

**SECOND AMENDED AND RESTATED SERVICE PLAN**  
**FOR**  
**BANNING LEWIS RANCH REGIONAL METROPOLITAN DISTRICT**  
**(formerly Banning Lewis Ranch Metropolitan District No. 6)**  
**IN THE CITY OF COLORADO SPRINGS, COLORADO**

Prepared

by

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**LIST OF EXHIBITS**

<b>EXHIBIT A</b>	Legal <del>Descriptions</del> <a href="#">Description</a>
<b>EXHIBIT B</b>	Colorado Springs Vicinity Map
<b>EXHIBIT C-1</b>	<del>Initial</del> District Boundary Map
<del><b>EXHIBIT C-2</b></del>	<del>Inclusion Area Boundary Map</del>
<b>EXHIBIT D</b>	Description of Permitted Services to be Provided by the District
<b>EXHIBIT E</b>	Form of Disclosure to Purchasers of Property within the District

## I. INTRODUCTION

### A. Purpose and Intent

This Second Amended and Restated Service Plan ("Service Plan") amends and restates the Service Plan~~existing service plan~~ for Banning Lewis Ranch ~~Metropolitan District No. 6, henceforth to be known as the "Banning Lewis Ranch~~ Regional Metropolitan District"~~a copy of which (the "District"), which service plan was first amended and restated in 2009 (the "First Amended and Restated Service Plan") and~~ is filed and of record with the El Paso County District Court in Case No. 05CV3836. The District shall remain a metropolitan district under the Special District Act,~~but~~ with limited powers and authority to provide public improvements and services as described herein. With respect to the service plans for Banning Lewis Ranch Metropolitan District Nos. 1-5 and 7, ("District Nos. 1-5 and 7"), this Service Plan makes no changes;~~provided that, consistent with the Service Plan, the Banning Lewis Ranch District No. 1 ("As further set forth herein, District No. 1")~~ will continue to provide operational services to the District as it currently does for District Nos. 2-5 and 7, and District No. 1 will coordinate the financial activities of the District pursuant to an intergovernmental agreement ~~later described herein, between them (the "District IGA").~~ In all other respects this ~~Amended and Restated~~ Service Plan amends and restates the First Amended and Restated Service Plan ~~referenced above~~ in its entirety so that ~~it~~the latter no longer applies to the District,~~but the Service Plan remains in full force and effect as to Banning Lewis Ranch Metropolitan District Nos. 1-5 and 7.~~

District No. 1 and the District (the "Districts") are independent units of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law,~~or this Service Plan~~~~or the Agreement~~, their activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the Districts will provide financing for a part or all of the Regional Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the ~~District~~Districts. The primary purpose of the District will be to finance the construction of ~~these~~the Regional Public Improvements in coordination with District No. 1, the City and ~~Colorado~~ Springs Utilities, which Regional Public Improvements will then be conveyed to the City or Springs Utilities.

~~The District will not provide ongoing operations and maintenance services. Administrative functions for the District will be performed by District No. 1.~~

### B. Need for the District

Colorado Springs Utilities, The Banning Lewis Ranch Company, LLC, and Banning Lewis Ranch Development I & II, LLC, previously entered into a "Wastewater Facilities Participation, Utilization and Service Agreement"~~2~~ on January 24, 2006, ~~recorded in the real property records of El Paso County, Colorado at Reception No. 206024599, which is~~agreement was amended and restated in its entirety by that certain Modified and Restated Wastewater Facilities Participation, Utilization and Service Agreement dated February 10, 2009 (the "Agreement"). The Agreement ~~contemplates~~contemplated that The Banning Lewis Ranch Company, LLC, and Banning Lewis Ranch Development I & II, LLC ~~will, would~~ form a special district to satisfy certain financing and related obligations specified in the Agreement.

~~There~~ Rather than create a new local government for the purposes of the Agreement, The Banning Lewis Ranch Company, LLC, and Banning Lewis Ranch Development I & II, LLC, previously decided to use the District in coordination with District No. 1 to fulfill the Agreement's obligations. The District's initial service plan was amended by the First Amended and Restated Service Plan in order to allow the District, in coordination with District No. 1, to fulfill the Agreement's obligations. The parties to the Agreement have since determined the purposes and intent of the Agreement are no longer necessary or appropriate, and the Agreement has been terminated by mutual agreement of the parties. However, there remains a need for certain but not yet formally defined Regional Public Improvements to be financed and constructed, and there are currently no other governmental entities, including the City, located in the immediate vicinity of the ~~Districts~~ District that consider it desirable, feasible or practical to undertake the financing and related obligations ~~specified in the Agreement. Rather than create a new local government, The Banning Lewis Ranch Company, LLC, and Banning Lewis Ranch Development I & II, LLC plan to use the currently existing District in coordination with District No. 1 to fulfill the Agreement's obligations. Approval of this Service Plan is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.~~ of such Regional Public Improvements.

It is known generally that there will be Regional Public Improvements required for the continued build-out of the Banning Lewis Ranch project in its reconfigured state, after the sale to Ultra and subsequently the Nor'wood group of the southern portion of the property. Major traffic, water, sewer and stormwater management improvements will be needed to serve approximately 10,000 homes and 25,000 residents in the remaining northern properties, and it is in the City's best interest that the District be repurposed to provide them. The purpose of this Service Plan is to recognize the termination of the Agreement, to reconfigure the boundaries of the District to reflect today's reality, and to establish and clarify the powers and authority of the District to provide the Regional Public Improvements. It is intended that the District will exist to provide only public improvements that are regional in nature as described herein and which will benefit the taxpayers and inhabitants of the entirety of the District as well as the region. The District will provide the Regional Public Improvements and the services authorized by this Service Plan in coordination with District No. 1 and the City, but without duplicating or interfering with the public improvements and services provided by District Nos. 1-5 and 7.

C. Objective of the City Regarding District Service Plan

The City's objective in approving the Service Plan for the District is to authorize the District to ~~(1)~~, through the imposition of its mill levy, provide the revenue streams necessary to fund or finance the Regional Public Improvements, first through ~~(a) the reservation of moneys by District No. 1 cash flow, then, as are necessary to fulfill the Districts' obligations under the Agreement and/or (b) needed, the issuance by District No. 1 of revenue obligations supported by the District's mill levy revenues, to be transferred to District No. 1 as described in the Agreement, and (2) of Debt, and~~ to authorize District No. 1 to coordinate such ~~fundings in concert with Springs Utilities~~ financings through a binding intergovernmental agreement between the Districts pursuant to which the District will collect the proceeds of the Maximum Debt Mill Levy and either pay them to District No. 1 so that it may finance the costs of the ~~Agreement~~ Regional Public Improvements, or pay Debt issued directly by the District for those

purposes. This Service Plan contemplates that the District will impose and collect certain taxes for no longer than the Maximum Debt Mill Levy Imposition Term (except as permitted by this Service Plan) and at a tax mill levy no higher than the Maximum Debt Mill Levy for the District to ~~either~~ directly fund the Regional Public Improvements ~~or to provide security for the issuance of District No. 1's revenue obligations.~~ Such taxes shall be considered as a primary source of such funding, though ~~certain other legally available~~ revenues ~~collected by Springs Utilities under the Agreement will~~ may be available as described in the Agreement used to assist in such funding, and the ~~Districts~~ District also ~~have~~ has the statutory ability to assess fees, rates, tolls and charges to supplement the proceeds of the Maximum Debt Mill Levy and any Debt proceeds to fund the Regional Public Improvements.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose of the District is to provide funding for the Regional Public Improvements defined herein. The District shall undertake no operational activities except limited administrative activities necessary to comply with State law; i.e., regular board meetings, accounting, budget and appropriation, audits, elections and the like. As specified in Exhibit D to this Service Plan, the District will provide no utility services.

~~As further described in Section VII, it~~ is the intent of the District to dissolve upon the accomplishment of the purposes for which the District was created, and payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt.

The ~~Districts~~ District shall be authorized to finance the Regional Public Improvements that can be funded from revenue and/or debt obligations ~~issues~~ issued by the District or District No. 1 using revenues provided by the District, to be repaid from tax revenue collected by the District from a mill levy which shall not exceed the Maximum Debt Mill Levy in the District and which shall not exceed the Maximum Debt Mill Levy Imposition Term (except as permitted by this Service Plan) ~~and other legally available revenues as further set forth in this Service Plan.~~ The ~~Districts anticipate~~ District anticipates that these obligations will ~~also~~ be repaid in part by development fees ~~-, as long as such development fees are not imposed upon or collected from taxable property owned or occupied by an End User for the purpose of creating a capital cost payment obligation as further described in Section V.B.11.~~ It is the intent of this Service Plan to assure to the extent possible that no property in the District bears an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount, and that no property will bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Regional Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

Because the Regional Public Improvement and infrastructure needs of the District and the surrounding region will change and evolve over time, and because the surrounding region is projected to continue to grow at a rate well above the national average, this Service Plan has been drafted to retain a high degree of flexibility with regard to the Regional Public Improvements and services that will be provided and undertaken by the District.

## II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

~~Agreement: that certain “Wastewater Facilities Participation, Utilization and Service Agreement” dated January 24, 2006, recorded in the real property records of El Paso County, Colorado 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 February 10, 2009, to be recorded in the real property records of El Paso County, Colorado.~~

Approved Development Plan: a ~~Master Plan and~~ [master plan](#) or other more detailed land use approvals established by the City for identifying, among other things, [Regional Public Improvements](#) necessary for facilitating the development of property within the Service Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Board: the board of directors of the District.

Bond, Bonds or Debt: bonds or other obligations for the payment of which the District has promised to impose an *ad valorem* property tax mill levy.

City: the City of Colorado Springs, Colorado and its enterprises.

City Code: the City Code of the City of Colorado Springs, Colorado.

City Council: the City Council of the City of Colorado Springs, Colorado.

Colorado Springs Utilities or Springs Utilities: ~~An~~ [Colorado Springs Utilities](#), an enterprise of the City.

Debt: any bond, note debenture, contract or other multiple-year financial obligation of the District which is payable in whole or in part from, or which constitutes a lien or encumbrance on the proceeds of, *ad valorem* property tax imposed by the District.

Debt Service Mill Levy: [the District’s mill levy imposed for the payment of Debt.](#)

Debt to Actual Market Value Ratio: the ratio derived by dividing the then-outstanding principal amount of all Debt of the District by the actual market valuation of the taxable property of the District, as such actual market valuation is certified from time to time by the appropriate county assessor.

District: the Banning Lewis Ranch Regional Metropolitan District.

District IGA. the intergovernmental agreement described in Section VI which sets forth the cooperative effort between the Districts to (1) certify the Maximum Debt Mill Levy, (2) transfer the proceeds thereof to District No. 1, ~~and~~ (3) ~~cause pay~~ District ~~No. 1 to~~



~~perform the obligations under the Agreement~~Debt to fund the Regional Public Improvements.

District No. 1: the Banning Lewis Ranch Metropolitan District No. 1.

District Boundaries: the boundaries of the area depicted in the District Boundary Map and described in Exhibit A.

District Boundary Map: the map attached hereto as Exhibit C, depicting the District's boundaries.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: a consultant that (1) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (3) is not an officer of the District.

~~Financial Plan:~~ the Financial Plan described in Section VI which describes (a) how the Public Improvements are to be financed; (b) how the Debt is expected to be incurred; and (c) the estimated operating revenue derived from property taxes for the first budget year.

~~Inclusion Area Boundaries:~~ the boundaries of the area described in the Inclusion Area Boundary Map.

~~Inclusion Area Boundary Map:~~ the map attached hereto as Exhibit C-2, describing the property proposed for inclusion within the District.

~~Initial District Boundaries:~~ the boundaries of the area described in the Initial District Boundary Map.

~~Initial District Boundary Map:~~ the map attached hereto as Exhibit C-1, describing the District's initial boundaries.

Maximum Debt Mill Levy: the maximum mill levy of the District is permitted to impose for payment of Debt as set forth in Section VI.E below.

Maximum Debt Mill Levy Imposition Term: the maximum term for imposition of a Debt Service mill levy in the District as set forth in Section VI.F below.

Maximum Operating Mill Levy: the maximum mill levy of the District is permitted to impose for payment of operating and maintenance expenses as set forth in Section VI.J below.

Project: the development or property commonly referred to as the Banning Lewis Ranch.

Regional Public Improvements: a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed by the District as generally described in the ~~Agreement, as the same may be defined, redefined or clarified from time to time~~ Special District Act, except as specifically limited in Section V, below, to serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Service Area: the property within the ~~Initial District Boundary Map and the Inclusion Area Boundary Map~~ Boundaries.

Service Plan: this Second Amended and Restated Service Plan for the District approved by City Council.

Service Plan Amendment: an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable State law.

Special District Act: Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: the State of Colorado.

### III. BOUNDARIES

The area ~~of~~ within the ~~Initial District Boundaries~~ includes approximately ~~39,012,640.887~~ 2,640.887 acres ~~and the total area proposed to be included in the Inclusion Area Boundaries is approximately 21,000 acres.~~ A legal description of the ~~Initial District Boundaries and the Inclusion Area Boundaries~~ is attached hereto as Exhibit A. A map of the ~~Initial District Boundaries~~ is attached hereto as Exhibit C-1, ~~and a map of the Inclusion Area Boundaries is attached hereto as Exhibit C-2.~~ A vicinity map is attached hereto as Exhibit B. It is anticipated that the District's Boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Section 32-1-401, et seq., CRS, and Section 32-1-501, et seq., CRS, subject to the limitations set forth in Article V below.

### IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately ~~24,000~~ 2,640.887 acres of currently developed and undeveloped land. ~~The current assessed valuation of the Service Area is \$0.00 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan.~~ The population of the District at build-out is estimated to be approximately ~~150~~ 25,000 ~~people~~ residents.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached ~~thereto~~hereto, unless the same is contained within an Approved Development Plan.

## V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

### A. Powers of the District and Service Plan Amendment

The District shall have the power and authority to finance the design, acquisition, construction, installation, relocation, development and redevelopment of the Regional Public Improvements within and without the boundaries of the District ~~as specifically contemplated by the Agreement and~~ as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein. ~~The District's powers and the~~ It is anticipated that all Regional Public Improvements authorized herein shall provided by the District will be limited to the provision of mosquito control and such sanitation facilities and improvements necessary to fulfill the terms of ~~dedicated by the District to the City or Springs Utilities upon completion and, following acceptance by the Agreement, and financing therefor; City or Springs Utilities, the District's current authority to construct City or Springs Utilities will own, operate, and maintain all other public improvements as set forth in the Service Plan is hereby divested.~~ such Regional Public Improvements.

The District's powers include but are not limited to the power to enter into ~~the District IGA~~ intergovernmental agreements to provide for the financing and construction of the Regional Public Improvements contemplated by and the Agreement District's operations; to issue Debt ~~in the form of the District IGA~~; to levy and collect development fees and fees, tolls, rates, charges, and taxes necessary to pay its obligations ~~under the District IGA~~; to receive reimbursements ~~through Springs Utilities pursuant to the Agreement~~ upon the connection by entities inside and outside the District to the Regional Public Improvements, through sources including but not limited to the collection of charges, advance recovery charges, tap fees, or other fees; and, ~~in concert with District No. 1, to carry out all other activities necessary to fulfill the obligations of the Agreement. The nonperformance by either the District or District No. 1 of the obligations detailed in the District IGA, or the Agreement, shall constitute a material deviation from this Service Plan and a breach of the public obligations described hereunder~~ District's purposes.

The District's power and authority to finance the design, acquisition, construction, installation, relocation, development and redevelopment of the Regional Public Improvements shall include but is not limited to the following services and public improvements pursuant to CRS §§ 32-1-1001 and 32-1-1004, as amended.

#### 1. Water

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for potable water and irrigation water facilities and systems, including, but not limited to, water rights, water supply, treatment, storage,

transmission, and distribution systems for domestic, irrigation, fire control, and other public purposes, together with all necessary and proper reservoirs, treatment facilities, wells, equipment, and appurtenances incident thereto, which may include, but shall not be limited to, transmission lines, pipes, distribution mains and laterals, storage facilities, and ditches, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

## 2. Storm Sewer

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for flood and surface drainage improvements, including, but not limited to, culverts, dams, retaining walls, access way inlets, detention and retention ponds, paving, roadside swales, curbs and gutters, disposal works and facilities, water quality facilities, and all necessary and proper equipment, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

## 3. Sanitation and Wastewater Treatment

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, assess tap or other facility fees, and provide for sanitation and wastewater treatment facilities, including, but not limited to, sanitary sewers and to transport wastewater to an appropriate wastewater treatment facility, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

## 4. Street Improvements

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for local, arterial and collector streets and roadway improvements including, but not limited to, bridges, curbs, gutters, culverts, storm sewers and drainage facilities, detention and retention ponds, retaining walls and appurtenances, sidewalks, paving, lighting, grading, landscaping, streetscaping, placement of underground utilities, snow removal, tunnels, and other street improvements, and architectural enhancements to any or all of the above, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

## 5. Traffic Safety Protection

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for safety protection through traffic control devices and safety controls on streets, as well as such other facilities and improvements as are necessary or prudent, including, but not limited to, signalization at intersections, traffic signs, area identification signs, directional assistance and driver information signs, with all necessary and incidental and appurtenant facilities, and land and easements, together with extensions and improvements thereto.

## 6. Mosquito Control

The District shall have the power and authority to finance, design, construct, acquire, install, operate, maintain, and provide for systems and methods for the elimination and control of mosquitoes.

B. Limitations

1. Regional Improvements Limitation. All Regional Public Improvements provided by the District under this Service Plan must be regional in nature, providing a benefit throughout the District's Service Area and the larger region. The following types of improvements are expressly recognized as being regional in nature, and are explicitly authorized by this Service Plan:

- a. water and sanitary sewer lines of a size greater than or equal to twelve inches in diameter;
- b. water and sanitary sewer booster stations and lift stations;
- c. water storage facilities;
- d. streets classified as arterial or greater, and related traffic safety protection improvements, roundabouts, bridges or stormwater drainage culverts;
- e. traffic control signals;
- f. stormwater retention and detention facilities; and
- g. stormwater channel stabilization and management improvements.

The foregoing list of Regional Public Improvements is not exhaustive. Other improvements generally recognized as regional improvements and improvements recognized as Regional Public Improvements by agreement between the District and either the City or Springs Utilities may also be considered Regional Public Improvements authorized under this Service Plan, and a Service Plan Amendment shall not be required for the District to proceed with the development of such improvements.

2. No Duplication of Public Improvements or Services. The District shall not be authorized or empowered to provide any public improvement or provide any service that is duplicative of or interferes with public improvements or services actually provided by District Nos. 1-5 or 7.

1.3. Operations and Maintenance Limitation. The primary purpose of the District is to finance the design, acquisition, construction, installation, relocation, and redevelopment, of the Regional Public Improvements. ~~It is anticipated that all Regional~~ Public Improvements will be conveyed to and owned by the City or Springs Utilities upon completion in a manner consistent with the ~~Agreement and other~~ rules and regulations of the City or Springs Utilities and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Regional Public Improvements after

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such conveyance. ~~As set forth in the Agreement,~~ absence of a specific agreement between the District IGA will be used to clarify and the conditions under which financing for the Public Improvements will be provided by the Districts. City or Springs Utilities.

2.4. City Charter Limitations. In accordance with Article 7-100 of the City Charter, the District shall not issue any Debt instrument for any purpose other than construction of capital improvements with a public purpose necessary for development.

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As further set forth in Article 7-100 of the City Charter, the total Debt of any proposed District shall not exceed 10 percent of the total assessed valuation of the taxable property within the District unless approved by at least a two-thirds vote of the entire City Council.

3.5. Use of Bond Proceeds and Other Revenue of the District Limitation. ~~Except as expressly provided in the Agreement, proceeds.~~ Proceeds from the sale of debt instruments and other revenue of the District may not be used to pay landowners within the District for any real property required to be dedicated for public use by annexation agreements or land use codes, unless consent from the City Council is given. Examples of ineligible reimbursements include, but are not limited to: the acquisition of rights of way, easements, water rights, land for prudent line drainage, parkland, or open space, ~~unless consent from the City Council is given.~~ Proceeds from the sale of debt instruments and other revenue of the District also may not be used to pay for the construction of any utility infrastructure except for those categories of utility infrastructure covered by utility tariffs, rules, and regulations, unless consent from the City Council is given. Additionally, if the landowner/developer constructs the Regional Public Improvements and conveys ~~it~~ them to Springs Utilities in return for a reimbursement obligation from the District, prior to making such reimbursement for such amounts, the District must receive the report of an independent engineer or accountant confirming that the amount of the reimbursement is reasonable.

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4.6. Construction Standards Limitation. The Regional Public Improvements will be designed and constructed by the District, ~~District No. 1, the landowner/developer or Springs Utilities as specified in the Agreement, all of which will be~~ in accordance with Springs Utilities' Line Extension and Services Standards and the standards and specifications of the City, Springs Utilities and/or other governmental entities having proper jurisdiction

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5.7. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt for capital related costs, the District shall obtain the certification of an External Financial Advisor substantially as follows:

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We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), CRS) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the

Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

68. Inclusion Limitation. The District shall not include within any of its boundaries any property outside the ~~Service Area~~District Boundaries without the prior written consent of the City Council.

7.9. Overlap Limitation. The District's boundaries overlap or are anticipated to overlap the ~~Banning Lewis Ranch Metropolitan~~boundaries of District Nos. 1-5 and 7. Notwithstanding this overlap, the District's mill levy for payment of Debt shall not be subject to the Maximum Debt Mill Levy of ~~the Banning Lewis Ranch Metropolitan~~ District Nos. 1-5 and 7.

~~8. Initial Debt Limitation. On or before the date on which there is an IGA between Springs Utilities, the District and District No. 1 concerning the financing and implementation of the Public Improvements (the "District IGA"), the District shall not (a) issue any Debt; (b) impose a mill levy for the payment of Debt or its obligations under the Agreement by direct imposition or by transfer of funds from the operating fund to the Debt service funds; or (c) impose and collect any fees used for the purpose of repayment of Debt.~~

~~9. Total 10. Debt Issuance Limitation.~~ The issuance of all bonds or other debt instruments of the District shall be subject to the approval of the City Council. City ~~Council's~~Council's review of the bonds or other debt instruments of the District shall be conducted to ensure compliance with the Service Plan and all applicable laws. ~~The Debt anticipated to be issued by the District shall~~The District shall not issue Debt in an aggregate principal amount in excess of \$150,000,000, provided that the foregoing amount shall not include the principal amount of Debt issued for the purpose of refunding or refinancing lawfully issued Debt.

The foregoing Debt limitation is supported by the estimated cost of the below categories of Regional Public Improvements anticipated to be provided by the District during buildout of the Project, which buildout is expected to take 15-20 years, taking into consideration reasonable costs of inflation and contingencies. The following list provides a non-comprehensive list of anticipated categories of Regional Public Improvements that may be provided by the District and is not exhaustive or otherwise restrictive:

<u>Category of Regional Public Improvements</u>	<u>Estimated Cost</u>
<u>Sanitation and Wastewater Treatment</u>	<u>\$8,145,000</u>
<u>Water</u>	<u>\$9,657,000</u>
<u>Storm Sewer</u>	<u>\$42,157,000</u>
<u>Streets</u>	<u>\$41,589,500</u>
<u>TOTAL</u>	<u>\$101,548,500</u>

The Debt anticipated to be issued by the District shall either be in the form of the District IGA, pursuant to authorization approved by the District’s electorate in 2005 and 2007, or Debt issued directly by the District to finance Regional Public Improvements directly. If possible District No. 1 is expected to issue revenue obligations secured by the obligation of the District to certify the Maximum Debt Mill Levy over the life of the District IGA and transfer the proceeds thereof to District No. 1. ~~It is not expected that such revenue obligations will be in excess of \$600,000,000.00 in 2009 dollars and depending on the development plans approved by the City, Springs Utilities, and the District, District No. 1’s revenue obligation issuances may be significantly less than \$600,000,000.00 in 2009 dollars; however, until such development plans are finalized, it cannot be predicted with certainty that the issuances will be of a lesser amount.~~ In any event, the maximum term for any revenue obligation issued by District No. ~~1~~ and the maximum term for any Debt issued by the District shall be forty (40) years.

11. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

10.12. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or nonprofit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

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11.13. Consolidation Limitation. The District shall not file a request with any court to consolidate with another Title 32 district without the prior written consent of the City.

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12.14. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term have been established under the authority of the City to approve ~~a~~ this Service Plan with conditions pursuant to Section 32-1-204.5, CRS. It is expressly intended that such limitations:

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(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).



Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, shall be deemed a material departure from this Service Plan pursuant to Section 32-1-207, CRS, and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

~~13.15. Service Plan Amendment Requirement.~~ This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. While the assumptions upon which this Service Plan are generally based are reflective of ~~the Agreement and an Approved Development Plan(s)~~ for the property within the District, ~~the cost estimates and Financing Plan are sufficiently flexible to enable the District to provide necessary services and facilities under the Agreement without the need to amend this Service Plan as development plans change. Modification~~ modification of the general types of services and facilities, and changes in proposed configurations, locations, or dimensions of various facilities and improvements from time to time shall be permitted to accommodate development needs consistent with then-current Approved Development Plans for the property, ~~and to further without the goals and objectives of the Agreement.~~ need to amend this Service Plan as development plans change. Actions of the District which violate the limitations set forth in V.A.1-~~12~~14 above or in VI.B-F. shall be deemed to be material departures from this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

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~~14.16. Eminent Domain Powers Limitation.~~ The ~~District and District No. 1~~ believe it will be necessary to use the power of eminent domain to fulfill the obligations under the Agreement and the Springs Utilities IGA; provided, that the District shall not exercise the power of eminent domain to acquire property except upon the prior written consent of the City.

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~~15~~17. Local Improvement Districts. The District shall not organize any local improvement district without the prior written consent of the City.

#### ~~B.C. Preliminary Engineering Survey Standards~~

The District shall have authority to finance the planning, design, acquisition, construction, installation, relocation, and redevelopment of the Regional Public Improvements within and without the boundaries of the District, ~~as defined in the Agreement and as more specifically defined in the Springs Utilities IGA. An estimate of the costs of the,~~ All of the Regional Public Improvements ~~which may described herein will be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed, based upon in such a preliminary engineering survey way as to assure that the Regional Public Improvements standards will be compatible with those of the City and Springs Utilities and estimates, is approximately \$600,000,000.00 in 2009 dollars shall be in accordance with the requirements of any Approved Development Plan.~~

The District shall be permitted to allocate costs between the categories of the Public Improvements as deemed necessary in its discretion.

All of the Public Improvements described herein will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Agreement and any Approved Development Plan. All descriptions of the Public Improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, Springs Utilities' and the City's requirements, and construction scheduling may require. Upon approval of this Service Plan, the Districts and Springs Utilities will continue to develop and refine cost estimates contained herein and prepare for issuance of District No. 1 revenue obligations. All cost estimates will be inflated to then-current dollars at the time of such issuances of District No. 1 revenue obligations and construction. All construction cost estimates assume construction to applicable local, State or Federal requirements.

C.D. Multiple District Structure.

It is anticipated that the District and District No. 1, together, will undertake the financing of the Regional Public Improvements and of such activities and efforts as are necessary to fulfill the obligations under the ~~Agreement and the~~ District IGA. Said District IGA will be designed to help assure the orderly development of the Regional Public Improvements in accordance with the requirements of this Service Plan and ~~the Agreement those of the City and Springs Utilities~~. Implementation of the District IGA is essential to the orderly implementation of this Service Plan ~~and the Agreement~~. Accordingly, except as may be otherwise provided in the District IGA, any determination of either Board of Directors to set aside the District IGA without the consent of the Board of Directors of the other District shall be a material modification of the Service Plan. The District IGA may be amended by mutual agreement of the Districts, ~~with the written approval of Springs Utilities~~, without the need to amend this Service Plan.

**VI. FINANCIAL PLAN**

A. General

The District shall be authorized to provide for the planning, design, financing, acquisition, construction, installation, relocation and/or redevelopment of the Regional Public Improvements from its revenue and by and through cash flow and the proceeds of Debt to be issued by the District ~~in the form~~ after approval of ~~the District IGA~~ City Council, payable from the revenue derived from the Maximum Debt Mill Levy and other legally available revenue, ~~with~~ consistent with the Maximum Debt Mill Levy Imposition Term. The District will also rely upon various other revenue sources authorized by law, ~~to the extent that the Debt Mill Levy does not produce enough revenue at any given time to permit District No. 1 to pay, when due, its obligations to its bondholders or to Springs Utilities under the Agreement~~. These will include the power to assess fees, rates, tolls, penalties, or charges as provided in the Special District Act or other State statutes. The District will not be allowed to impose a sales tax.

B. No-Default Provisions

The District IGA shall be structured so that the following are events of default, without limitation: (1) failure to impose or collect the Maximum Debt Mill Levy or such portion

thereof as may be pledged thereto, or to apply the same in accordance with the terms of the District IGA; (2) failure to impose or collect other revenue sources lawfully pledged to the payment thereof or to apply the same in accordance with the terms of the District IGA; (3) failure to abide by other covenants made in connection with the District IGA; or (4) filing by the District as a debtor under any bankruptcy or other applicable insolvency laws. Notwithstanding the foregoing, no event of default shall require the District to increase the Maximum Debt Mill Levy in the District or the Maximum Debt Mill Levy Imposition Term except as described in this Service Plan.

C. Maximum Debt Mill Levy

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property of the District for payment of Debt, and shall be determined as follows:

For the District the Maximum Debt Mill Levy shall be calculated as follows:

(a) The Maximum Debt Mill Levy shall be 9 mills; provided that if, on or after January 1, 2010, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of the issuing District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2010, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

To the extent that the District is composed of or subsequently organized into one or more ~~sub-districts~~ subdistricts as permitted under Section 32-1-1101, CRS, the term “District” as used in this Section VI.E shall be deemed to refer to the District and to each such sub district separately, so that each of the sub districts shall be treated as a separate, independent district for purposes of the application of this Section VI.E.

D. Maximum Debt Mill Levy Imposition Term

The District shall not impose a Debt Service Mill Levy which exceeds 40 years after the year of the initial imposition of such Debt Service Mill Levy unless:

(1) a majority of the Board of Directors of the District imposing the mill levy are residents of such District, and (2) such Board has voted in favor of issuing Debt with a term which requires or contemplates the imposition of a Debt ~~service mill levy~~ Service Mill Levy for a longer period of time than the limitation contained herein; or

(2) District No. 1, with the approval of City Council, issues its revenue obligations with a term that would extend beyond the 40<sup>th</sup> year of the Maximum Debt Mill Levy Imposition Term, in which case the District IGA shall be deemed to have been renewed and

extended as of the date of such issuance, and the Maximum Debt Mill Levy Imposition Term shall be automatically extended to the year following the final year of maturity of such bonds; ~~or,~~

~~(3) there is an Event of Nonpayment At Termination, as defined in the District IGA, in which event District shall continue to collect and apply the Debt Service Mill Levy until the principal of and interest on amounts payable under the District IGA are paid in full; provided that no interest shall accrue on the principal of or interest on said amounts after the District IGA's termination date; and provided further that the District shall not be obligated to pay more than the Maximum Repayment Amount, as defined in the District IGA, including all payments of principal and interest.~~

Because the District has previously imposed a Debt Service Mill Levy in past years, the foregoing limitation will effectively limit the District to a Maximum Debt Mill Levy Imposition Term of less than 40 years, subject to the foregoing exceptions. It is anticipated that if additional financing mechanisms are necessary to support development within the District in the future, the District boundaries may again be reduced to include only existing development at such time, and a new district or districts may be formed on the undeveloped portions of the Project in order to independently support further development.

#### E. Debt Repayment Sources

The District may impose a mill levy on taxable property within its boundaries, and charge tap fees<sup>1</sup> at the time of building permit issuance, as the primary sources of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources for repayment of debt service and for operations and maintenance authorized by law. At the District's discretion, these may include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), CRS, as amended from time to time; provided, that bonds shall not be issued which pledge ongoing fees, rates, tolls, penalties, or charges to ~~end-user property owners~~End Users as a principal source of revenue for debt service, but the District shall have the authority, as a means of enhancing the credit of bond issues to pledge such fees, rates, tolls, penalties, or charges as a secondary source of revenue to be utilized in such event that the Maximum Debt Mill Levy does not yield revenues adequate to meet current debt service obligations; and provided further that with respect to any proposed bond issue by the District, City Council may review, and in the exercise of their discretion limit, the maximum exposure of property owners to escalating fees rates, tolls, penalties, or charges, as part of their review and approval of specific bond documents pursuant to Section V.A.910, above. In no event shall the ~~debt service mill levy~~Debt Service Mill Levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term except as allowed by this Service Plan.

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<sup>1</sup> "Tap fees" are charges solely of the District and are not Colorado Springs Utilities Development Charges.

F. Security for Debt

No Debt or other financial obligation of the District will constitute a debt or obligation of the City in any manner. The faith and credit of the City will not be pledged for the repayment of any Debt or other financial obligation of any District. This will be clearly stated on all offering circulars, prospectuses, or disclosure statements associated with any securities issued by any District. The District shall not utilize the City of Colorado ~~Springs~~-Springs's name in the name of the District.

G. Maximum Operating Mill Levy

In addition to the capital costs of the Regional Public Improvements, the District will require operating funds for administration and to plan and cause the Regional Public Improvements to be constructed and maintained. ~~The first year's operating budget is estimated to be \$50,000 which is anticipated to be derived from property taxes and other revenue.~~

The Maximum Operating Mill Levy for the payment of the District operating and maintenance expenses shall be 1 mill; provided that if, on or after January 1, 2010, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such operating and maintenance expenses may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2010, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

H. Developer Financial Assurances

The mere existence of the District will not be considered a substitute for financial assurances required under applicable City land use ordinances and regulations.

I. Use of Existing Debt Service Mill Levy Revenues

As of the date of this Service Plan and pursuant to an intergovernmental agreement between the District and District No. 1, the District has transferred to District No. 1 all revenues that the District received from its Debt Service Mill Levy before January 1, 2018 (the "Existing Debt Service Revenue"). Following the termination of the Agreement, but consistent with the intent and purpose of the Agreement, District No. 1 shall apply the Existing Debt Service Revenue received by it from the District for the limited purpose of funding new construction and/or new reimbursement obligations for Regional Public Improvements that consist of, or are related to, sanitary sewer infrastructure.

## VII. ANNUAL REPORT

### A. General

The District shall be responsible for submitting an annual report to the Director of the City's Budget Department no later than August 1 of each year following the year in which this Service Plan is approved. ~~The District may cooperate in the creation and submittal of the report, provided the presentation of information in the report clearly identifies the applicable information pertaining to the District.~~

### B. Reporting of Significant Events

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.
2. Intergovernmental agreements with other governmental entities, either entered into or proposed as of December 31 of the prior year.
3. Copies of the District's rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves the District's Regional Public Improvements as of December 31 of the prior year.
5. Status of the District's construction of the Regional Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.
7. The assessed valuation of the District for the current year.
8. Current year budget including a description of the Regional Public Improvements to be constructed in such year.
9. Audit of the District financial statements for the year ending December 31 of the previous year prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.
10. Notice of any uncured events of noncompliance by the District under any Debt instrument, which continue beyond a 90-day period.
11. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a 90-day period.

12. Copies of any Certifications of an External Financial Advisor provided as required by the Privately Placed Debt Limitation provision.

### **VIII. DISSOLUTION**

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file ~~petitions~~ [a petition](#) in the appropriate District Court for dissolution pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

### **IX. DISCLOSURE TO PURCHASERS**

The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the ~~District's~~ [District's](#) authority to impose and collect rates, fees, tolls and charges. The form of notice shall be substantially in the form of Exhibit E hereto; provided that such form may be modified by the District so long as a new form is submitted to the City prior to modification. Within 90 days of approval of this Service Plan, the District will record the approved Disclosure form with the El Paso County Clerk and Recorder against all property included in the ~~Initial~~ District Boundaries and provide a recorded copy to the City Clerk's Office.

### **X. CONCLUSION**

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., and Section 122-35 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
5. Adequate service is not, and will not be, available to the area through the City or County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special district is to be located and each municipality which is an interested party under Section 32-1-204(1), CRS.

7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8. The proposal is in compliance with any duly adopted City, regional or State long-range water quality management plan for the area.

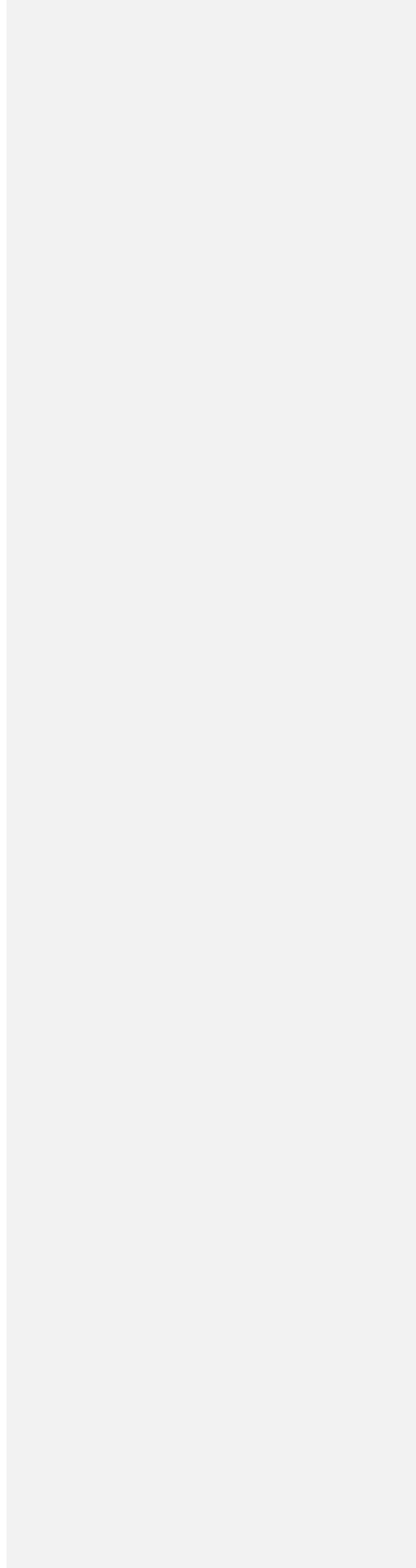
9. The approval of this Service Plan is in the best interests of the area proposed to be served.

~~It is also submitted that this Service Plan is required under the Agreement, or otherwise satisfies the requirements of the Agreement.~~



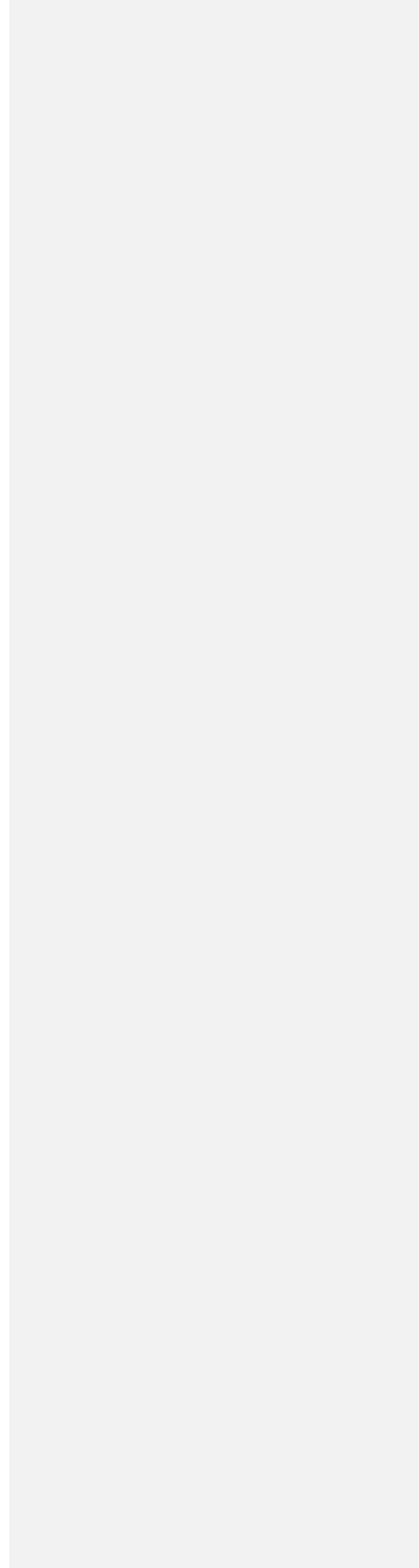
**EXHIBIT A**

Legal ~~Descriptions~~ Description



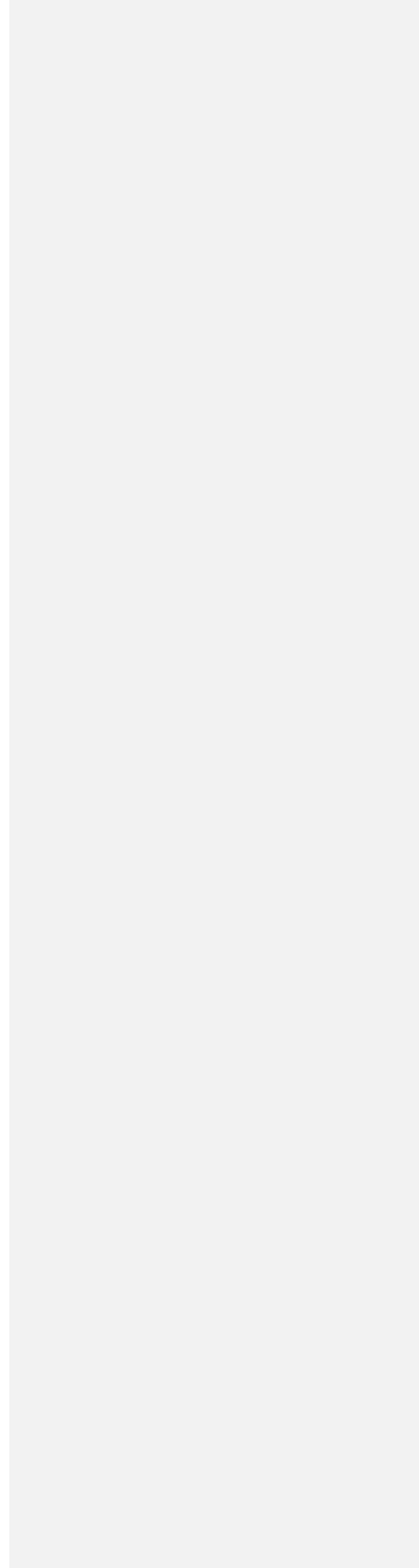
**EXHIBIT B**

Colorado Springs Vicinity Map



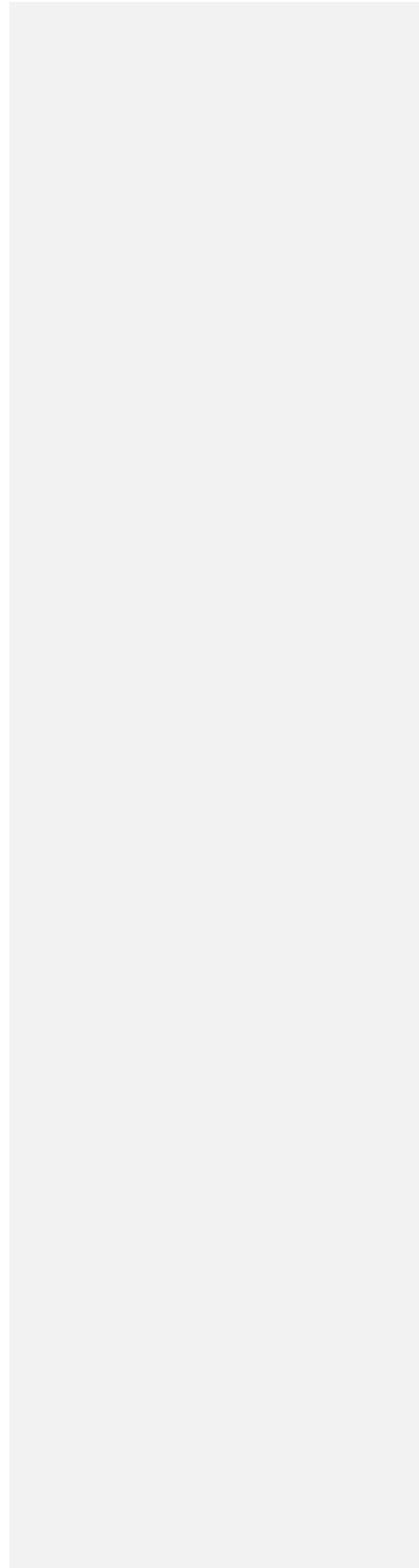
**EXHIBIT C-1**

~~Initial~~ District Boundary Map



**EXHIBIT C-2**

~~Inclusion Area Boundary Map~~



**EXHIBIT D**

Description of Permitted Services to be Provided by the District

Any utilities or utility-related Regional Public Improvements provided by the District will be conveyed to the City or Springs Utilities. The District will provide no utility services. ~~It is intended solely to be a source of financing for improvements to be constructed by Colorado Springs Utilities and Banning Lewis Metropolitan District No. 1.~~

**NOTICE OF SPECIAL DISTRICT DISCLOSURE**

Name of District:	Banning Lewis Ranch Regional Metropolitan District
Contact Information for District:	<del>Grimshaw &amp; Harring, P.C.</del> <del>Spencer Fane LLP</del> 1700 Lincoln Street, Suite <del>3800</del> 2000 Denver, CO 80203 (303) 839-3800 (main line) (303) 839-3838 (facsimile)
Type of District: (i.e. if dual or three districts concept - insert language regarding limited rights of property owners)	Metropolitan district organized pursuant to CRS § 32-1-101 <i>et seq.</i> <del>The District will serve as a financing tool for certain Public Improvements within the Project, in association with the Agreement entered into by the Project's Developers and Colorado Springs Utilities.</del>
Identify District Improvements Financed by Proposed Bonds (List by major categories, i.e. Roads – Powers Blvd):	<del>Wastewater treatment facilities: Regional Plant, On Site Interceptors, Off Site Interceptors, valves, pipelines, vaults, meters, manholes, and related facilities.</del> <u>Water; Storm Sewer; Sanitation and Wastewater Treatment; Street Improvements; Traffic Safety Protection</u>
Identify Services/Facilities Operated/Maintained by District:	All facilities will be conveyed to and operated by <u>the City or Springs Utilities</u> upon completion.
Mill Levy Cap: <i>(Note: This District may or may not be certifying a mill levy at the time of your purchase. Please verify by contacting the District.)</i>	District: Maximum Debt Mill Levy: nine (9) mills Maximum Operating Mill Levy: one (1) mill  If there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitations set forth above may be increased or decreased to reflect such changes, so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, <del>2007</del> 2010, are neither diminished nor enhanced as a result of such changes.
Authorized Debt of the District per Service Plan:	<del>Intergovernmental Agreements with District No. 1 obligating the certification of an aggregate ten mill levy, adjusted as described above.</del> <u>N/A</u>
Voter Authorized Debt per Election:	\$600,000,000.00
District Boundaries:	See attached legal description and map

**Exhibit** EXHIBIT E (Page 2 of 2)

Sample Mill Levy Calculation for a Residential Property

**Assumptions:**

Actual market value (as determined by Assessor) is \$250,000

Mill levy is 9 mills

**Calculation:**

$\$250,000 \times .0796 = \$19,900$  (Assessed Valuation)

$\$19,900 \times .009 \text{ mills} = \$179.00$  per year in taxes

**owed solely to the Special District**

~~$\$12,200 \times .009 \text{ mills} = \$112.00$  per year in taxes~~

owed solely to the Special District