A-PH1 2005-S132
—	SEGMENT 3A-PH2 2006-S178
—	SEGMENT 3A-PH3 2006-S179
—	SEGMENT 3B 2005-S133

Segment 3A-Phase 3-Project 2006-S179

Segment 3A-Phase 2-Project 2006-S178

Segment 3A-Phase 1-Project 2005-S132

KEY MAP



Matrix Design Group, Inc.
Integrated Design Solutions

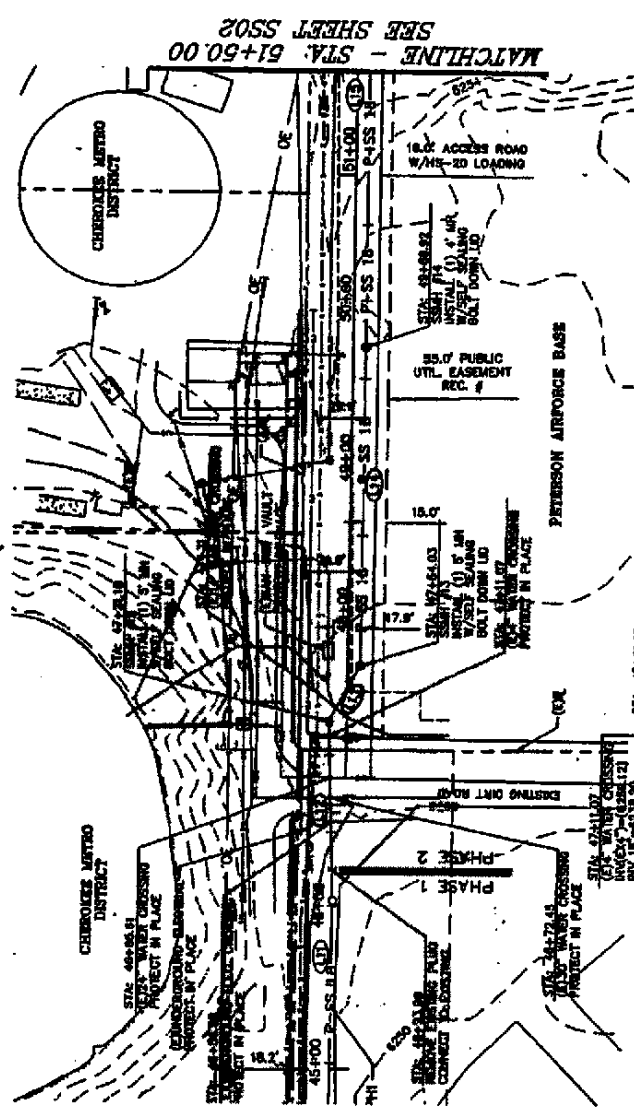
2433 Research Parkway, Suite 300
Colorado Springs, CO 80920
Phone 719-575-0100
Fax 719-575-0208

DATE PREPARED: 02/09/2007
JOB NUMBER: 04186.001

S:\05.188.001\to others\CSA\10-26-05\lay map.dwg Feb 08, 2007 - 8:21am

Exhibit F

**COLORADO SPRINGS
WASTEWATER DESIGN**
DATE: 12-15-24 BY: [Signature]
PROJECT NO. 2008-378 (MS 1) - THE
SHOWN ON THE 100% OR GROUNDWORK IN
THE PLAN SHALL BE CONSIDERED AS THE
LINE EXTENSION AND SHALL BE FINAL.
APPROVAL EXPIRES 180 DAYS FROM THE

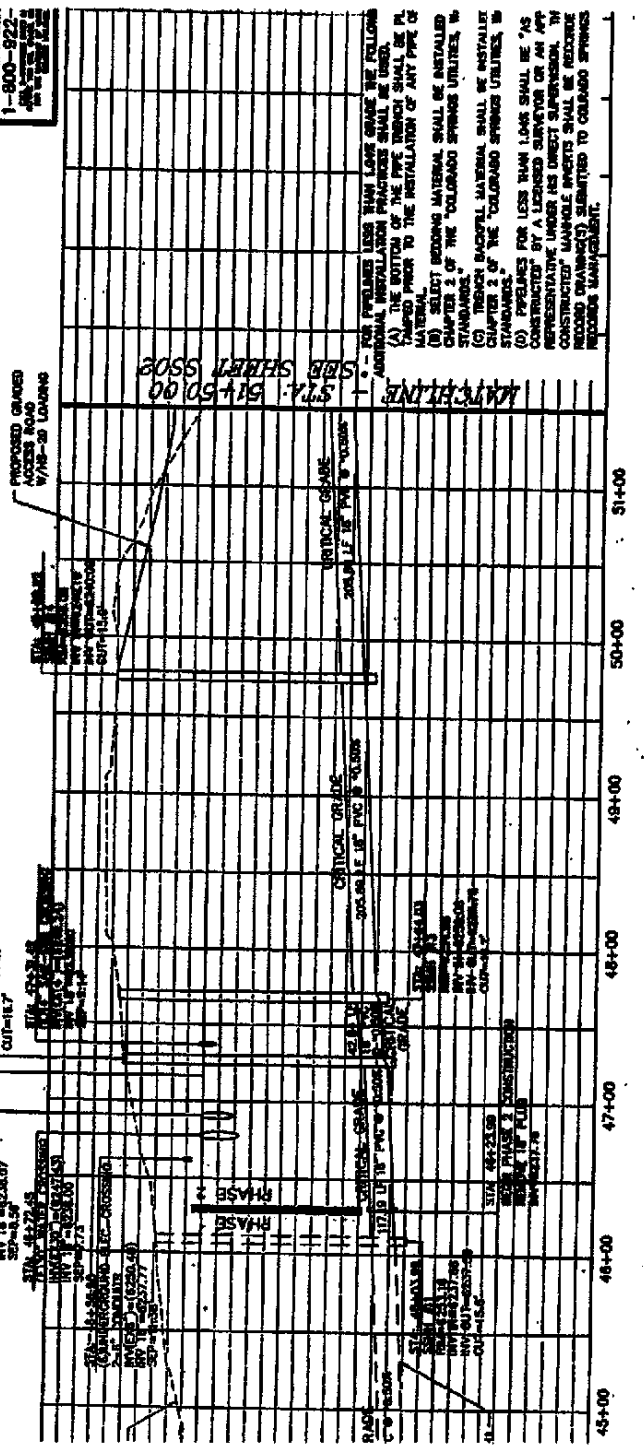


LINE TABLE

LINE	LENGTH	BEARING	SI
L10	400.00	N002°01'15"E	SE
L11	300.00	N002°01'15"E	SE
L12	17.18	N0213°58'54"W	SE
L13	62.84	N002°33'03"E	SE
L14	200.00	N002°01'15"E	SE
L15	200.00	N002°01'15"E	SE



T 3A-PH2



FOR PIPELINES LESS THAN 18" IN SIZE THE FOLLOWING
INSTALLATION PRACTICES SHALL BE USED:
(A) THE SLOPE OF THE PIPE SHALL BE PL
CALCULATED ACCORDING TO THE INSTALLATION OF ANY PIPE OF
MATERIAL.
(B) SELECT BEDDING MATERIAL SHALL BE INSTALLED
CHAPTER 2 OF THE "COLORADO SPRINGS UTILITIES"
STANDARDS.
(C) TRENCH BACKFILL MATERIAL SHALL BE INSTALLED
STANDARDS.
(D) PIPELINES FOR LESS THAN 18" IN SIZE SHALL BE 7' AS
CONSTRUCTED BY A LICENSED SURVEYOR OR AS
REPRESENTATIVE UNDER HIS DIRECT SUPERVISION.
CONTRACTOR'S MANHOLE SHEETS SHALL BE REDUCED
REDUCED DRAWINGS(S) SUBMITTED TO COLORADO SPRINGS
RECORDS MANAGEMENT.

<p>PROPOSED MANHOLE VALE (PROPOSED) VALE (EXISTING) BLUHOFF (PROPOSED) BLUHOFF (EXISTING) PLUS (PROPOSED) PLUS (EXISTING) DISTING FIRE HYDRANT PROPOSED FIRE HYDRANT</p>	<p>(PROJECT RELATED INFORMATION) MASTER WORK ORDER NUMBER: 1408888 PROJECT NUMBER: 2008-378 THIS MAP: P-33, P-34, P-35, P-36, P-37, P-38, P-39, P-40 SHEET NO. 3 OF 6 NETWORK LOCATION & DRAWING TITLE: S:\A\181001\Drawings\PH2\3A-PH2\3A-PH2.dwg REVISIONS: XX</p>	<p>SEGMENT 3A-PH2 BANNING LEWIS SEWER PLAN ENGINEER: Metric Design Group, Inc. DESIGNED BY: [Signature] DATE: 09/10/2008 DRAWN BY: [Signature] DATE: 09/10/2008 CHECKED BY: [Signature] DATE: 09/10/2008</p>	<p>Colorado Springs 171 West 10th St. 8th Floor Colorado Springs, CO 80902 719.575.3333 www.metricdesign.com</p>
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Exhibit F

CCTV Inspection Request Form & Check List

Project # 2005-S-132 Map # P-34 Sub-Basin: SBSN-LSC-27,28,29

Project Name: Barming Lewis Ranch, Segment 3A Phase 1

Contractor: Swerdfeger

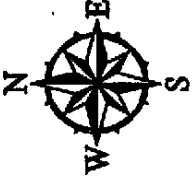
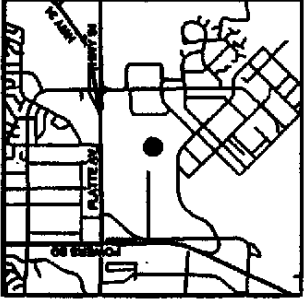
Inspector WO # 1384949-01

Inspector: Joe Busemeyer

Are Necessary MH's Exposed? Y / N? Plan & Profile? Y / N

Return Of Deficiency Slip? Y / N? Signed & Dated Y / N

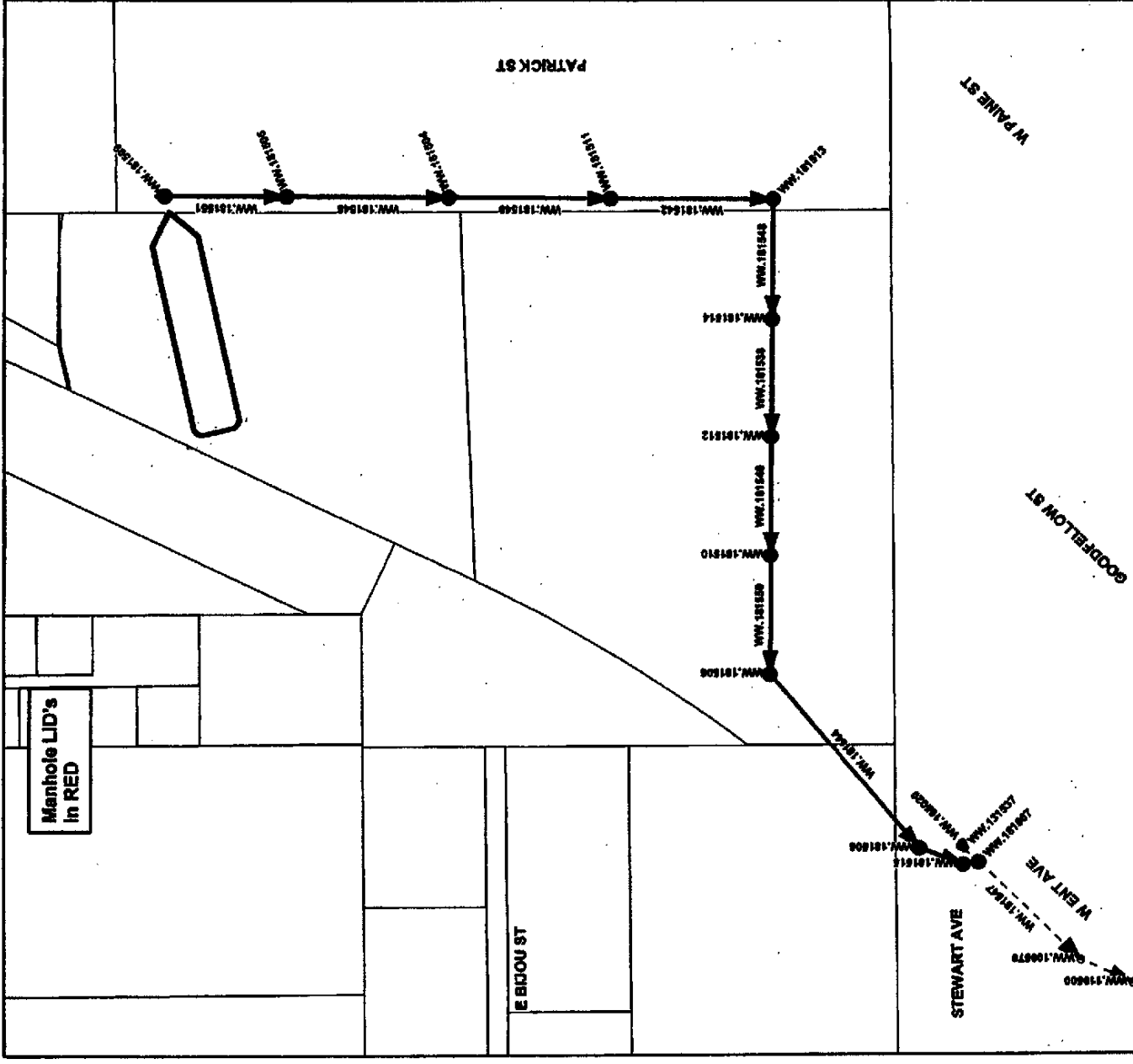
Private System Y / N



Not To Scale

Map Date: 1/11/2007

Vicinity Map



Legend

Exhibit G

Approximate JCC Wastewater Service Area

Current City Limits

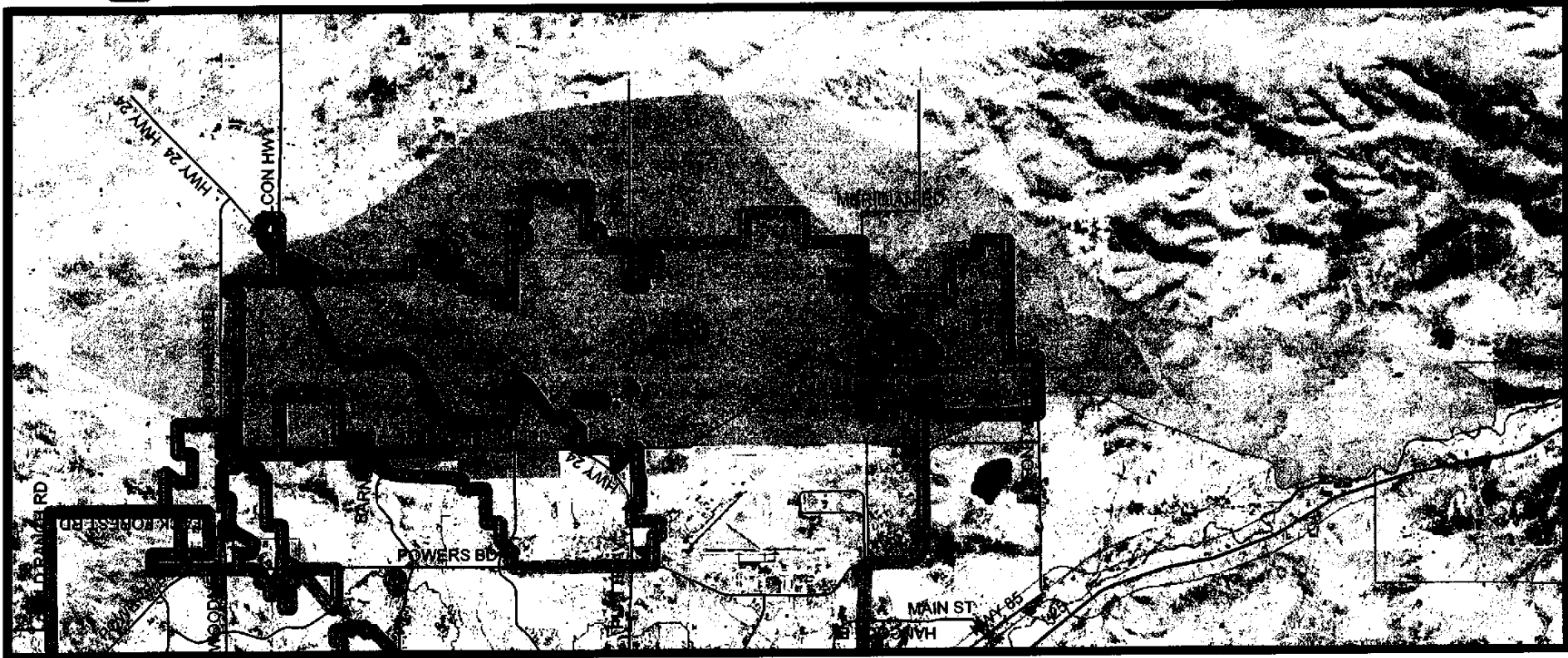


EXHIBIT H
Necessary Improvements

Should the Initial Interim Facilities serve connections equivalent to 5000 SFEs or more prior to completion of the JCC Diversion, which cause the Initial Interim Capacity limit to be reached in the existing Utilities wastewater collection system based on measurements of flow from the JCC Basin, Developer's input, the Development Reports, and Developer's requests for service. Developer shall, prior to receiving any additional Interim Capacity, at as its sole cost and expense, upgrade the pipe segment(s) identified by Utilities as causing the capacity limitation. These improvements are currently estimated to cost \$1,800,000 and are subject to change in accordance with Utilities Rules and Regulations, and Utilities standards and specifications.

Exhibit I

WASTEWATER RECOVERY AGREEMENT NO. RA—_____

Colorado Springs Utilities Project No._____

This WASTEWATER RECOVERY AGREEMENT (“Recovery Agreement”) is made and entered into as of the _____ day of _____, 20____, (“Effective Date”) by and between Colorado Springs Utilities (“UTILITIES”) an enterprise of the City of Colorado Springs, a Colorado home rule city and municipal corporation, with its principal place of business at 121 S. Tejon Street, Colorado Springs, Colorado 80903 and _____ (“CUSTOMER”), with its principal place of business at _____.

RECITALS

WHEREAS, CUSTOMER has paid for a wastewater facilities extension and appurtenances in order to obtain wastewater service from UTILITIES pursuant to the City Code of the City of Colorado Springs 2001, as amended (“City Code”), and UTILITIES’ Wastewater Rules and Regulations adopted pursuant thereto; and

WHEREAS, CUSTOMER has conveyed title to said extension to UTILITIES and has conveyed any necessary land titles or easements thereof, free and clear of all liens and encumbrances, to the City of Colorado Springs by appropriate documents approved by UTILITIES; and

WHEREAS, UTILITIES and the CUSTOMER desire that this Agreement, pursuant to the City Code and UTILITIES’ Wastewater Rules and Regulations, provide for reimbursement of the CUSTOMER’S eligible construction costs according to the terms of this Agreement as connections are permitted to said extension.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree to the following terms and conditions.

AGREEMENT

Definitions. The following capitalized terms shall have the following meanings as used in this Agreement:

“Advanced Participation” shall mean the process whereby UTILITIES collects fees at the time of the execution of a Service Contract in anticipation of funding future water or wastewater facilities.

“Allowable Construction Costs” shall mean those direct costs related to installation of the wastewater facilities extension including engineering, construction, permits, and acquisition of easements or rights-of-way, but not including indirect or unrelated costs such as CUSTOMER’S overhead expenses, cost of financing, and cost of service lines, as set forth in **Exhibit B**.

“Collection Main” shall mean the portion of the wastewater collection system, which collects wastewater from users to the Colorado Springs Utilities treatment facilities, excluding service lines.

“Connection” shall mean any residential or commercial service line.

Exhibit I

“Extension” shall mean the wastewater facilities extension and all appurtenances thereof constructed by and paid for by the CUSTOMER which is the subject of this agreement as described in Paragraph 1.1 and depicted in **Exhibit A**.

“Interest Rate” shall mean the Federal Reserve Bank of New York Prime Rate at the date of contract, expressed as a decimal. The “Interest Factor” shall be $(1+5(b + .03))$ where “b” is the Interest Rate.

“Line Extension and Service Standards” shall mean the latest edition of the Line Extension and Service Standards issued by UTILITIES.

“Maximum Recovery Amount” shall mean the CUSTOMER’S total Allowable Construction Costs, less the CUSTOMER’S Pro Rata Share and any Advance Participation payments paid to the CUSTOMER, multiplied by the Interest Factor.

“Pro Rata Share” shall have the meaning attributed to it on **Exhibit B**.

“Service Line” shall mean the wastewater line extending from the premises up to and including the connection to the public wastewater Collection Main.

“Unit Recovery Charge” or “URC” shall mean the total unit recovery charge payable by an individual or entity under Paragraph 6 below

1. Wastewater Facilities Extension.

1.1. Customer warrants that it has installed the wastewater facilities extension and appurtenances, described as _____ (“Extension”) and depicted in Exhibit A, in accordance with the UTILITIES’ Line Extension & Service Standards in effect at the commencement of construction.

1.2. CUSTOMER warrants that it has paid all costs associated with the installation of the Extension.

2. Recovery Calculations.

2.1. UTILITIES will collect Recovery Charges and reimburse CUSTOMER in accordance with the terms and conditions of this Agreement and UTILITIES tariffs, rules and regulations. In no event shall the total amount of Recovery Charges exceed the Maximum Recovery Amount (as defined below in Paragraph 2.3).

2.2. Allowable Construction Costs eligible for recovery under this Agreement are set forth in Exhibit B. All costs incidental to or resulting from the procurement by UTILITIES of any required land easements or rights-of-way, whether obtained by dedication, contract, condemnation or otherwise shall be born by the CUSTOMER and included in the total Allowable Construction Costs.

2.3. The Unit Recovery Charge (“URC”), CUSTOMER’S Pro Rata Share and the CUSTOMER’S Maximum Recovery Amount are as set forth in Exhibit B. For reference, these are calculated as follows:

Exhibit I

- A. "CUSTOMER'S Pro Rata Share" is calculated by dividing the total Allowable Construction Costs, less any Advance Participation funds paid to CUSTOMER, by the number of equal units which the Recovery Area is divided into to get the cost per unit. Then the cost per unit will be multiplied by the number of units credited to the CUSTOMER to get the CUSTOMER'S Pro Rata Share.
- B. The "Maximum Recovery Amount" is calculated by subtracting any Advance Participation funds paid to the CUSTOMER and the CUSTOMER'S Pro Rata Share from the Total Allowable Construction Costs and multiplying the remaining amount by the Interest Factor.
- C. The URC is calculated by dividing the Maximum Recovery Amount by the number of equal units which the Recovery Area is divided.

3. Recovery Area.

- 3.1. The parties hereby agree that the area subject to a Unit Recovery Charge ("Recovery Area") is described in **Exhibit A**. The Recovery Area and the per unit cost calculations are based on the information available at the time the request to initiate this Recovery Agreement was made. However, actions initiated by others, at any time, such as site grading, land platting, development, or other activities may impact the eligibility of certain properties for cost recovery in or near the defined Recovery Area. These actions may affect certain properties within the initial Recovery Area so that they will no longer utilize wastewater service from the Extension, or these actions may also affect certain properties near the initial Recovery Area so that they may in the future utilize wastewater service from the Extension.
- 3.2. UTILITIES reserves the right to adjust the established Recovery Area boundary and/or the URC, in its sole and complete discretion, if the above-described circumstances occur. CUSTOMER agrees and acknowledges that it may receive all or only a part of its eligible costs under this Recovery Agreement depending on the factors listed above and development in or near the Recovery Area in general.
- 3.3. However, UTILITIES shall have no duty or obligation to adjust the original Recovery Area and Customer expressly waives and releases UTILITIES from any and all claims, causes of action, or any other remedies CUSTOMER may seek against UTILITIES for UTILITIES' adjustment of the Recovery Area or UTILITIES' failure to adjust the Recovery Area.
- 3.4. UTILITIES may recalculate the Unit Recovery Charge for properties and/or customers in any amended Recovery Area based on a calculation or method as solely determined by UTILITIES. Generally, UTILITIES will subtract the sum of any Recovery Agreement Charges collected from the eligible amount subject to recovery under this Recovery Agreement (the "Balance"). This Balance will then be used to recalculate a Unit Recovery Charge based on the properties and/or customers in the amended Recovery Area which have not yet paid a Recovery Agreement Charge pursuant to this Recovery Agreement.
- 3.5. In no event will any person/property/or customer who has paid a Recovery Agreement Charge, or is already connected to UTILITIES' wastewater system as of the date the Recovery Area is amended, be subject to an adjustment of any Recovery Agreement Charge already assessed, or if already connected to the wastewater system, an initial Recovery Agreement Charge under this Recovery Agreement.

Exhibit I

4. **Costs Eligible for Reimbursement.**

4.1. Costs eligible for recovery under this Agreement (“Allowable Construction Costs”) shall be limited to those direct costs related to installation of wastewater facilities extension such as engineering, construction, permits, and easement or right-of-way (“ROW”) costs. Allowable Construction Costs shall not include indirect or unrelated costs such as CUSTOMER’S overhead expenses, cost of financing, cost of service lines, etc.

4.2. All costs incidental to or resulting from the procurement by UTILITIES of any required land easements or rights-of-way, whether obtained by dedication, contract, condemnation or otherwise shall be born by the CUSTOMER and included in the total Allowable Construction Costs.

5. **Calculation of Maximum Recovery Amount and Unit Recovery Charge.**

5.1. The URC, CUSTOMER’S Pro Rata Share and the CUSTOMER’S Maximum Recovery Amount will be calculated as shown in Exhibit B.

5.2. For reference, the CUSTOMER’S Pro Rata Share will be calculated by dividing the total allowable construction costs, less any Advance Participation funds paid to CUSTOMER, by the number of equal units which the Recovery Area is divided into to get the cost per unit. Then the cost per unit will be multiplied by the number of units credited to the CUSTOMER to get the CUSTOMER’S Pro Rata Share. See Exhibit B for calculation.

5.3. For reference, the Maximum Recovery Amount will be calculated by subtracting any Advance Participation funds paid to the CUSTOMER and the CUSTOMER’S Pro Rata Share from the Total Allowable Construction Costs and multiplying the remaining amount by the interest factor. See Exhibit B for calculation.

5.4. For reference, the URC will be calculated using the following formula.

$$\text{URC} = \frac{a(1 + 5(b + .03))}{c}$$

Where a = Total Allowable Construction Costs less the CUSTOMER’S Pro Rata Share and less any Advance Participation Payments.

Where b = Federal Reserve Prime interest rate prevailing at the time of agreement.

Where c = The number of equal or nearly equal units which the Recovery Area has been divided into for the purpose of calculating the URC, less the number of units credited to the CUSTOMER. The URC may be calculated, per lot, per acre, or per single family equivalent.

6. **Properties Subject to Recovery Charge.**

6.1. A Recovery Charge shall only be assessed for those properties in the Recovery Area, which derive service from the Extension as determined by UTILITIES in its complete and sole discretion.

6.2. In no event will a Recovery Charge be assessed when an additional Collection Main is constructed and connected, whether by UTILITIES or some other party, to the Extension.

Exhibit I

6.3. CUSTOMER is not entitled to recover costs associated with any mainline connections or extensions which are not specifically described in Paragraph 1.1 and depicted in Exhibit A.

7. Reimbursement.

7.1. For a period of twenty (20) years from the date of this Agreement UTILITIES shall:

- A. Calculate as necessary the total sum reimbursable to CUSTOMER, according to the terms of this Agreement, for each connection to the Extension; and
- B. Use reasonable efforts to collect such Recovery Charges; and
- C. Use reasonable efforts to remit the Recovery Charges as collected to CUSTOMER until such time as the CUSTOMER is reimbursed the Maximum Recovery Amount, as provided herein.

7.2. Except as provided in the City Code, UTILITIES tariffs, rules and regulations as of the Effective Date, CUSTOMER shall have no right to receive Recovery Charges or any other compensation on account of additional connections to the Extension after the expiration of twenty years (20) from the date of this Recovery Agreement or after Customer has received the Maximum Recovery Amount, whichever is earlier.

7.3. Any other amounts received by UTILITIES after the expiration date or after CUSTOMER has been reimbursed the Maximum Recovery Amount shall be retained by UTILITIES and CUSTOMER shall have no interest in monies received, except as provided by the Wastewater Rules and Regulations in effect.

8. Connections.

8.1. All connections to the Extension are subject to approval by UTILITIES. All such connections must comply with UTILITIES' specifications and requirements effective at the time such connections are requested.

8.2. Connections to the Extension are subject to the availability of wastewater service at the time such connection permits are requested. Nothing herein shall be construed to require UTILITIES to furnish wastewater service in any manner except as UTILITIES determines that such service is available on its system at the time a request is made; nor shall this agreement be construed as a promise, guarantee or representation that UTILITIES will provide wastewater service for such connections in the future. CUSTOMER understands and agrees that this may affect CUSTOMER'S recovery hereunder.

9. **Liens.** If at an time, any mechanics liens, judgment liens, or other valid and enforceable liens encumber the Extension, land, easements or rights-of-way thereof, and such liens remain unsatisfied for more than sixty (60) days, CUSTOMER agrees that UTILITIES may exercise any combination of the following rights:

- A. Require CUSTOMER forthwith to provide UTILITIES with security for the payment of the liens in full, on terms satisfactory to UTILITIES; and/or
- B. Refuse additional connections to the Extension until said liens are released or adequate security is provided; and/or

Exhibit I

- C. Apply any Recovery Charges collected thereafter to the payment of the outstanding liens.
- 10. Third Party Beneficiaries.** Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than UTILITIES and the CUSTOMER.
- 11. Notice of Changes of Address and Assignments.**
 - 11.1. The CUSTOMER is responsible to notify UTILITIES in writing of any assignment of this Recovery Agreement and/or any changes of address within thirty (30) days.
 - 11.2. If the CUSTOMER fails to notify UTILITIES in writing of any change of address or of any assignment of this Agreement, UTILITIES will retain collected Recovery Charges until such notice is received. CUSTOMER and/or its assignees will not be entitled to interest on the retained funds.
 - 11.3. Any retained funds which are not claimed by the expiration of the Recovery Agreement become the property of UTILITIES and CUSTOMER will have no right or interest in them.
- 12. Representatives and Notice.**
 - 12.1. All notices necessary or required under this Agreement shall be in writing and shall be personally delivered, sent by overnight delivery service, or mailed by certified mail, postage prepaid and return receipt requested, as follows:

If to UTILITIES: COLORADO SPRINGS UTILITIES
Attn: _____
Colorado Springs, CO 809 _____
Phone: (719) _____

If to CUSTOMER: _____

Phone: _____
 - 12.2. Notice given by personal delivery, overnight delivery, or mail shall be effective upon actual receipt. The parties may change any address to which notice is to be given by giving notice as provided above of such change of address.
- 13. Force Majeure.** Neither party shall be liable for delays in performing its obligations to the extent the delay is caused by an unforeseeable condition beyond its reasonable control without fault or negligence including strikes, riots, wars, floods, fires, explosions, acts of nature, acts of government, or labor disturbances
- 14. Dispute Resolution.**
 - 14.1. If a dispute arises between the parties relating to this Agreement, the following procedure shall be followed:
 - A. The parties shall hold a meeting promptly, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making

Exhibit I

connection with this Agreement are for informational purposes only. No such communication is intended by UTILITIES to constitute either an electronic record or an electronic signature, or to constitute any agreement by UTILITIES to conduct a transaction by electronic means. Any such intention or agreement is hereby expressly disclaimed.

In witness whereof, the representatives of each party hereto certifies via execution below that they are duly authorized to commit their organization to this Agreement in its entirety:

Signature

Name

STATE OF COLORADO
) ss
COUNTY OF EL PASO

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ as _____ (Title) of _____.

Witness my hand and official seal.

My Commission Expires: _____

(SEAL) _____
Notary Public

COLORADO SPRINGS UTILITIES

Brent Schubloom
Systems Extensions Manager

Utilities General Counsel Division has approved this agreement as to form.

Exhibit I
EXHIBIT A

(Water Facilities Extension Map and Recovery Area Boundary)

Exhibit I
EXHIBIT B

WORKSHEET
WASTEWATER RECOVERY AGREEMENT, RA # _____

Project Location/Address: _____
 UTILITIES Project NO. _____
 Date Preliminary Acceptance Issued: _____
 Date Recovery Agreement Request Received: _____
 Total Allowable Construction Costs _____

Company Name	Amount
Construction costs	\$ _____
Engineering costs:	\$ _____
Project management costs:	\$ _____
Easement/ROW costs	\$ _____
Permit costs	\$ _____
Recovery Application Fee	Colorado Springs Utilities \$ _____

Receipts Verified By: _____

Figures:
 Total Allowable Construction Costs: \$ _____
 Advance Participation Funds Paid to CUSTOMER: \$ _____
 Total Number of acres, lots or single family units in the Recovery Area: _____
 Total Number of acres, lots, or single family units credited to the CUSTOMER: _____

Calculations:
CUSTOMER'S Pro Rata Share:
 Construction Costs Per Unit:
 (Total Allowable Construction Costs less Advance Participation) ÷ (Total Units in Recovery Area) =
 (\$ _____) ÷ (_____) = \$ _____ per _____
 CUSTOMER'S Pro Rata Share:
 (Construction Costs Per Unit)*(Units Credited to CUSTOMER) = (\$ _____)* (_____) =
 \$ _____

CUSTOMER'S Maximum Recovery Amount:
 Maximum Recovery Amount = a (1 +5(b + .03))
 Where a = Total Allowable Construction Costs less Advance Participation less CUSTOMER'S Pro Rata Share:
 (_____) - (_____) - (_____) = \$ _____ (a).
 Where b = Interest Rate: _____ (b)

Maximum Recovery Amount = _____ (1 + 5 (_____ + .03)) = \$ _____
 Where (c) = Total units in Recovery Area less units credited to CUSTOMER = (_____) - (_____) = _____ (c).
 URC

Unit Recovery Charge ("URC"):
 URC = $\frac{a(1+5(b+.03))}{c} = \frac{\text{Maximum Recovery Amount}}{c}$

Maximum Recovery Amount and beginning Balance of Agreement to be Collected = _____

Exhibit I-1

**CHECKLIST OF REQUIREMENTS
FOR WATER AND WASTEWATER RECOVERY AGREEMENTS**

- SU Project No.: _____
Project Title _____
- Agreement Holder(s): _____
- Addressee: _____

- Verifiable Proof of Payment(s):
Contractor(s) _____ Const. Mgrs.(s) _____
Engineer(s) _____ Esmt Grantor(s) _____
Developer(s) _____ Permit or Licensor(s) _____
Attorney Fees _____ Other _____ Specify _____
- Easements Granted _____
- As-Built to Standards _____
- Preliminary Acceptance /Bill of Sale _____
- Acreage in Service Area _____
- Acreage not subject to Recovery (credited) _____
- Acreage subject to Recovery Agreement _____
- Number of Single Family Equivalents _____
- Map of Service Area _____
- Map describing location facilities installed _____
- Advance Participation _____
- Linear Footage of Pipeline Installed _____

Exhibit I-2



Colorado Springs Utilities
It's how we're all connected

Water/Wastewater Recovery Agreement Application

Requested By _____ Date Requested _____

Address _____ Phone Number _____

Subdivision _____

Map or Exhibit of facility that was installed _____

Type of Utility that is the subject of the requested Recovery Agreement.
Water _____ Wastewater _____

Is the installed facility eligible for a Recovery Agreement? (*Colorado Springs Utilities to determine eligibility*). (yes) _____ (no) _____

Is this facility a Public water or wastewater main? (yes) _____ (no) _____

Request for the Recovery Agreement submitted within the 180 day time frame from the issuance of the Preliminary Acceptance. (yes) _____ (no) _____

Does this facility have the potential to serve other properties other than the applicant's property via service line connections? (yes) _____ (no) _____

Is this facility oversized to serve a greater area other than the applicant's property? (yes) _____ (no) _____

FEES:

The two fee amounts are determined by the gross acreage of the potential Recovery Service Area. The potential Recovery Service Area is determined by Colorado Springs Utilities at its sole discretion. For areas 50 acres and less, a recovery agreement setup fee of \$1473.00 will be assessed. For areas in excess of 50 acres, a recovery agreement setup fee of \$2942.00 will be assessed

Estimated Recovery Service Area Gross Acreage 50 acres or less - \$1473.00 _____

Estimated Recovery Service Area Gross Acreage greater than 50 acres - \$2942.00 _____

Make checks payable to: **COLORADO SPRINGS UTILITIES**

Submitted By: _____ Date: _____

Signature by Customer on this application does not guarantee acceptance by Colorado Springs Utilities to initiate the requested Recovery Agreement. Colorado Springs Utilities may require additional time to determine recovery eligibility and setup fee amount. This application for initiating a recovery agreement is subject to all the requirements of Colorado Springs Utilities Tariffs and Water/Wastewater Line Extension & Service Standards.

Exhibit J

PERMANENT EASEMENT AGREEMENT

LLC, LLP, etc.

This Permanent Easement Agreement ("Agreement") effective February 11, 2009, by and between ("Grantor"), whose address is (Street or PO Box), (City), (State) (zip code) and the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), on behalf of its enterprise, Colorado Springs Utilities, whose address is P.O. Box 1103, Colorado Springs, Colorado 80947-1015 ("Grantee"). Both Grantor and Grantee hereinafter are individually referred to as "Party" and collectively referred to as "Parties."

Recitals

WHEREAS, Grantor owns real property as legally described in "Exhibit A" attached hereto ("Property"), in, through, over, under, and across which the improvements (as defined in Section 1 below) will pass; and

WHEREAS, Grantee has determined that its improvements (as defined in Section 1 below) must be constructed, installed, and maintained within the Property along a certain utilities corridor;

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Agreement

- 1. Conveyance of Permanent Easement.** Grantor hereby grants to Grantee a perpetual, non-exclusive permanent easement to enter, occupy, and use the real property legally described in "Exhibit B" attached hereto, to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove one or more pipelines, conduits, poles, vaults, meters, regulator stations, switches, transformers, valves, hydrants, manholes, access roads or any other utility structures (including, but not limited to, communication facilities), and all necessary underground or aboveground cables, wires, and appurtenances thereto, including, but not limited to, electric or other control systems, cables, wires, connections, and surface appurtenances ("Improvements") in, under, through, over and across such real property ("Permanent Easement").
- 2. Easement Map.** "Exhibit C" attached hereto is a graphic representation of the Permanent Easement. In the event Exhibit C is inconsistent with Exhibit B, Exhibit B shall control.
- 3. Ingress and Egress.** Grantee shall have the perpetual right of reasonable ingress and egress in, to, through, over, under, and across the Property for access to and from any roads, highways, streets, alleys, or any other point to the Permanent Easement, in order to perform Grantee's rights in the Permanent Easement. To the maximum practicable extent, Grantee shall use existing gates, roads, trails or facilities to avoid disruption of Grantor's operations on the Property.
- 4. Additional Construction.** Grantee shall have the right to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove at any time or from time to time, one or more additional improvements and appurtenances thereto within the Permanent Easement. Such right shall be perpetual, and Grantor shall not stop, hinder, or impede construction of such additional Improvements or limit the same within the Permanent Easement.
- 5. Grantor's Rights Unaffected.** Except as provided in Section 6 below, Grantor shall retain the right to make full use of the Property, except for such use as might endanger or interfere with the rights of Grantee in the Permanent Easement. Grantor shall only perform or permit other persons or entities to perform construction or other work within the Permanent Easement after prior written approval by Grantee and only if such construction or other work is performed in accordance with the terms of this Agreement, all applicable laws, rules and regulations, and Grantee's rules and regulations as they may be modified from time to time. Grantor reserves use of the Permanent Easement, whether longitudinal or otherwise, for installing the following with written approval from Grantee: pavement, curbs, gutters, sidewalks, parking areas and associated curb cuts, paved

Exhibit J

PERMANENT EASEMENT AGREEMENT

driveways, fences (except fences which cannot be reasonably removed and erected again, such as, but not limited to: stone, brick, or other masonry type fences or walls), low-height landscaping, and sprinkler systems which are capable of being reasonably located by Grantee ("Grantor's Improvements"); provided however, that the exercise of such rights, in the reasonable opinion of Grantee, does not injure or interfere with, now or in the future, any of the Grantee's rights in the Permanent Easement including, but not limited to, Grantee's rights of maintenance and reasonable access.

6. **Installations within Permanent Easement.** Grantor shall not construct or place any permanent structure or building on any part of the Permanent Easement including, but not limited to: posts, poles, fences (except posts, poles, or fences that can be easily removed and erected again; and except for garage-door porch stoops and only those retaining walls up to 4 feet in height that may be required to extend into the side lot-line easements of a residential property), dwellings, garages, barns, sheds, storage structures of any kind, lean-tos, play houses or other play structures, outbuildings, gazebos, hot tubs, swimming pools, concrete patios, decks, basketball/sports courts, retaining wall, or any edifice projections such as, but not limited to: balconies, verandas, porches, building overhangs, or bay windows. Without liability for damages, Grantee may remove any structure or building constructed or placed within the Permanent Easement. If Grantor constructs, places or permits any structure or building within the Permanent Easement, then Grantor shall reimburse Grantee for all expenses (including, but not limited to removal, court, collection, and attorneys' fees and costs) associated with or arising from removing such structure or building. Despite anything herein to the contrary, if the City approves a projection into the Property's building-setback pursuant to section 7.4.102.F of the City Code ("Projection Approval"), then the Projection Approval shall be considered Grantee's prior written consent to Grantor's encroachment into the Permanent Easement as described in that Projection Approval, provided however, if Grantee determines that (as a result of the Projection Approval) it is necessary to relocate any existing Improvements, then Grantor acknowledges that such relocation shall be at the Grantor's sole expense, regardless of the Projection Approval; and Grantor shall grant to Grantee any permanent easements required for the relocated Improvements. Moreover, in no event shall Grantor:
- a. construct or place, longitudinally along or otherwise within the Permanent Easement, any tree, underground pipeline, cable, wire, conduit, valve, stub, or other utility or appurtenance without the prior written consent of Grantee; or
 - b. change, by excavation or filling, the present grade or ground level of the Permanent Easement without the prior written consent of Grantee (City Code 12.2.504). Despite anything herein to the contrary, if the City approves Grantor's grading plan for the Property ("Grading Plan Approval"), then the Grading Plan Approval shall be considered Grantee's prior written consent to change the grade of the Permanent Easement as described in that Grading Plan Approval, provided that no Improvements exist within the Permanent Easement. Further, if Grantee determines that (as a result of the Grading Plan Approval) it is necessary to relocate any existing Improvements, then Grantor acknowledges that such relocation shall be at the Grantor's sole expense, regardless of the Grading Plan Approval, and Grantor shall grant to Grantee any permanent easements required for the relocated Improvements.
- Grantor shall prevent the construction or alteration of landfills, wetlands, land excavations, water impoundments, and other land uses within the Permanent Easement. Additionally, Grantor shall not construct or alter any landfills, wetlands, water impoundments, and other similar uses within the Property, which might, in Grantee's reasonable discretion, endanger or interfere with any Improvements, including, but not limited to, Grantee's rights of maintenance and reasonable access, without the prior written consent of Grantee.

7. **Surface Restoration to Land.** Grantee shall replace, repair, or reimburse Grantor for the reasonable cost of replacement or repair of physical damage to Grantor's Improvements on the Property, whether or not within the Permanent Easement, but only if such damage is caused by Grantee's construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its Improvements. In the construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its Improvements, Grantee shall promptly restore, replace, or repair the surface of the Permanent Easement to as close to its condition immediately prior to such work as may be reasonably possible. Despite anything contained herein to the contrary, Grantee shall not be liable for damage to structures, buildings, or any other articles whatsoever, which are constructed, installed, or otherwise existing within the Permanent Easement in

Exhibit J

PERMANENT EASEMENT AGREEMENT

violation of the terms of this Agreement including, but not limited to, any tree(s) that interfere with the Improvements or Grantee's rights in the Permanent Easement.

8. **Maintenance of Permanent Easement.** Grantee shall have the perpetual right to cut, trim, control, and remove trees, brush, and other obstructions which injure or interfere with the Grantee's use, occupation or enjoyment of the Permanent Easement, or Grantee's right to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove its Improvements, without liability for damages arising there from.
9. **Subjacent and Lateral Support.** Grantor shall not impair any lateral or subjacent support for the Improvements.
10. **Nature of Easement and Additional Uses.** The Permanent Easement is perpetual and runs with the land. It also is deemed to touch and concern the land. The exercise of any rights in the Permanent Easement other than those retained by Grantor shall be within the sole discretion of Grantee. Grantee shall permit and authorize such other uses of the Permanent Easement, not hereby reserved in Grantor, as will not impair Grantee's rights in the Permanent Easement subject to the limitations contained herein.
11. **Warranty of Title.** Grantor warrants that it has good and merchantable title to the Property and has the full right and lawful authority to grant the Permanent Easement. Grantor further warrants, promises, and agrees to defend Grantee in the exercise of Grantee's rights hereunder against any defect in Grantor's title to the Property or Grantor's right to grant the Permanent Easement.
12. **Indemnity/Liability.** Grantor hereby releases Grantee and shall fully protect, defend, indemnify and hold harmless Grantee, the City of Colorado Springs, their officers, City Council, Utilities Board, directors, employees, agents and representatives from and against any and all claims, costs and fees (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs), losses, damages, causes of action, or liability of any nature (including, but not limited to environmental) arising from or in connection with the Permanent Easement, Grantor's Improvements, or the Improvements to the extent arising from or due to Grantor's action(s) or failure(s) to act.
13. **Waiver.** The failure of Grantee to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of Grantee in any one or more instances to exercise any option, privilege, or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by the Grantee of any default hereunder shall in any manner be construed as constituting a waiver of such default.
14. **Governing Law and Jurisdiction.** This Agreement shall be construed in accordance with the laws of the State of Colorado, the Colorado Springs City Charter, City Code, Ordinances, Rules and Regulations. In the event of litigation, this Agreement shall be enforceable by either Grantee or the City as provided in Colorado Springs City Code 12-1-108, as it may be amended from time to time. In the event of any dispute over this Agreement, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
15. **Binding Effect.** Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors, transfers, agents, and assigns of the Parties.
16. **No Third Party Beneficiaries.** Except as expressly provided otherwise, this Permanent Easement is intended to be solely for the benefit of the Parties and shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.
17. **Severability.** The provisions of this Agreement are severable. Illegality or unenforceability of any provision herein shall not affect the validity or enforceability of the remaining provisions in this Agreement.

Exhibit J

PERMANENT EASEMENT AGREEMENT

18. Incorporation of Exhibits. All exhibits described in and attached to this Agreement are herein incorporated by reference. Grantor hereby acknowledges that Exhibits A and B must be prepared by or under the supervision of a Professional Land Surveyor licensed by the State of Colorado.

19. Notice. Any notice provided in accord with this Agreement, shall be in writing and shall be sent by delivery service, or mailed by certified mail, postage prepaid and return receipt requested to either Party's address as shown below or to the property owner of record ("Notice"). Such Notice shall be effective upon the date received and acknowledged by signature of the Party that receives Notice. Either Party may change its address to which any Notice is to be delivered under this Agreement by giving Notice as provided herein.

Grantee:

Colorado Springs Utilities:
Utilities Development Services
P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015

Grantor:

(entity name)
(attention)
(address)
(city, st., zip)

Entire Agreement. This Agreement represents the entire agreement between the Parties and no additional or different oral representation, promise or agreement, oral or otherwise, shall be binding on any of the Parties hereto with respect to the subject matter of this instrument, unless stated in writing explicitly referring to this Permanent Easement Agreement and signed by the Parties.

Exhibit J

PERMANENT EASEMENT AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first above written.

GRANTOR:

Entity: _____

By: _____

(SEAL)

Name: _____

Title: _____

STATE OF

)
) SS.
)

COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by:

Witness my hand and official seal.

My Commission Expires:

(SEAL)

_____ Notary Public

GRANTEE:

CITY OF COLORADO SPRINGS, on behalf of its enterprise, Colorado Springs Utilities

By: _____

Title: _____

PERMANENT EASEMENT AGREEMENT

Dated February 11, 2009

EXHIBIT A

Legal description of the Property

(prepared by or under the supervision of a Professional Land Surveyor licensed in the State of Colorado)

PERMANENT EASEMENT AGREEMENT

Dated February 11, 2009

EXHIBIT B

Legal description of the Permanent Easement Area

(prepared by or under the supervision of a Professional Land Surveyor licensed in the State of Colorado)

F02A-00011 (03/2008)

1 of 1

PERMANENT EASEMENT AGREEMENT

Dated February 11, 2009

EXHIBIT C

Graphic Representation of the Permanent Easement in relation to the Property

PERMANENT EASEMENT AGREEMENT

Dated February 11, 2009

ACKNOWLEDGEMENT BY LESSEE

(Lessee Name), (Lessee Address), is the present lessee of the Property described in the aforesaid Permanent Easement Agreement. (Lessee) hereby acknowledges that it currently leases the Property from Grantor, , and that the granting of the Permanent Easement described above by Grantor is consistent with its lease agreement with Grantor dated .

(SEAL) By: _____
Name: _____
Title: _____

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this day of , 2007 by
(Name) as (Title) of the a corporation/partnership/other:

Witness my hand and official seal.

My Commission Expires:

(SEAL) _____ Notary Public

APPROVED AS TO FORM:

City of Colorado Springs _____ Date: _____
City Attorney's Office-Utilities Division

PERMANENT EASEMENT AGREEMENT

Dated February 11, 2009

JOINDER AND CONSENT OF HOLDER OF DEED OF TRUST

, a corporation, as holder of a Deed of Trust from Grantor, , dated , and recorded among the real property records of El Paso County, Colorado at Reception No. , hereby joins in the aforesaid Permanent Easement Agreement for the sole purpose of expressing its consent thereto and of binding, subjecting and subordinating the aforesaid Deed of Trust and its interests in any portion of the Property to the terms thereof.

Holder of Deed of Trust

By: _____
Name: _____
Title: _____

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this day of , 2007, by
(Name) as (Title) of Holder of Deed of Trust.

Witness my hand and seal.

My commission expires:

(SEAL) _____ Notary Public

APPROVED AS TO FORM:

Date: _____

City of Colorado Springs
City Attorney's Office-Utilities Division

INITIAL INTERIM PIPELINE WASTEWATER LINE EASEMENT AGREEMENT

This Easement Agreement ("Agreement") effective _____, 2007 by and between _____ in Colorado Springs, CO _____ ("Grantor"), whose address _____, Colorado Springs, CO 809____ and the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), on behalf of its enterprise, Colorado Springs Utilities, whose address is P.O. Box 1103, Colorado Springs, Colorado 80947-1015 ("Grantee"). Both Grantor and Grantee hereinafter are individually referred to as "Party" and collectively referred to as "Parties."

Recitals

WHEREAS, Grantor owns real property as legally described in "Exhibit A" attached hereto ("Property"), in, through, over, under, and across which the Improvements (as defined in Section 1 below) will pass; and

WHEREAS, Grantee has determined that its Improvements (as defined in Section 1 below) must be constructed, installed, and maintained within the Property along a certain utilities corridor;

WHEREAS, the Parties agree that this Agreement may eventually be terminated some time after the successful completion, acceptance and operation by Grantee of the Clear Spring Ranch Wastewater Reclamation Facility ("CSRWRF") and related wastewater pipelines (such pipelines and CSRWRF together as the "Facilities") which are currently scheduled for completion in approximately year 2012;

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Agreement

- 1. Conveyance of Easement.** Grantor hereby grants to Grantee an exclusive sanitary sewer easement to enter, occupy and use the real property legally described in "Exhibit B" attached hereto, to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove a pipeline, manholes, or any other utility structures and all necessary underground locating wires, and appurtenances thereto, including, but not limited to, any underground and surface appurtenances ("Improvements") in, under, through, over and across such real property ("Easement") related to the installation, operation and maintenance of the Wastewater Trunk Line ("Trunk Line").
- 2. Termination of Easement.** The Parties agree that this Agreement will terminate upon written request by Grantor only after the Facilities have been fully operational for a period of three (3) years, as determined by Grantee. Such written request shall be notice that the Easement will terminate in no less than 120 days provided that the Trunk Line is not operational, as determined by Grantee. The Parties acknowledge that in the discretion of Grantee, Grantee may abandon any or all of its improvements prior to or upon the termination of Easement.
- 3. Easement Map.** "Exhibit C" attached hereto is a graphic representation of the Easement. In the event Exhibit C is inconsistent with Exhibit B, Exhibit B shall control.
- 4. Ingress and Egress.** Grantee shall have the right of reasonable ingress and egress in, to, through, over, under, and across the Property for access to and from any roads, highways, streets, alleys, or any other point to the Easement, in order to perform Grantee's rights in the Easement. To the maximum practicable extent, Grantee shall use existing gates, roads, trails or facilities to avoid disruption of Grantor's operations on the Property.
- 5. Additional Construction.** Grantee shall have the right to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove at any time sanitary sewer piping, manholes or other appurtenances thereto within the Easement. Such right shall be for the term of this Agreement, and Grantor shall not stop, hinder, or

Exhibit K

impede construction of such additional Improvements or limit the same, however the Grantee must coordinate any additional construction with Grantor to avoid disruption of Grantor's operations on the Property.

6. **Grantor's Rights Unaffected.** Except as provided in Section 6 below, Grantor shall retain the right to make full use of the Property, except for such use as might endanger or interfere with the rights of Grantee in the Easement. Grantor shall only perform or permit other persons or entities to perform construction or other work within the Easement after prior written notice to Grantee and only if such construction or other work is performed in accordance with the terms of this Agreement and Grantee's rules and regulations as they may be modified from time to time. Grantor reserves use of the Easement, whether longitudinal or otherwise, for installing pavement, curbs, gutters, sidewalks, Grantee-approved parking areas and associated curb cuts, paved driveways, fences (except fences which cannot be reasonably removed and erected again, such as, but not limited to: stone, brick, or other masonry type fences or walls), low-height landscaping, and sprinkler systems which are capable of being reasonably located by Grantee ("Grantor's Improvements"); provided however, that the exercise of such rights, in the reasonable opinion of Grantee, does not injure or interfere with, now or in the future, any of the Grantee's rights in the Easement including, but not limited to, Grantee's rights of maintenance and reasonable access.
7. **Installations within Easement.** Grantor shall not construct or place any permanent structure or building on any part of the Easement including, but not limited to: posts, poles, fences (except posts, poles, or fences that can be easily removed and erected again), dwellings, garages, barns, sheds, storage structures of any kind, lean-tos, play houses or other play structures, outbuildings, gazebos, hot tubs, swimming pools, concrete patios, decks, basketball/sports courts, retaining wall, or any edifice projections such as, but not limited to: balconies, verandas, porches, building overhangs, or bay windows. Without liability for damages, Grantee may remove any structure or building constructed or placed within the Easement. If Grantor constructs, places or permits any structure or building within the Easement, then Grantor shall reimburse Grantee for all expenses (including, but not limited to removal, court, collection, and attorneys' fees and costs) associated with or arising from removing such structure or building. Furthermore, in no event shall Grantor:
 - a. construct or place, longitudinally along or otherwise within the Easement, any tree, underground pipeline, cable, wire, conduit, valve, stub, or other utility or appurtenance without the prior written consent of Grantee, which shall not be unreasonably withheld or delayed; or
 - b. change, by excavation or filling, the present grade or ground level of the Easement by more than one foot without the prior written consent of Grantee.Grantor shall prevent the construction or alteration of landfills, wetlands, land excavations, water impoundments, and other land uses within the Easement or within the Property, which might, in Grantee's discretion, endanger or interfere with any Improvements, including, but not limited to, Grantee's rights of maintenance and reasonable access.
8. **Surface Restoration to Land.** Grantee shall replace, repair, or reimburse Grantor for the reasonable cost of replacement or repair of physical damage to Grantor's Improvements on the Property, whether or not within the Easement, but only if such damage is caused by Grantee's construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its Improvements. In the construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of its Improvements, Grantee shall promptly restore, replace, or repair the surface of the Easement to as close to its condition immediately prior to such work as may be reasonably possible. Despite anything contained herein to the contrary, Grantee shall not be liable for damage to structures, buildings, or any other articles whatsoever, which are constructed, installed, or otherwise existing within the Easement in violation of the terms of this Agreement including, but not limited to, any tree(s) that interfere with the Improvements or Grantee's rights in the Easement.
9. **Maintenance of Easement.** Grantee shall have the right, during the term of this Agreement, to cut, trim, control, and remove trees, brush, and other obstructions which injure or interfere with the Grantee's use, occupation or enjoyment of the Easement, or Grantee's right to construct, reconstruct, use, operate, maintain, repair, patrol, replace, upgrade, or remove its Improvements without liability for damages arising there from.
10. **Subjacent and Lateral Support.** Grantor shall not impair any lateral or subjacent support for the Improvements.

Exhibit K

11. **Nature of Easement and Additional Uses.** The Easement runs with the land. It also is deemed to touch and concern the land. The exercise of any rights in the Easement other than those retained by Grantor shall be within the sole discretion of Grantee. Upon such reasonable terms, limitations, and conditions as Grantee finds reasonably necessary to protect its rights in the Easement, Grantee shall permit and authorize such other uses of the Easement, not hereby reserved in Grantor, as will not impair Grantee's rights in the Easement.
12. **Warranty of Title.** Grantor warrants that it has good and merchantable title to the Property and has the full right and lawful authority to grant the Easement. Grantor further warrants, promises, and agrees to defend Grantee in the exercise of Grantee's rights hereunder against any defect in Grantor's title to the Property or Grantor's right to grant the Easement.
13. **Indemnity/Liability.** Grantor hereby releases Grantee and shall fully protect, defend, indemnify and hold harmless Grantee, the City of Colorado Springs, their officers, City Council, Utilities Board, directors, employees, agents and representatives from and against any and all claims, costs and fees (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs), losses, damages, causes of action, or liability of any nature (including, but not limited to environmental) arising from or in connection with the Easement, Grantor's Improvements, or the Improvements to the extent arising from or due to Grantor's action(s) or failure(s) to act.
14. **Waiver.** The failure of Grantee to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of Grantee in any one or more instances to exercise any option, privilege, or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by the Grantee of any default hereunder shall in any manner be construed as constituting a waiver of such default.
15. **Governing Law and Jurisdiction.** This Agreement shall be construed in accordance with the laws of the State of Colorado, the Colorado Springs City Charter, City Code, Ordinances, Rules and Regulations. In the event of litigation, this Agreement shall be enforceable by either Grantee or the City as provided in Colorado Springs City Code 12-1-108, as it may be amended from time to time. In the event of any dispute over this Agreement, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
16. **Binding Effect.** Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors, transfers, agents, and assigns of the Parties.
17. **No Third Party Beneficiaries.** Except as expressly provided otherwise, this Easement is intended to be solely for the benefit of the Parties and shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.
18. **Severability.** The provisions of this Agreement are severable. Illegality or unenforceability of any provision herein shall not affect the validity or enforceability of the remaining provisions in this Agreement.
19. **Incorporation of Exhibits.** All exhibits described in and attached to this Agreement are herein incorporated by reference. Grantor hereby acknowledges that Exhibits A and B must be prepared by or under the supervision of a Professional Land Surveyor licensed by the State of Colorado.
20. **Notice.** Any notice provided in accord with this Agreement, shall be in writing and shall be sent by delivery service, or mailed by certified mail, postage prepaid and return receipt requested to either Party's address as shown below or to the property owner of record ("Notice"). Such Notice shall be effective upon the date received and acknowledged by signature of the Party that receives Notice. Either Party may change its address to which any Notice is to be delivered under this Agreement by giving Notice as provided herein.

Grantee:
Colorado Springs Utilities;
Utilities Development Services

Grantor: _____

Exhibit K

P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015 Colorado Springs, CO 809

21. **Entire Agreement.** This Agreement represents the entire agreement between the Parties and no additional or different oral representation, promise or agreement, oral or otherwise, shall be binding on any of the Parties hereto with respect to the subject matter of this instrument, unless stated in writing explicitly referring to this Easement Agreement and signed by the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first above written.

GRANTOR:

Corp:

By: _____

President

(SEAL)

By: _____

Secretary

STATE OF)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me this day of , 20 , by: as President and as Secretary of , a corporation.

Witness my hand and official seal.

My Commission Expires:

(SEAL) Notary Public

GRANTEE: CITY OF COLORADO SPRINGS, on behalf of its enterprise, Colorado Springs Utilities

By: _____

Title: _____

APPROVED AS TO FORM:

City of Colorado Springs
City Attorney Office – Utilities Division

EXHIBIT A
To the
WASTEWATER LINE EASEMENT AGREEMENT

Legal description of the Property

(prepared by or under the supervision of a Professional Land Surveyor licensed in the State of Colorado)

EXHIBIT B
To the
WASTEWATER LINE EASEMENT AGREEMENT

Legal description of the Easement Area

(prepared by or under the supervision of a Professional Land Surveyor licensed in the State of Colorado)

EXHIBIT C
To the
WASTEWATER LINE EASEMENT AGREEMENT

Graphic Representation of the Easement in relation to the Property

ACKNOWLEDGEMENT BY LESSEE

(Lessee Name), (Lessee Address), is the present lessee of the Property described in the aforesaid Easement Agreement. (Lessee) hereby acknowledges that it currently leases the Property from Grantor, , and that the granting of the Easement described above by Grantor is consistent with its lease agreement with Grantor dated .

(SEAL) By: _____
Name: _____
Title: _____

STATE OF)
) SS)
COUNTY OF)

The foregoing instrument was acknowledged before me this day of , 20 by (Name) as (Title) of the a corporation/partnership/other: .

Witness my hand and official seal.

My Commission Expires:

(SEAL) _____ Notary Public

APPROVED AS TO FORM:

City of Colorado Springs Date: _____
City Attorney's Office-Utilities Division

**JOINER AND CONSENT OF HOLDER
OF DEED OF TRUST**

_____, a _____ corporation, as holder of a Deed of Trust from Grantor, _____, dated _____, 20_____, and recorded among the real property records of El Paso County, Colorado at Reception No. _____, hereby joins in the aforesaid Easement Agreement for the sole purpose of expressing its consent thereto and of binding, subjecting and subordinating the aforesaid Deed of Trust and its interests in any portion of the Property to the terms thereof.

Holder of Deed of Trust

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ of Holder of Deed of Trust.

Witness my hand and seal.

My commission expires:

(SEAL) _____ Notary Public

APPROVED AS TO FORM:

City of Colorado Springs Date: _____
City Attorney's Office-Utilities Division

Exhibit L

INITIAL INTERIM PIPELINE BILL OF SALE AND TRANSFER AGREEMENT

This Bill of Sale and Transfer Agreement (the "Agreement") is entered into this ____ day of _____, 20____, by and between Colorado Springs Utilities ("UTILITIES"), an enterprise of the City of Colorado Springs, a Colorado home rule municipality and municipal corporation, with its principal place of business at 121 South Tejon Street, Colorado Springs, Colorado 80947, and The Banning Lewis Ranch Company, LLC ("BLRC") and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (together, "Developer"), whose address is 4100 MacArthur Boulevard, Suite 100, Newport Beach, CA 92660 (both UTILITIES and Developer hereinafter together referred to as the "Parties") and is effective as of the date set forth above. Each may be individually referred to as a "Party" and collectively, as the "Parties."

RECITALS

WHEREAS, UTILITIES agrees to sell to Developer and Developer agrees to purchase from UTILITIES, under the terms and conditions contained herein, the wastewater facilities within the Initial Interim Pipeline easement described on Exhibit A, attached hereto and incorporated by reference ("Easement").

NOW, THEREFORE, in consideration of the mutual benefits to UTILITIES and Developer arising from the execution and performance of this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, UTILITIES and Developer agree to the following terms and conditions

AGREEMENT

1. At no additional monetary consideration, UTILITIES hereby transfers to Developer the ownership of the wastewater facilities ("Initial Interim Facilities") within the Initial Interim Pipeline easement described on Exhibit A, attached hereto and incorporated by reference ("Easement").
2. Developer agrees to carry out in-place abandonment ("Abandonment") of the Initial Interim Facilities at its present location, at Developer's sole expense, within 60 days of the execution of this Agreement subject to force majeure and adverse weather.
3. Upon its ownership, Developer, at its sole cost and expense, shall carry out an in-place abandonment of such section. Such Abandonment shall be completed within 60 days of Developer's ownership, subject to force majeure, and the Abandonment shall comply with all State, Federal, and local laws, rules, and regulations, as well as all UTILITIES' rules, regulations, standards, and policies, as any of them may be amended from time to time. Prior to Abandonment, Developer, at its sole cost and expense, shall clean the pipeline to a point that any future discharges from the abandoned pipe will not have an impact on State waters and not violate any environmental laws, rules or regulations, as any of them may be amended at such time.
4. The Parties expressly agree that Developer, at its sole cost and expense, is solely responsible for any and all costs arising from or associated with or arising from its Abandonment and shall restore the easement(s) to its condition prior to UTILITIES' entry as reasonably as may be possible.
5. In the event that Developer does not properly carry out the Abandonment all of the Initial Interim Facilities from the Easement within 60 days of the execution of this Agreement subject to force majeure and adverse weather, UTILITIES may carry out the Abandonment and Developer shall pay UTILITIES all reasonable costs associated with such Abandonment.
6. Developer understands and agrees that UTILITIES will have no responsibility or liability of any kind resulting from Developer's use, misuse, removal, handling, preparation or modification for Abandonment of the Initial Interim Facilities or any portion thereof, and, furthermore, that

Exhibit L

UTILITIES will in no way be responsible or liable for any costs associated with Developer's ownership, use, misuse, removal, handling, preparation or modification for Abandonment of the Initial Interim Facilities or any portion thereof. Developer assumes sole responsibility for the Abandonment or other action or inaction associated with the Initial Interim Facilities.

7. Developer hereby RELEASES UTILITIES, its Utilities Board, City Council, officers, employees and agents from any and all claims, demands, judgments, fines, costs, liabilities and damages, including but not limited to environmental claims or costs of defense and reasonable attorney's fees, which may arise as a result of Developer's ownership, use, misuse, removal, handling, preparation or modification for Abandonment or of the Initial Interim Facilities or any portion thereof. Furthermore, Developer hereby agrees to INDEMNIFY and HOLD HARMLESS UTILITIES, its Utilities Board, City Council, officers, employees and agents from any and all claims, demands, judgments, fines, costs, liabilities and damages, including but not limited to environmental claims or costs of defense and reasonable attorney's fees, which may arise as a result of Developer's ownership, use, misuse, removal, handling, preparation or modification for Abandonment or disposal of the Initial Interim Facilities or any portion thereof.
8. Developer, its employees, agents and subcontractors, shall take all reasonably necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to, any persons or property on or near the Easement while conducting such Abandonment.
9. IN NO EVENT SHALL UTILITIES BE LIABLE TO DEVELOPER OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES. Nothing in this Agreement shall be interpreted to limit or prevent the protections afforded to UTILITIES under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
10. DEVELOPER ACKNOWLEDGES AND AGREES THAT THE INITIAL INTERIM FACILITIES ARE TRANSFERRED TO DEVELOPER "AS IS, WHERE IS" WITH ALL FAULTS
11. This Agreement represents the entire agreement between the Parties with respect to the transfer and Abandonment of the Initial Interim Facilities and no additional or different representation, promise or agreement (oral or written) shall be binding on the Parties hereto with respect to the subject matter of this Agreement unless stated in writing and signed by the Parties. This Agreement may only be amended, supplemented or modified by a written instrument executed by the Parties.
12. Developer shall not assign or otherwise transfer this Agreement or any right or obligation hereunder without the prior written consent of UTILITIES, and any such unauthorized assignment shall be null and void. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than UTILITIES and Developer.
13. If any of the provisions of this Agreement are held to be invalid or unenforceable under the applicable law of any jurisdiction, the remaining provisions shall not be affected. In that event, upon agreement of the Parties this Agreement may be modified and reformed so as to effect the original intent of the Parties as closely as possible with respect to those provisions that were held to be invalid or unenforceable.
14. This Agreement shall be construed in accordance with the laws of the State of Colorado, except for its conflict of law provisions, the Colorado Springs City Charter and the City Code. Further, the place of performance and transaction of business shall be deemed to be in the County of El Paso, State of Colorado, and in the event of litigation, the exclusive venue and place of jurisdiction shall be the State of Colorado, and more specifically, El Paso County, Colorado.

Executed and effective as of the date first written above:

Exhibit L

DEVELOPER:

The Banning Lewis Ranch Company, LLC,
a Delaware limited liability company

By: Banning Lewis Ranch Management Company, LLC, a Delaware limited liability company,
its co-managing member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF)
) SS)
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____ as _____ of Banning Lewis Ranch
Management Company, LLC, a Delaware limited liability company, co-managing member of The Banning
Lewis Ranch Company, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My Commission Expires: _____

Notary Public

Exhibit L

Banning Lewis Ranch Development I & II, LLC,
a Delaware limited liability company

By: The Banning Lewis Ranch Company, LLC,
a Delaware limited liability company, its manager

By: Banning Lewis Ranch Management Company, LLC, a Delaware limited
liability company, its co-managing member

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of Banning Lewis Ranch Management Company, LLC, a Delaware limited liability company, co-managing member of The Banning Lewis Ranch Company, LLC, a Delaware limited liability company, manager of Banning Lewis Ranch Development I & II, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My Commission Expires: _____

Notary Public

Exhibit L

EXHIBIT A
(Interim Pipeline Easement Description)

Exhibit M

ESCROW CONTRACT

This escrow contract ("Escrow Contract") is made and executed this _____ day of _____ 20____, by and between: Colorado Springs Utilities ("Utilities"); The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (hereinafter together referred to as "Developer"); and _____ Bank, a third party financial institution having trust powers ("Bank"). Utilities, Developer, and Bank are hereinafter together referred to as the "Parties."

RECITALS

WHEREAS, Utilities and Developer are parties to the Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement ("Agreement"), effective as of _____,

WHEREAS, the Agreement details certain Developer funded, Utilities Installed undertakings ("Projects");

WHEREAS, the Agreement provides that Utilities shall place in an escrow account ("Account") all Advance Recovery Agreement funds collected for Projects; and

WHEREAS, the Agreement provides that District, as assignee to the Agreement, shall place in the Account all bond issuance proceeds and tap fee proceeds it raises or collects for Projects;

NOW, THEREFORE, in consideration of the Annexation Agreement, the Agreement, the Recitals, the payments made to Bank for its escrow services, the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Utilities, Developer, and Bank agree as follows:

CONTRACT

- A.** Bank hereby represents that it is a third party financial institution having trust powers and shall act as escrow agent for the Account funds for the benefit of Utilities. The funds in the Account will be spent only in accordance with the Agreement.
- B.** Utilities may draw on Account funds at any time and from time to time, in accordance with the Agreement for the purposes specified in the Agreement and for no other purpose, such Account funds being available for payment in the United States' dollars by drafts at sight for payment, and which demand Bank shall honor without enquiring whether Utilities has a right to make such demand and without recognizing any claim of Developer when such demand is accompanied by the form attached hereto as **Exhibit 1**, detailing that the withdrawal is for a Project.

Exhibit M

- C.** Bank shall apply interest to the Account at the short term treasury rate or similar interest provisions acceptable to the Parties. Bank shall add all interest accrued to the balance of the Account.
- D.** All Bank fees, including, but not limited to those for escrow services, shall be paid by and automatically withdrawn from the Account upon execution of this Escrow Contract and from time to time thereafter as described in Exhibit 2 attached hereto.
- E.** Bank undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. Bank shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Escrow Contract. Bank may rely upon and shall not be liable for acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by Utilities. The Bank shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. Bank shall have no duty to solicit any payments which may be due it or the Account. Bank may execute any of its powers and perform any of its duties hereunder directly or through agents or attorneys (and shall be liable only for the careful selection of any such agent or attorney) and may consult with counsel, accountants and other skilled persons to be selected and retained by it.
- F.** Nothing in this Escrow Contract shall be interpreted to limit or prevent the protections afforded to Utilities or the City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- G.** If any term or provision of this Escrow Contract shall be found to be illegal or unenforceable, the remaining provisions of this Escrow Contract shall remain in full force and effect, and the illegal or unenforceable term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.
- H.** This Escrow Contract shall be construed in accordance with the laws of the State of Colorado (without reference to conflicts of laws), the Colorado Springs City Charter, City Code, ordinances, and rules and regulations. In the event of litigation, this Escrow Contract shall be enforceable by or against the City of Colorado Springs on behalf of Utilities as provided in Colorado Springs City Code § 12-1-108. In the event of any dispute over the Escrow Contract's terms and conditions, the exclusive venue and jurisdiction for any litigation arising thereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
- I.** Time is of the essence in this Escrow Contract.
- J.** Except as expressly provided otherwise, this Escrow Contract is intended to be solely for the benefit of the Parties and their respective successors and permitted assigns, and this Escrow Contract shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.

Exhibit M

- K.** The failure of the Parties to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants or agreements herein contained, or the failure of Utilities in any one or more instances to exercise any option, privilege or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants or agreements.
- L.** This Escrow Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be considered one and the same instrument. This Escrow Contract may be executed and delivered by facsimile transmission with an original to follow.
- M.** Any terms not defined in this Escrow Contract shall have the meaning given in the Agreement.
- N.** In the event of a conflict between the Agreement and this Escrow Contract, the terms and conditions of this Escrow Contract shall prevail. All other terms of the Agreement remain the same and are hereby ratified and affirmed by Utilities and Developer.

IN WITNESS WHEREOF, the Parties hereto have executed this Escrow Contract effective as of the day and year first above written.

- Signatures on Following Pages -

Exhibit M

UTILITIES: Colorado Springs Utilities

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by _____, as _____, Colorado Springs Utilities.

Witness my hand and official seal.

My Commission Expires: _____

Notary Public
(SEAL)

Approved as to form:

By: _____ Date: _____
City Attorney's Office – Utilities Division

Exhibit M

Witness my hand and official seal.

My commission expires: _____

STATE OF CALIFORNIA)
)
COUNTY OF)

Notary Public

On _____, before me,
personally appeared _____, a Notary Public,
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Exhibit M

BANK: _____

By: _____

STATE OF COLORADO)

) ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by _____, as _____.

Witness my hand and official seal.

My Commission Expires: _____

Notary Public (SEAL)

Exhibit M

Exhibit I
DEMAND

Date of Issue: _____

To: Bank

Account No.: _____

Account Party: Colorado Springs Utilities

Beneficiary: Colorado Springs Utilities
Attention Brent Schubloom
P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015

Gentlemen:

Utilities demands an issue in its favor for the amount of \$ _____, for payment in the United States dollars by drafts at sight for payment, such funds to be used for a Project, as defined by the Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement ("Agreement"), effective as of _____;

Bank:

Address:

Telephone

Bank Officer

Exhibit M-1

ESCROW CONTRACT

This escrow contract ("Escrow Contract") is made and executed this _____ day of _____, 20____, by and between: Colorado Springs Utilities ("Utilities"); The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (hereinafter together referred to as "Developer"); and _____ Bank, a third party financial institution having trust powers ("Bank"). Utilities, Developer, and Bank are hereinafter together referred to as the "Parties."

RECITALS

WHEREAS, Utilities and Developer are parties to the Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement ("Agreement"), effective as of _____,

WHEREAS, the Agreement details certain Developer Installed undertakings ("Tasks"); and

WHEREAS, the Agreement provides that Utilities shall place in an escrow account ("Escrow") all Advance Recovery Agreement funds collected for Tasks;

NOW, THEREFORE, in consideration of the Annexation Agreement, the Agreement, the Recitals, the payments made to Bank for its escrow services, the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Utilities, Developer, and Bank agree as follows:

CONTRACT

- A.** Bank hereby represents that it is a third party financial institution having trust powers and shall act as escrow agent for the Escrow funds for the benefit of Utilities. The funds in the Escrow will be spent only in accordance with the Agreement.
- B.** Utilities may draw on Escrow funds at any time and from time to time, in accordance with the Agreement for the purposes specified in the Agreement and for no other purpose, such Escrow funds being available for payment in the United States' dollars by drafts at sight for payment, and which demand Bank shall honor without enquiring whether Utilities has a right to make such demand and without recognizing any claim of Developer when such demand is accompanied by the form attached hereto as **Exhibit 1**, detailing that the withdrawal is for a Task.
- C.** Bank shall apply interest to the Escrow at the short term treasury rate or similar interest provisions acceptable to the Parties. Bank shall add all interest accrued to the balance of the Escrow.

Exhibit M-1

- D.** All Bank fees, including, but not limited to those for escrow services, shall be paid by and automatically withdrawn from the Escrow upon execution of this Escrow Contract and from time to time thereafter as described in **Exhibit 2** attached hereto.
- E.** Bank undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. Bank shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Escrow Contract. Bank may rely upon and shall not be liable for acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by Utilities. The Bank shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. Bank shall have no duty to solicit any payments which may be due it or the Escrow. Bank may execute any of its powers and perform any of its duties hereunder directly or through agents or attorneys (and shall be liable only for the careful selection of any such agent or attorney) and may consult with counsel, accountants and other skilled persons to be selected and retained by it.
- F.** Nothing in this Escrow Contract shall be interpreted to limit or prevent the protections afforded to Utilities or the City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- G.** If any term or provision of this Escrow Contract shall be found to be illegal or unenforceable, the remaining provisions of this Escrow Contract shall remain in full force and effect, and the illegal or unenforceable term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.
- H.** This Escrow Contract shall be construed in accordance with the laws of the State of Colorado (without reference to conflicts of laws), the Colorado Springs City Charter, City Code, ordinances, and rules and regulations. In the event of litigation, this Escrow Contract shall be enforceable by or against the City of Colorado Springs on behalf of Utilities as provided in Colorado Springs City Code § 12-1-108. In the event of any dispute over the Escrow Contract's terms and conditions, the exclusive venue and jurisdiction for any litigation arising thereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
- I.** Time is of the essence in this Escrow Contract.
- J.** Except as expressly provided otherwise, this Escrow Contract is intended to be solely for the benefit of the Parties and their respective successors and permitted assigns, and this Escrow Contract shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.
- K.** The failure of the Parties to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants or agreements herein contained, or the failure of Utilities in any one or more instances to exercise any option, privilege or right

Exhibit M-1

herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants or agreements.

- L.** This Escrow Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be considered one and the same instrument. This Escrow Contract may be executed and delivered by facsimile transmission with an original to follow.
- M.** Any terms not defined in this Escrow Contract shall have the meaning given in the Agreement.
- N.** In the event of a conflict between the Agreement and this Escrow Contract, the terms and conditions of this Escrow Contract shall prevail. All other terms of the Agreement remain the same and are hereby ratified and affirmed by Utilities and Developer.

IN WITNESS WHEREOF, the Parties hereto have executed this Escrow Contract effective as of the day and year first above written.

- Signatures on Following Pages -

Exhibit M-1

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Exhibit M-1

BANK: _____

By: _____

STATE OF COLORADO)

) ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, By _____, as _____.

Witness my hand and official seal.

My Commission Expires: _____

(SEAL)

Notary Public

Exhibit M-1

Exhibit 1
DEMAND

Date of Issue: _____

To: Bank

Account No.: _____

Account Party: Colorado Springs Utilities

Beneficiary: Colorado Springs Utilities
Attention Brent Schubloom
P.O. Box 1103, Mail Code 1015
Colorado Springs, CO 80947-1015

Gentlemen:

Utilities demands an issue in its favor for the amount of \$ _____, for payment in the United States dollars by drafts at sight for payment, such funds to be used for a Task, as defined by the Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement (“Agreement”), effective as of _____;

Bank:

Address:

Telephone

Bank Officer

Exhibit N



Colorado Springs Utilities

It's how we're all connected

COLORADO SPRINGS UTILITIES
Customer Service Center
111 S. Cascade Avenue

Office hours: 7:00 to 5:00, Monday-Friday
Telephone: (719)448-4818
Outside our service area, call (800)238-5434

Hearing or speech impaired (TDD Service), call
Relay at 711 or 1-800-659-2656 and request
a call to (719) 448-4800.

Account Number: Invoice Number: Amount Due: Billing Date: Please Pay By:	
DESCRIPTION MATERIAL LABOR EQUIPMENT LOST GAS	AMOUNT
Please Pay By	

Detach and mail this portion with your payment. Bring entire bill if paying in person.

Account Number	NON-UTILITY
Invoice Number	Balance Due Make checks payable to Colorado Springs Utilities

Service Agreement Description: Time & Material Charges

COLORADO SPRINGS UTILITIES
PO BOX 1003 MAIL CODE 1013
COLORADO SPRINGS, CO 80947

Electric T&M Completion Report

Work Order: _____ Initiate Date: _____ Account #: _____ Status: _____ Completed Date: _____

Material:	0.00
Labor:	0.00
Tools/Vehicles:	0.00
Services:	0.00
PCards:	0.00
Last Consumption:	0.00
Sub-Total:	0.00
Tax:	0.00
Adjustments:	0.00
Balance:	0.00

Exhibit N

Insurance (EPA):
 Contact: _____
 Phone #: _____
 Address: _____
 Contact Use By: _____
 T&M BIN To: _____
 Address: _____
 City, State: _____
 Zip Code: _____
 Contact: _____
 Phone #: _____
 PD #: _____

Additional information gathered by Accounting:

Address: _____
 Material List Complete: Material List in Job:
 Project Construction & Maintenance Approval: _____ By: _____
 Submitted to General Accounting: _____ By: _____
 Total Amount: _____
 Total Engineering Approval: _____
 Total Engineering Approval: _____ By: _____

Exhibit O
Prior Work & Payments

1. **LVWWTP Fee.** Through the Effective Date, at the time of each final plat for any of Developer's property within the JCC Basin, Developer paid a fee or posted a Financial Assurance, at Developer's election, of \$1,000 per SFE for the total number of SFEs approved by such plat, as determined by Utilities, to improve LVWWTP during the time Developer has Interim Capacity. All such fees that Utilities collected from Developer shall be released to Developer within seven (7) business days after full execution of the Modified Agreement. As of the Effective Date, Utilities shall no longer collect any such fee.

2. **CSRWRF Design & Costs.** To the extent Utilities Determines is practical, Utilities shall use the existing incomplete design for the Clear Spring Regional Water Reclamation Facility, or portions thereof, when designing the Phase I: Plant and Phase II: Plant. All CSRWRF Facility Install costs shall be included when determining Charges for the Project.

Within fourteen days after full execution of the Agreement, Utilities shall release the Financial Assurances Developer provided under the CSRWRF Agreement.

3. **Release & Discharge.** Upon Utilities release of the Financial Assurances Developer provided under the CSRWRF Agreement, Developer shall be deemed to release and discharge the City, Utilities, and their entities/enterprises, successors, assigns, attorneys, employees, agents, servants and insurers, if any, and, except to the extent detailed below in this paragraph, Utilities shall be deemed to release and discharge Developer, its successors, assigns, attorneys, employees, agents, servants and insurers, of and from any and all liability for any and all claims, demands, damages, costs, liabilities, expenses, compensations, reimbursements, attorneys' fees and costs, actions, rights and causes, any and all known or unknown, foreseen and unforeseen damages, expenses, costs, losses, liabilities, claims, damage to property, and the consequences thereof, which may now or hereafter result from or which may or will result or arise out of, directly or indirectly, design work performed, unperformed, or authorized by Utilities for the wastewater reclamation facility proposed to be located at the Clear Spring Ranch and/or any costs, fees, or payments associated therewith. Despite anything in this provision to the contrary, Utilities shall not release or discharge Developer of or from any and all liability for any and all claims, demands, damages, costs, liabilities, expenses, compensations, reimbursements, attorneys' fees and costs, actions, rights and causes, any and all known or unknown, foreseen and unforeseen damages, expenses, costs, losses, liabilities, claims, damage to property, and the consequences thereof, which may now or hereafter result from or which may or will result or arise out of, directly or indirectly, Contract No. 200614414 between Utilities and Montgomery Watson Harza Inc.

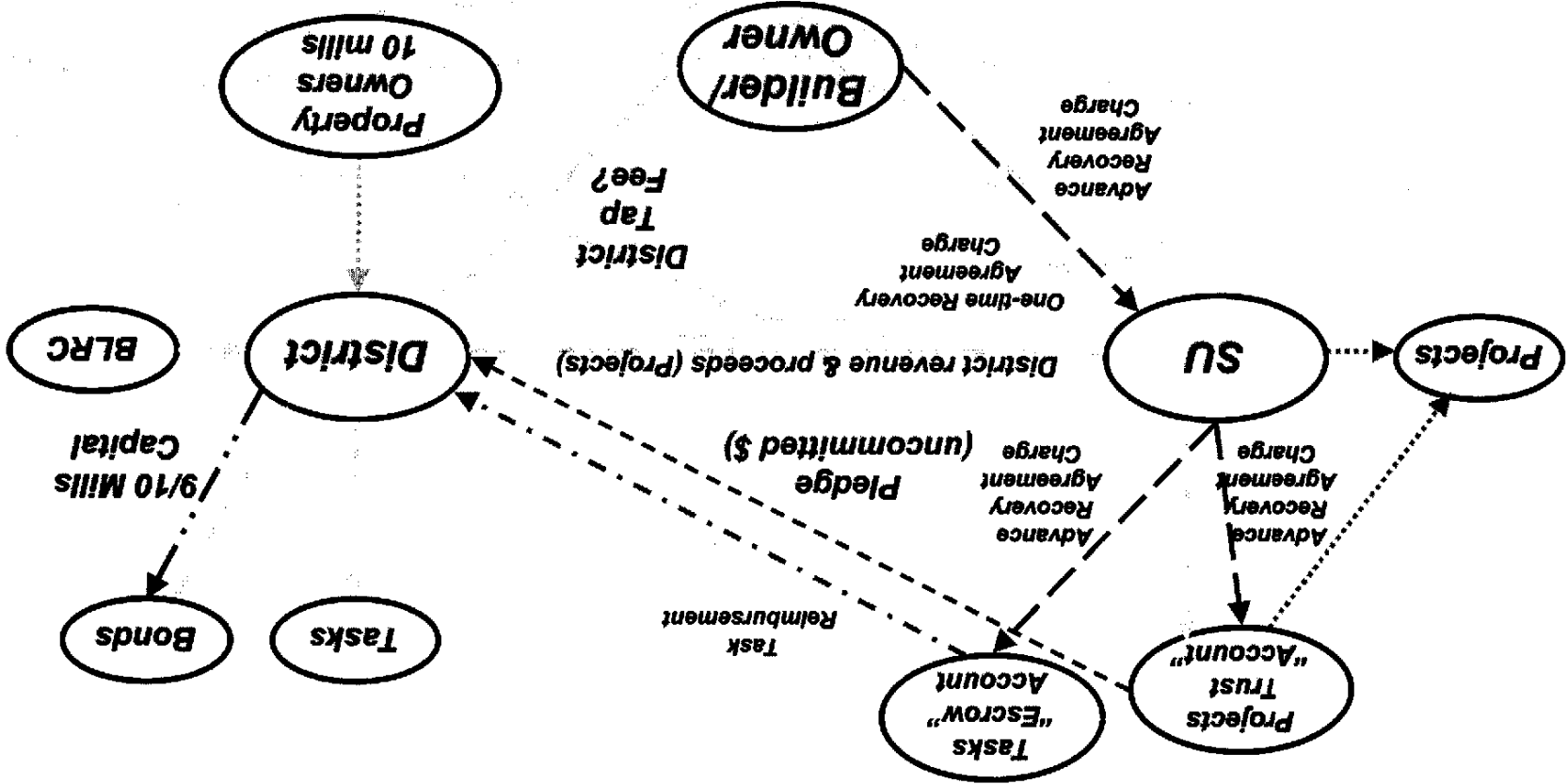
Exhibit O
Prior Work & Payments

Furthermore, Developer shall not contest the termination of Utilities' contract with Montgomery Watson Harza Inc. regarding the design/construction firm of the wastewater reclamation facility proposed to be located at the Clear Spring Ranch, the competitive bid documents related thereto, the process by which Utilities made such selection, or the method by which Utilities modified its contract with Montgomery Watson Harza Inc. to suspend such contract, the content of such suspension, or the effect of such suspension.



Graphic Depiction* - Cash Flow

EXHIBIT P



*This exhibit is a graphic depiction only.

It has no legal meaning or import and shall not be used to interpret the Agreement.

EXHIBIT Q

INTERGOVERNMENTAL ASSIGNMENT AGREEMENT

THIS INTERGOVERNMENTAL ASSIGNMENT AGREEMENT (“Agreement”) is entered into this _____ day of _____, 20____, by and between Banning Lewis Ranch Regional Metropolitan District, formerly known as Banning Lewis Ranch Metropolitan District No. 6, a special district formed under C.R.S. §32-1-101 et. seq., a copy of which is filed and of record with the El Paso County District Court in Case No. 05CV3836, as such District was amended and restated as required in Section VII.A of the Modified Wastewater Agreement (“District”), whose address is _____ and Banning Lewis Ranch Metropolitan District No. 1, a special district formed under C.R.S. §32-1-101 et. seq., a copy of which is filed and of record with the El Paso County District Court in Case No. _____, (“District 1”), whose address is _____.

District and District 1 are hereinafter together referred to as the “Parties.”

Recitals

- A.** The Banning Lewis Ranch Company, LLC and Banning Lewis Ranch Development I & II, LLC, both Delaware limited liability companies (hereinafter together referred to as “Developer”) is subject to the Banning Lewis Ranch Annexation Agreement with the City of Colorado Springs, a Colorado home rule municipal corporation (“City”), recorded with the El Paso County Clerk and Recorder on September 23, 1988, in Book 5557 at Page 405, as clarified by that settlement agreement dated September, 2004 addressing issues raised in the declaratory judgment action, Case No. 01-CV-0566, recorded on March 16, 2005, at Reception No. 205037381 (hereinafter together referred to as the “Annexation Agreement”);
- B.** Said Annexation Agreement has been further clarified and effectuated by that Wastewater Facilities Participation, Utilization and Service Agreement dated January 24, 2006, as amended and restated in its entirety by that certain Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement dated _____, 2009 and recorded at _____ in the El Paso County real estate records (collectively, the “Modified Wastewater Agreement”);
- C.** Said Modified Wastewater Agreement permits the rights and obligations of Developer to be assigned to the District (except as detailed in Section VII of the Modified Wastewater Agreement), but only to the extent that the District undertakes and performs Developer’s responsibilities and obligations under this Agreement, then in that event and to only that extent, Developer shall be relieved from any and all such responsibilities and obligations;

EXHIBIT Q

- D.** Developer in fact assigned its responsibilities and obligations under the Modified Wastewater Agreement to the District (except as detailed in Section VII of the Modified Wastewater Agreement), but only to the extent that the District undertakes and performs Developer's responsibilities and obligations under this Agreement, then in that event and to only that extent, Developer shall be relieved from any and all such responsibilities and obligations;
- E.** Said Modified Wastewater Agreement also permits District to further assign its rights and obligations under the Modified Wastewater Agreement to District No. 1, except in reference to the term Maximum Debt Mill Levy and only to the extent that the District No. 1 undertakes and performs District's assigned responsibilities and obligations under the Modified Wastewater Agreement, and then in that event and to only that extent, District and Developer shall be relieved from any and all such responsibilities and obligations.

NOW WHEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

Terms and Conditions

- 1.** Except in Section 2 below, District hereby assigns its rights and obligations under the Modified Wastewater Agreement to District No. 1 as provided in this Agreement.
- 2.** Notwithstanding anything in this Agreement to the contrary, the District shall continue to fund, through District No. 1, the Install of Facilities detailed in the Concept Design Table, which obligation shall constitute a limited tax general obligation of District, payable to District No. 1 from the imposition by the District of its "Maximum Debt Mill Levy" (as such term is defined in the District's approved Service Plan) and from such other revenues of the District as may be legally available to fund, as and when due, District No. 1's obligations under this Agreement; however, District No. 1 shall collect the Maximum Debt Mill Levy from the District and District No. 1 shall use the proceeds of such Maximum Debt Mill Levy to secure general obligation bonds or other forms of indebtedness issued or incurred by District No. 1 to fund District No. 1's obligations under this Agreement.
- 3.** In making said assignment, District, and District No. 1 hereto understand, acknowledge and agree that said assignment shall only relieve District and Developer from obligations to Utilities to the extent that the District No. 1 undertakes and performs District's assigned responsibilities and obligations as detailed under this Agreement, and then in that event and to only that extent, District and Developer shall be relieved from any and all such responsibilities and obligations. In the event of District No. 1's alleged default in the performance of any of its responsibilities and obligations under this Agreement, Utilities may, in

EXHIBIT Q

its Determination, proceed concurrently against Developer, the District, District No. 1, and any other person, firm, corporation, or governmental entity.

4. District and District No. 1 agree that the City and Colorado Springs Utilities are third party beneficiaries of this Agreement with the right to enforce the assigned obligation.
5. Any terms not defined in this Agreement shall have the meaning given in the Modified Wastewater Agreement.
6. This assignment is conditioned upon express written approval of this Agreement by Utilities.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

-Signatures on Following Pages-

EXHIBIT Q

UTILITIES:

Acknowledged by the City of Colorado Springs, on behalf of its enterprise, Colorado Springs Utilities

By: _____
Name: _____
Title: _____
Date: _____
Attest: _____
Title: City Clerk _____

Approved as to form:

By: _____ Date: _____
City Attorney's Office – Utilities Division

EXHIBIT Q

DISTRICT

Banning Lewis Ranch Regional Metropolitan District, formerly known as Banning Lewis Ranch Metropolitan District No. 6

By: _____
Name: _____
Title: _____
Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT Q

DISTRICT

Banning Lewis Ranch Metropolitan District No. 1

By: _____
Name: _____
Title: _____
Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Exhibit R

UNIT RECOVERY CHARGE

I. General

- A.** “**Unit Recovery Charge (URC)**” The URC specific to each Project or Task identified in the Concept Design table to be used in the Recovery Agreement means the total of the “Proportional Share of Infrastructure Costs (as defined in Section II.)” + “Proportional Share of Bond Issuance Costs (as defined in Section III.)” + “Proportional Share of Accrued Interest on Debt (as defined in Section IV.)” + “Proportional Share of the Operating Costs of the District (as defined in Section V.)”.
- B.** If multiple Recovery Agreements or other cost recovery mechanisms are in place, Utilities shall adjust the computations such that no share of costs will be collected more than once.
- C.** Despite any provision in this Agreement to the contrary, Utilities shall not be liable should any Annexor or non-Annexor fail to meet such obligations or requirements, but Utilities will seek enforcement of such obligations and requirements in accordance with its Rules and Regulations.
- D.** When District applies for any Recovery Agreement and annually thereafter, the District shall declare the following costs for each Project or Task. Only after Utilities review and Determination of the declared costs shall such declared costs be used to calculate the URC for an applicable Project or Task.
- 1.** The cash funds District has applied to the Project or Task (“**Cash Funds Applied**”);
 - 2.** The principle amount of District’s outstanding debt for the Project or Task (“**Outstanding Debt**”);
 - 3.** The bonds funds District has applied to the Project or Task (“**Bond Funds Applied**”) and the applicable interest rate. Despite anything to the contrary, Bonds Funds Applied shall not include any amounts held by the District for reserve funds from the bond proceeds;
 - 4.** The amount of bond funds District held in reserve to meet bond covenants or District requirements;
 - 5.** The cumulative interest of bonds District has issued through the preceding year(s) since the debt was issued for the specific Project or Task (“**Cumulative Interest of Bonds**”);

- 6. District's projected interest cost of the bonds for the Project or Task for the upcoming year ("**Projected Interest Cost**") and the applicable interest rate;
- 7. The principle amount of the District's total debt ("**Total Debt of District**");
- 8. District's cumulative operating costs (for the entire District) since the applicable debt was issued ("**Cumulative Operating Costs of the District**"); and
- 9. District's projected operating costs for the upcoming year ("**Projected Operating Costs of the District**").

II. Proportional Share of Infrastructure Costs

A. "Proportional Share of Infrastructure Costs" = Utilities' Original Book Value divided by the Total SFE Units of Capacity that the Project or Task is expected to provide. The Proportional Share of Infrastructure Costs is only calculated at the time when the District applies for any Recovery Agreement.

- 1. "**Utilities' Original Book Value**" means the value Utilities assigns to the Project or Task that is added as an asset to Utilities' financial statements.
- 2. "**Total SFE Units of Capacity**" means the capacity in SFEs as Determined by Utilities that the Project or Task will serve.

III. Proportional Share of Bond Issuance Costs

A. "Proportional Share of Bond Issuance Costs" = (Outstanding Debt minus the Bond Funds Applied) divided by SFEs Funded by Debt. The Proportional Share of Bond Issuance Costs is only calculated at the time when the District applies for any Recovery Agreement.

- 1. "**SFEs Funded by Debt**" = The Total SFE Units of Capacity of the Project or Task minus SFEs Funded by Cash.
 - a. "**SFEs Funded by Cash**" = the Total SFEs Units of Capacity multiplied by (Total Cash Funds divided by Utilities' Original Book Value).
- (1) "**Total Cash Funds**" = District Cash Funds Applied plus Advance Recovery Agreement Charges applied to the Project or Task.

(a) “Advance Recovery Agreement Charges” means the amount Determined by Utilities of the Advance Recovery Charges applied to the Project or Task.

IV. Proportional Share of Accrued Interest on Debt

A. “Proportional Share of Accrued Interest on Debt” = (Accrued Interest minus Previous Aggregate Recovery Agreement Interest Costs Collected minus the District SFEs Proportional Share of Accrued Interest on Debt) divided by the SFEs of Available Capacity. The Proportional Share of Accrued Interest on Debt is calculated at the time when the District applies for any Recovery Agreement and annually thereafter.

1. “Accrued Interest” = Cumulative Interest of Bond Issue(s) plus the Projected Interest Cost for the upcoming year.
2. “Previous Aggregate Recovery Agreement Interest Costs Collected” is the sum of each of the prior year’s number of the non-District SFEs occurring after the Project or Task is placed in service multiplied by each of the prior year’s Proportional Share of Accrued Interest on Debt. As an example:

When:

the number of the non-District SFEs occurring after the Project or Task is placed in service is defined as “NnDC,” and the Proportional Share of Accrued Interest on Debt is defined as “PSAID”

Then,

$$= \sum \text{from } 0 \rightarrow N [(NnDC_{N=0} * PSAID_{N=0}) + (NnDC_{N=1} * PSAID_{N=1}) + (NnDC_{N=2} * PSAID_{N=2}) + \dots \dots \dots (NnDC_{N-1} * PSAID_{N-1})]$$

Where 0 = the year the Project or Task is placed in service, N = the numbers of years elapsed since the Project or Task was placed in service (represented as an integer).

3. “District SFEs Proportional Share of Accrued Interest on Debt” is the sum of each of the prior year’s number of District SFEs occurring after the Project or Task is placed in service multiplied by the each of the prior year’s Proportional Share of Accrued Interest on Debt.

As an example:

When,

the number of District SFEs occurring after the Project or Task is placed in service is defined as “DC,” and the Proportional Share of Accrued Interest on Debt is defined as “PSAID”

Then,

$$= \sum \text{from } 0 \rightarrow N [(DC_{N=0} * PSAID_{N=0}) + (DC_{N=1} * PSAID_{N=1}) + (DC_{N=2} * PSAID_{N=2}) + \dots \dots \dots (DC_{N-1} * PSAID_{N-1})]$$

Where 0 = the year the Project or Task is placed in service, N = the numbers of years elapsed since the Project or Task was placed in service (represented as an integer).

- 4. “SFEs of Available Capacity” = Total SFE Units of Capacity minus cumulative number of SFEs connected to the Project or Task through the preceding year.

V. Proportional Share of Operating Costs of the District

- A. “Proportional Share of Operating Costs of the District” = ((Cumulative Operating Costs of the District since the debt was issued for the specific Project or Task plus the Projected Operating Costs of the District minus the non-District SFEs Proportional Share of the Operating Costs minus the District SFEs Proportional Share of the Operating Costs) multiplied by (Outstanding Debt of the Project or Task divided by Total Debt of District)) divided by the (Total SFE Units of Capacity for the Project or Task minus the Total SFE Units Initially Connected minus the Total non-District SFEs). The Proportional Share of Operating Costs of the District is calculated at the time when the District applies for any Recovery Agreement and annually thereafter.

- 1. “non-District SFEs Proportional Share of the Operating Costs” is the sum of each of the prior year’s number of the non-District SFEs occurring after the Project or Task is placed in service multiplied by each of the prior year’s Proportional Share of the Operating Costs.

As an example:

When:

the number of the non-District SFEs occurring after the Project or Task is placed in service is defined as “NnDC,” and the Proportional Share of the Operating Costs is defined as “PSOC”

Then,

$$= \sum \text{from } 0 \rightarrow N [(NnDC_{N=0} * PSOC_{N=0}) + (NnDC_{N=1} * PSOC_{N=1}) + (NnDC_{N=2} * PSOC_{N=2}) + \dots + (NnDC_{N-1} * PSOC_{N-1})]$$

Where 0 = the year the Project or Task is placed in service, N = the numbers of years elapsed since the Project or Task was placed in service (represented as an integer).

- 2. “District SFEs Proportional Share of the Operating Costs” is the sum of each of the prior year’s number of the District SFEs occurring after the Project or Task is placed in service multiplied by the each of the prior year’s Proportional Share of the Operating Costs.

As an example:

When:

the number of the District SFEs occurring after the Project or Task is placed in service is defined as “DC,” and

the Proportional Share of the Operating Costs is defined as “PSOC”

Then,

$$= \sum_{\text{from } 0 \rightarrow N} (DC_{N=0} * PSOC_{N=0}) + (DC_{N=1} * PSOC_{N=1}) + (DC_{N=2} * PSOC_{N=2}) + \dots + (DC_{N-1} * PSOC_{N-1})$$

Where 0 = the year the Project or Task is placed in service, N = the numbers of years elapsed since the Project or Task was placed in service (represented as an integer).

3. **“Total SFE Units Initially Connected”** = as Determined by Utilities, the total number of non-District and District SFEs initially connected when the Project or Task is placed in service and includes all non-District and District SFEs that are provided Interim service.
4. **“Total non-District SFEs”** = as Determined by Utilities, the aggregate number of non-District SFEs occurring after the Project or Task is placed in service excluding non-District SFEs that are provided Interim service.

VI. Miscellaneous

- A. Any term not defined in this Exhibit R shall have the meaning given in the Agreement. Any term in this Exhibit R that is not otherwise defined in this Exhibit R or in the Agreement shall have its common business meaning as Determined by Utilities.
- B. In the event of a conflict between this Exhibit R and the Agreement, the terms and conditions of this Exhibit R shall prevail, but only to the extent of further defining the term “Recovery Agreement Charge” as such term is used in Agreement Section XIV.T.

EXHIBIT S-1

JOINDER AND CONSENT OF LENDER

KEYBANK NATIONAL ASSOCIATION, a National Banking Association, as Agent (the "Mortgagee"), the beneficiary of that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing made by Banning Lewis Ranch Development I & II, LLC, a Delaware limited liability company, as grantor (the "Mortgagor"), to the Public Trustee of El Paso County, Colorado for the benefit of Mortgagee, as administrative agent for itself and the other lenders from time to time a party to the Credit Agreement referenced therein, recorded on September 7, 2007, at Reception No. 207116874, in the real property records of El Paso County, Colorado (as amended, restated or modified from time to time, the "Deed of Trust"), which Deed of Trust constitutes a lien and encumbrance upon a portion of the real property described on Exhibit A attached to the Agreement to which this Exhibit S-1 is attached. Mortgagee hereby acknowledges that such property and the Deed of Trust are subject to the Wastewater Facilities Participation, Utilization and Service Agreement dated January 24, 2006, recorded on February 16, 2006, at Reception No. 206024599, as subsequently amended (the "Original Agreement") and consents to the Mortgagor subjecting such property to the provisions of the Agreement to which this Exhibit S-1 is attached, which modifies and restates the Original Agreement in its entirety, and agrees that the Agreement shall be binding upon the present and future owners of such property covered by the Agreement. Notwithstanding the execution of this consent, nothing herein shall be construed to render the Mortgagee responsible or liable for the performance of any of the covenants, undertakings or other agreements of the Mortgagor or the other parties to the Agreement, as amended (except to the extent Mortgagee may become responsible or liable from and after the date it becomes owner of such property by foreclosure or deed in lieu of foreclosure) nor shall this consent affect in any way the validity of the lien of the Deed of Trust, and all terms and provisions of such Deed of Trust shall otherwise remain in full force and effect.

Dated this 17th day of February, 2009.

KEYBANK NATIONAL ASSOCIATION,
a national banking association, as Administrative Agent

By: Candice K. King
Name: Candice K. King
Title: Vice President

STATE OF GEORGIA)
) ss.
COUNTY OF FULTON)

Acknowledged before me this 17th day of February, 2009, by
Candice King of KeyBank National Association, a national
banking association.

Witness my hand and official seal.
My commission expires: 6-16-08

[Signature]
Notary Public

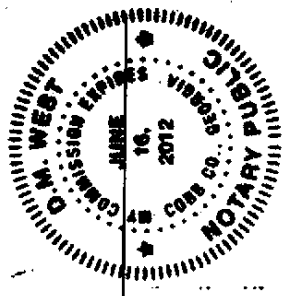


EXHIBIT S-2

JOINDER AND CONSENT OF LENDER

KEYBANK NATIONAL ASSOCIATION, a National Banking Association, as Agent (the "Mortgagee"), the beneficiary of that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing made by The Banning Lewis Ranch Company, LLC, a Delaware limited liability company, as grantor (the "Mortgagor"), to the Public Trustee of El Paso County, Colorado for the benefit of Mortgagee, as administrative agent for itself and the other lenders from time to time a party to the Credit Agreement referenced therein, recorded on September 7, 2007, at Reception No. 207116889, in the real property records of El Paso County, Colorado (as amended, restated or modified from time to time, the "Deed of Trust"), which Deed of Trust constitutes a lien and encumbrance upon a portion of the real property described on Exhibit A attached to the Agreement to which this Exhibit S-2 is attached. Mortgagee hereby acknowledges that such property and the Deed of Trust are subject to the Wastewater Facilities Participation, Utilization and Service Agreement dated January 24, 2006, recorded on February 16, 2006, at Reception No. 206024599, as subsequently amended (the "Original Agreement") and consents to the Mortgagor subjecting such property to the provisions of the Agreement to which this Exhibit S-2 is attached, which modifies and restates the Original Agreement in its entirety, and agrees that the Agreement shall be binding upon the present and future owners of such property covered by the Agreement. Notwithstanding the execution of this consent, nothing herein shall be construed to render the Mortgagee responsible or liable for the performance of any of the covenants, undertakings or other agreements of the Mortgagor or the other parties to the Agreement, as amended (except to the extent Mortgagee may become responsible or liable from and after the date it becomes owner of such property by foreclosure or deed in lieu of foreclosure) nor shall this consent affect in any way the validity of the lien of the Deed of Trust, and all terms and provisions of such Deed of Trust shall otherwise remain in full force and effect.

Dated this 17th day of February, 2009.

KEYBANK NATIONAL ASSOCIATION,
a national banking association, as Administrative Agent

By: Candice K. King
Name: Candice K. King
Title: Vice President

STATE OF GEORGIA)
) ss.
COUNTY OF FULTON)

Acknowledged before me this 17th day of February, 2009, by
Candice King of KeyBank National Association, a national
banking association.

Witness my hand and official seal.

My commission expires: 6-16-12

D.M. WEBB
Notary Public

