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<p>DISTRICT COURT, EL PASO COUNTY, COLORADO</p> <p>Court Address: Judicial Building 20 East Vermijo Avenue Colorado Springs, Colorado 80903</p>	<p>RECORDER NOTE: Legibility of writing, typing or printing UNSATISFACTORY in portions of this document when received.</p> <p>▲ COURT USE ONLY ▲</p> <p>Case No. 02 CV 3077</p> <p>Div.: 3                  Ctrm.:</p>
<p>IN RE THE ORGANIZATION OF THE UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT, EL PASO COUNTY, COLORADO</p> <p>By the Court</p>	
<p align="center"><b>ORDER AND DECREE TO CREATE DISTRICT</b></p>	

THIS MATTER coming for consideration by the Court, and it appearing that the election, held on the 5th day of November, 2002, at which there was submitted the matter of the organization of Upper Cottonwood Creek Metropolitan District (the "District"), City of Colorado Springs, County of El Paso, State of Colorado, the election of Directors for such District, the questions necessary to implement the provisions of Section 20 of Article X of the Colorado Constitution, and the question necessary to implement the provisions of Section 11 of Article XVIII of the Colorado Constitution as applied to the new special district, was duly held by the Judges of Election appointed as specified in the Order of Court entered on the 9th day of October, 2002;

AND IT FURTHER appearing that the required Notice of Organizational Election was duly published in compliance with the aforementioned Order in the Black Forest News, a newspaper of general circulation in the proposed District, by publication as defined in Section 32-1-103(15) and 1-5-207(2), C.R.S. as shown in the Publisher's Affidavit on file in this proceeding, and further that written notice was duly posted at the office of the Designated Election Official at least ten days prior to the election, all in compliance with law, and the Order of this Court; that Notice was mailed to "All Registered Voters" at the address of one or more active Colorado registered electors of the proposed District as required by Section 20(3)(b) of Article X of the Colorado Constitution and relevant law; and that all of said ballots were cast at said election by eligible electors of the proposed District who were registered to vote pursuant to the Uniform Election Code of 1992 (parts 1 to 13 of Title 1, C.R.S.), as amended, and who either

had been residents of the proposed District for not less than thirty (30) days, or who or whose spouse own taxable real or personal property situated within the boundaries of the proposed District, whether said person resides within the proposed District or not, or who are obligated to pay taxes under a contract to purchase taxable property within the boundaries of the proposed District. The following ballots were cast on the question of organization of the proposed District:

**BALLOT QUESTION NO. 5A**

“Shall the Upper Cottonwood Creek Metropolitan District be organized?”

BALLOT QUESTION 5A	NUMBER OF VOTES CAST
Yes	8
No	0

That the following qualified persons were duly elected as directors of the District for the indicated terms following the year of organization of the District:

NAME	TERM
Kent A. Petre	Until the next regular election, 2004
Carolyn S. Jenkins	Until the next regular election, 2004
David D. Jenkins	Until the second regular election, 2006
Ralph A. Braden	Until the second regular election, 2006
Christopher S. Jenkins	Until the second regular election, 2006

That the following ballot issues were approved as submitted at said election pursuant to Section 32-1-803.5, C.R.S. and Const. Colo. Art. X, Sec. 20, receiving the votes indicated:

**BALLOT ISSUE 5B**

“SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT DEBT BE INCREASED \$52,280,000 WITH A REPAYMENT COST OF NOT MORE THAN \$209,120,000; AND SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT TAXES BE INCREASED \$17,426,666 ANNUALLY, OR BY SUCH LESSER ANNUAL AMOUNT AS MAY BE NECESSARY TO PAY THE DISTRICT'S DEBT: SUCH DEBT TO CONSIST OF EXECUTING, DELIVERING AND PERFORMING A “DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT” (“AGREEMENT”) HAVING A TERM IN

EXCESS OF ONE YEAR, TO BE ENTERED INTO BY AND AMONG UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT AND OLD RANCH METROPOLITAN DISTRICT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATING, MAINTAINING, OR OTHERWISE PROVIDING SYSTEMS, OPERATIONS, AND ADMINISTRATION FOR THE PURPOSE OF CARRYING OUT THE OBJECTS AND PURPOSES FOR WHICH THE DISTRICT WAS ORGANIZED, TOGETHER WITH ALL NECESSARY, INCIDENTAL AND APPURTENANT PROPERTIES, CAPITAL IMPROVEMENTS, FACILITIES, EQUIPMENT, PERSONNEL, CONTRACTORS, CONSULTANTS, AND COSTS AND ALL LAND, EASEMENTS, AND APPURTENANCES NECESSARY OR APPROPRIATE IN CONNECTION THEREWITH, SUCH COSTS TO BE PAID AT ONE TIME OR FROM TIME TO TIME PURSUANT TO THE AGREEMENT AND TO MATURE OR BECOME PAYABLE IN FULL IN NOT MORE THAN 40 YEARS AFTER THE EFFECTIVE DATE OF THE AGREEMENT, TO BE PAID FROM ANY LEGALLY AVAILABLE MONEYS OF THE DISTRICT, INCLUDING THE PROCEEDS OF AD VALOREM PROPERTY TAXES; SUCH TAXES TO CONSIST OF AN AD VALOREM MILL LEVY IMPOSED ON ALL TAXABLE PROPERTY WITHIN THE DISTRICT, WITHOUT LIMITATION OF RATE OR WITH SUCH LIMITATIONS AS MAY BE DETERMINED BY THE BOARD OR PURSUANT TO THE AGREEMENT, AND IN AMOUNTS SUFFICIENT TO PRODUCE THE ANNUAL INCREASE SET FORTH ABOVE OR SUCH LESSER AMOUNT AS MAY BE NECESSARY, TO BE USED SOLELY FOR THE PURPOSE OF PAYING THE AMOUNTS REQUIRED UNDER THE AGREEMENT; AND SHALL THE PROCEEDS OF ANY SUCH TAXES, ANY OTHER REVENUE USED TO PAY SUCH AMOUNTS, AND INVESTMENT INCOME THEREON, CONSTITUTE VOTER-APPROVED REVENUE CHANGES AND BE COLLECTED AND SPENT BY THE DISTRICT WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?"

BALLOT ISSUE 5B	NUMBER OF VOTES CAST
Yes	8
No	0

BALLOT ISSUE 5C

"SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT DEBT BE INCREASED \$52,280,000, WITH A REPAYMENT COST OF NOT MORE THAN

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\$209,120,000; AND SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT TAXES BE INCREASED \$17,426,666 ANNUALLY, OR BY SUCH LESSER ANNUAL AMOUNT AS MAY BE NECESSARY TO PAY THE DISTRICT'S DEBT: SUCH DEBT TO CONSIST OF GENERAL OBLIGATION BONDS OR OTHER OBLIGATIONS ISSUED FOR THE PURPOSE OF REFUNDING, PAYING, OR DEFEASING, IN WHOLE OR IN PART, BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS OF THE DISTRICT; SUCH DEBT TO BEAR INTEREST AT A RATE TO BE DETERMINED BY THE DISTRICT, WHICH INTEREST RATE MAY BE HIGHER THAN THE INTEREST RATE BORNE BY THE OBLIGATIONS BEING REFUNDED; SUCH INTEREST TO BE PAYABLE AT SUCH TIME OR TIMES AND WHICH MAY COMPOUND ANNUALLY OR SEMIANNUALLY AS MAY BE DETERMINED BY THE DISTRICT, SUCH DEBT TO BE ISSUED AT ONE TIME OR FROM TIME TO TIME, TO BE PAID FROM ANY LEGALLY AVAILABLE MONEYS OF THE DISTRICT, INCLUDING THE PROCEEDS OF AD VALOREM PROPERTY TAXES; SUCH TAXES TO CONSIST OF AN AD VALOREM MILL LEVY IMPOSED ON ALL TAXABLE PROPERTY WITHIN THE DISTRICT, WITHOUT LIMITATION OF RATE OR WITH SUCH LIMITATIONS AS MAY BE DETERMINED BY THE BOARD, AND IN AMOUNTS SUFFICIENT TO PRODUCE THE ANNUAL INCREASE SET FORTH ABOVE OR SUCH LESSER AMOUNT AS MAY BE NECESSARY, TO BE USED SOLELY FOR THE PURPOSE OF PAYING THE PRINCIPAL OF, PREMIUM IF ANY, AND INTEREST ON THE DISTRICT'S DEBT; AND SHALL THE PROCEEDS OF ANY SUCH DEBT AND THE PROCEEDS OF SUCH TAXES, ANY OTHER REVENUE USED TO PAY SUCH DEBT, AND INVESTMENT INCOME THEREON, BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AS IT EXISTS OR AS THE SAME MAY BE AMENDED AS DESCRIBED ABOVE, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?"

BALLOT ISSUE 5C	NUMBER OF VOTES CAST
Yes	8
No	0

**BALLOT ISSUE 5D**

"SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT TAXES BE INCREASED \$1,700,000 ANNUALLY, OR BY SUCH LESSER ANNUAL AMOUNT AS

MAY BE NECESSARY TO PAY THE DISTRICT'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES: SUCH TAXES TO CONSIST OF AN AD VALOREM MILL LEVY IMPOSED WITHOUT LIMITATION OF RATE OR WITH SUCH LIMITATIONS AS MAY BE DETERMINED BY THE BOARD, AND IN AMOUNTS SUFFICIENT TO PRODUCE THE ANNUAL INCREASE SET FORTH ABOVE OR SUCH LESSER AMOUNT AS MAY BE NECESSARY, TO BE USED FOR THE PURPOSE OF PAYING THE DISTRICT'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON CONSTITUTE VOTER-APPROVED REVENUE CHANGES AND BE COLLECTED AND SPENT BY THE DISTRICT EACH YEAR WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR SECTION 29-1-301, COLORADO REVISED STATUTES?"

BALLOT ISSUE 5D	NUMBER OF VOTES CAST
Yes	8
No	0

BALLOT ISSUE 5E

"SHALL UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT, FOR THE PURPOSES OTHER THAN ENTERPRISES, AND AS A VOTER-APPROVED REVENUE CHANGE, BE AUTHORIZED TO COLLECT, RETAIN, AND SPEND WHATEVER AMOUNT IS COLLECTED ANNUALLY FROM ANY REVENUE SOURCES INCLUDING, BUT NOT LIMITED TO, FEES, CHARGES, GRANTS, OR ANY OTHER RATE, TOLL, PENALTY, INCOME, OR CHARGE IMPOSED, COLLECTED, OR AUTHORIZED BY LAW TO BE IMPOSED OR COLLECTED BY THE DISTRICT, AND SHALL SUCH REVENUES BE COLLECTED AND SPENT BY THE DISTRICT WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?"

BALLOT ISSUE 5E	NUMBER OF VOTES CAST
Yes	8
No	0

BALLOT QUESTION 5F

"Shall the present and future directors of Upper Cottonwood Creek Metropolitan District be authorized to serve more than two consecutive terms of office notwithstanding the limitation on terms of office provided for by Article XVIII, Section 11 of the Colorado Constitution?"

BALLOT QUESTION 5F	NUMBER OF VOTES CAST
Yes	8
No	0

And it further appearing that the election was held in accordance with Part 8 of Article 1 of Title 32, C.R.S.;

And it further appearing that all of the provisions of law, and more particularly all of the requirements of Title 32, Article 1, Part 3; and Title 1, Parts 1 to 13, Colorado Revised Statutes, as amended, have been complied with, met and performed, in the organization of the District;

And the Court being fully advised in the premises, hereby ORDERS AND DECREES that:

The District has been duly and regularly organized and shall be known as "Upper Cottonwood Creek Metropolitan District," in the City of Colorado Springs, County of El Paso, State of Colorado. The organization of the Upper Cottonwood Creek Metropolitan District shall be effective as of the date of this Order as set forth below.

Said District shall be a quasi-municipal corporation and political subdivision of the State of Colorado with all the powers thereof. The facilities, services, programs, and financial arrangements of the District shall conform as far as practicable to the approved Service Plan and Resolution of the City Council of the City of Colorado Springs, El Paso County, Colorado. The approved Service Plan and Resolution of Approval required by Title 32, Article 1, Part 2, Colorado Revised Statutes, as amended, previously filed in the within action shall be and the same are hereby incorporated by reference in this Order, and may be amended in the future as provided by law.

In accordance with Section 32-1-305.5(5), C.R.S., by delegating the task to the District, the Clerk of the Court shall issue certificates of election for the directors elected. The Court finds that the ballot issues and ballot questions set forth above passed.

Thressa A. Sholdt El Paso Cty, CO  
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The District consists of approximately 1,650 acres located entirely within the City of Colorado Springs, El Paso County, Colorado, and is more particularly described as provided in **Exhibit A**, attached hereto and incorporated herein by reference.

The Board of Directors shall take such steps and proceedings as the needs of the District require. Within thirty (30) days after the date hereof, the District shall transmit to the County Clerk and Recorder of El Paso County, Colorado, to the Division of Local Government, and to the County Assessor of El Paso County, certified copies of this Order and Decree, with the Resolution of the City Council of the City of Colorado Springs, Colorado, appended hereto.

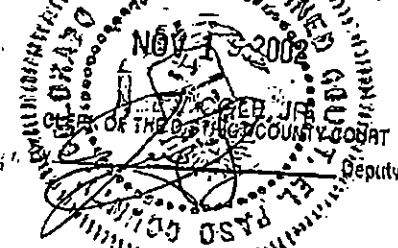
DONE IN COURT this 14 day of November, 2002.

BY THE COURT:

THOMAS K KANE  
JUDGE

District Court Judge

State of Colorado, County of El Paso  
Certified to be a true and correct  
copy of the original in my custody.





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**EXHIBIT "A"**

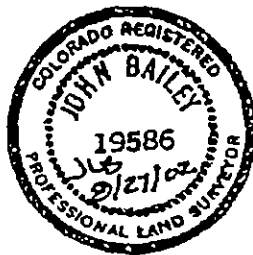
**Upper Cottonwood Creek Metropolitan District**

A tract of land located in Sections 30 and 31 in Township 12 South, Range 65 West, and Sections 25 and 36 in Township 12 South, Range 66 West of the 6<sup>th</sup> P.M., in El Paso County, Colorado, more particularly described as follows:

Said Section 30, except the Northerly and Easterly 30 feet thereof; the North one-half and the North one-half of the South one-half of said Section 31, except the Easterly 30 feet thereof; the East one-half of said Section 25, except the Northwest one-quarter of the Northeast one-quarter and the Easterly 325 feet of the Northerly 30 feet thereof; the Northeast one-quarter and the North one-half of the Southeast one-quarter of said Section 36, County of El Paso, State of Colorado.

Excepting there from a tract of land located in a portion of the Northeast one-quarter of the Northeast one-quarter (NE ¼ NE ¼) of Section 30, Township 12 South, Range 65 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, more particularly described as follows:

COMMENCING at a 2" O.D. iron pipe at the Northeast corner of said Section 30, from which a 3/4" aluminum cap by PLS 4842 at the North ¼ corner of said Section 30 bears S89°16'51"W a distance of 2639.19 feet and is the basis of bearings used herein; thence S89°16'51"W on the North line of the Northeast one-quarter (NE ¼) of said Section 30, a distance of 50.00 feet to a point thirty (30) feet Westerly as measured perpendicular to the East line of said NE ¼; thence S00°03'08"E parallel with said East line, a distance of 50.00 feet to a point thirty (30) feet Southerly as measured perpendicular to the North line of said NE ¼; thence continuing S00°03'08"E parallel with said East line, a distance of 729.59 feet to the POINT OF BEGINNING; thence continuing S00°03'08"E parallel with said East line, a distance of 218.56 feet; thence N90°00'00"W a distance of 199.30 feet; thence N00°03'08"W parallel with said East line, a distance of 218.56 feet; thence N90°00'00"E, a distance of 199.30 feet to the POINT OF BEGINNING and containing 1.00 acre of land more or less



Prepared By: Rockwell-Minchow Consultants, Inc.  
 August 27, 2002  
 Project #98-092  
 File 98092exe.doc

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RESOLUTION NO. 144-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO  
SPRINGS, COLORADO  
APPROVING AN INCREASE IN THE LIMITATION OF DISTRICT INDEBTEDNESS UNDER  
CITY OF COLORADO SPRINGS CHARTER § 7-100  
AND  
APPROVING THE JOINT SERVICE PLAN FOR  
UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT  
AND  
OLD RANCH METROPOLITAN DISTRICT

WHEREAS, Charter § 7-100 limits the debt of any district authorized by Colorado statute to ten percent of the total assessed valuation of the taxable property within the district unless approved by at least two-thirds vote of the entire Council; and

WHEREAS, C.R.S. Section 32-1-204.5, provides that no special district shall be organized within a municipality except upon adoption of a resolution approving or conditionally approving the service plan of the proposed district; and

WHEREAS, the City Council held a public hearing on August 27, 2002 regarding the approval of the Service Plan for Upper Cottonwood Creek Metropolitan District and Old Ranch Metropolitan District pursuant to part 2 of article 1 of title 32, C.R.S., and held a hearing regarding approval of authority for the Districts to issue debt up to twenty percent of the total assessed valuation of the taxable property within the Districts; and

WHEREAS, the City Council of the City of Colorado Springs, Colorado has adopted Resolution Number 122-00 titled "Policy Regarding the Use of Districts" providing for certain financial and other limitations on the use of special districts as an available method of financing public infrastructure; and

WHEREAS, the City Council has considered the Joint Service Plan for the proposed Districts and all other testimony and evidence presented at the hearing; and

WHEREAS, it appears that the Joint Service Plan should be approved:

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The City Council hereby determines that all of the requirements of part 2, article 1, title 32, C.R.S., relating to the filing of the Service Plan for Upper Cottonwood Creek Metropolitan

Section 2. The City Council hereby finds and determines:

- (a) There is a sufficient, existing and projected need for organized services in the area to be served by the proposed Districts.
- (b) The existing service in the area to be served by the proposed Districts is not adequate for present and projected needs.
- (c) The proposed Districts are capable of providing economic and sufficient service to the area within their proposed boundaries.
- (d) The area to be included in the proposed Districts has and will have the financial ability to discharge the proposed indebtedness on a reasonable basis.
- (e) The best interests of the public and the health, safety, and welfare of the public will not be harmed by waiving the following provisions of Resolution No. 122-00:
  - (1) Section 1.a (requiring that the purpose of districts be limited to financing and constructing capital improvements having a public purpose or to maintaining special improvements and landscaping within the public right-of-way for which the City would not normally appropriate funds).
  - (2) Section 1.b (requiring districts not to issue debt for any purpose other than capital improvements, with an exception for landscaping and other appurtenances that are in the public right-of-way).
  - (3) Section 1.e (specifying the preference of the City that debt instruments be of sufficient quality to be rated as investment grade).
  - (4) Section 1.l (requiring the approval of bonds and other debt instruments by the City Council).
  - (5) Section 1.p (requiring the service plan to provide that any authorized but unissued debt of the district remaining five years from the date of voter approval be eliminated).
  - (6) Section 1.r (prohibiting an arrangement that would require the City automatically to authorize debt even though the electors of the district may have approved the issuance of the debt).
  - (7) Section 1.s (requiring all public improvements financed through the district to be dedicated to the City).
- (f) Applicant and Colorado Springs Utilities (CSU) an enterprise of the City of Colorado Springs are working on a supplemental agreement relating to the allocation and use of Denver Basin groundwater underlying the Wolf Ranch. This supplemental agreement will clarify and set forth the rights and responsibilities of Applicant, the Districts, and CSU with respect to the withdrawal and use of groundwater pursuant to an Agreement dated June 12, 1987 between the City of Colorado Springs and JVRC. That supplemental agreement has not been concluded. Applicant and CSU shall use their best efforts to execute the supplemental agreement by December 31, 2002.
- (g) The Joint Service Plan provides that the debt of the Districts will be not more than twenty percent of the total assessed valuation of the taxable property within the Districts or less.

Section 3. All resolutions or parts of resolutions in conflict with this resolution are waived.

Section 4. The Joint Service Plan is approved. As a condition of approval, Applicant shall take

the district court to organize the Districts (including the election of the initial board of directors) and (2) holding a TABOR election until the supplemental agreement specified in Section 2(f) is concluded. If the organizational election is successful, petitioners for the organization of the Districts shall not be authorized to obtain an order organizing the Districts, pursuant to Sections 32-1-305(6) and (7), C.R.S. until the supplemental agreement specified in Section 2(f) is concluded. Furthermore, compliance with the supplemental agreement specified in Section 2(f) and the related Agreement dated June 12, 1987 referred to in Section 2(f) is made a term of the Joint Service Plan.

Section 5. The Districts are approved to issue debt up to twenty percent of the total assessed valuation of the taxable property within the Districts.

Section 6. The Joint Service Plan shall be deemed disapproved if the district court has not declared the Districts organized pursuant to C.R.S. § 32-1-305 on or before December 31, 2003.

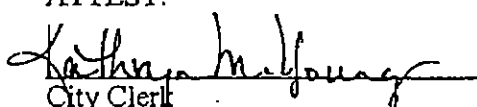
Section 7. In accordance with section 7-100(b) of the City Charter, the improvements authorized for construction under the Joint Service Plan are capital improvements with a public purpose necessary for development for which a debt instrument may be issued.

Section 8. Section II.A of the Joint Service Plan is amended by adding, at the end, the following sentence, "Old Ranch shall contain two or more residential units."

Section 9. This resolution shall be effective upon its approval by City Council.

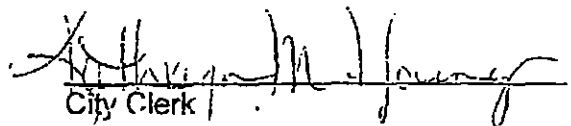
ADOPTED this 27<sup>th</sup> day of August, 2002.

  
Mayor

ATTEST:  
  
City Clerk

I, Kathryn M. Young, CMC, City Clerk of the City of Colorado Springs, Colorado, do hereby certify the foregoing to be a true and correct copy of Resolution No. 144-02 passed by the City Council of the City of Colorado Springs on the 27th day of August 2002, the original of which is on file in the City Clerk's Office.

Dated at Colorado Springs, Colorado, this 17th day of September, 2002.

  
City Clerk

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