

RESOLUTION NO. 88-21

A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS, CITY PROPERTY CONSISTING OF APPROXIMATELY 7 ACRES OF LAND TO THE ENTITY KNOWN AS PROJECT MUSTANG OR ITS ASSIGN ("PURCHASER") IN ACCORD WITH THE CITY OF COLORADO SPRINGS PROCEDURE MANUAL FOR THE ACQUISITION AND DISPOSITION OF REAL PROPERTY INTERESTS, REVISED 2021, AND CITY CODE

WHEREAS, the City of Colorado Springs ("**City**"), by and through its enterprise, the Colorado Springs Municipal Airport ("**Airport**"), is the legal owner of that certain real property and overall mixed-use development project known as Peak Innovation Park located in the City of Colorado Springs, State of Colorado, containing approximately 900 acres of land which is generally described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference (the "**Project**"); and

WHEREAS, Purchaser desires to purchase a portion of the Project consisting of one parcel of land containing approximately 7 acres situated in the southeast quarter of the Project, as generally depicted and described on **Exhibit A** (the "**Property**"); and

WHEREAS, the Airport is the controlling City department of the Property; and

WHEREAS, the Property, in accordance with the *City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests, Revised 2021* ("**RES Manual**"), Chapter 5, § 5.7, has been listed for sale and lease with a real estate consultant since 2006; and

WHEREAS, Peak Innovation Park, which includes the Property, was purchased with Federal Aviation Administration ("**FAA**") grant funds on November 6, 1970, for the purpose of noise abatement and runway approach protection; and

WHEREAS, on June 14, 2006, the FAA issued the Airport a letter releasing Peak Innovation Park land from aeronautical use requirements which frees that land for Airport business park development. See **Exhibit B**; and

WHEREAS, Federal statutes and grant assurances require, among other things, the Airport to remain self-sustainable. This mandate is a primary basis for establishing the business park Project. As a large-scale development endeavor, portions of the Project must be strategically sold while other portions will be leased on a long-term basis. To further this goal, in accordance with the RES Manual § 5.7, the Airport retained consultants to list the Project Property for sale and lease.

WHEREAS, Purchaser initiated discussions with the Airport for the sale of the Property for the purpose of constructing one or more industrial facilities totaling approximately 70,000 to 80,000 square feet (in the aggregate).

WHEREAS, the Airport initiated discussions with the FAA for the release of the Property to the Purchaser as fee simple sale transaction. The FAA verbally expressed agreement that the intended use would be compatible with the Airport and concurs with the sale of the Property to stimulate growth of the Project and the Airport; and

WHEREAS, in accordance with the RES Manual, Chapter 9, the Airport and Real Estate Services will cooperate to obtain an appraisal to determine the fair market value ("FMV") of the Property; and

WHEREAS, the sale of the Property supports economic development and therefore the Airport recommends disposal of the Property to the Purchaser, in accordance with the RES Manual, the City Charter, and the City Code.

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

Section 1. City Council finds that the sale of the approximately 7acre Property, described and depicted in **Exhibit A** is in compliance with the City's RES Manual, the City Charter, the City Code, and all other applicable laws.

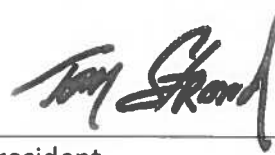
Section 2. In accordance with City Code § 7.7.1804(A), City Council finds that the Property is unneeded for proper conduct of City Affairs therefore authorizes the sale of the Property to Purchaser in accordance with City Code §§ 7.7.1803 through 7.7.1804(A); and the RES Manual, Chapter 5, § 5.7; and Chapter 9: (i) for not less than FMV as established by the City's real estate appraisal process; (ii) subject to the applicable terms and conditions of the RES Manual; (iii) subject to FAA regulations, including all required deed restrictions; and (iv) subject to all contractual terms, conditions, and obligations negotiated by the parties.

Section 4. Pursuant to the RES Manual, Chapter 2, § 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the disposition of the

Property and to obtain the Mayor's signature on the Quitclaim Deed and other necessary documents to convey the Property to Purchaser.

Section 5. City Council finds that Purchaser may create a new, special purpose company with materially the same principles or members for the purpose of finalizing the sale of the Property and therefore City Council grants authority to sell the Property to a newly created special purpose company so long as the principles or members are substantially the same as those of the legal entity known as Project Mustang.

DATED at Colorado Springs, Colorado this 22<sup>nd</sup> day of June 2021.



\_\_\_\_\_  
Council President

Attest:



\_\_\_\_\_  
Sarah B. Johnson, City Clerk

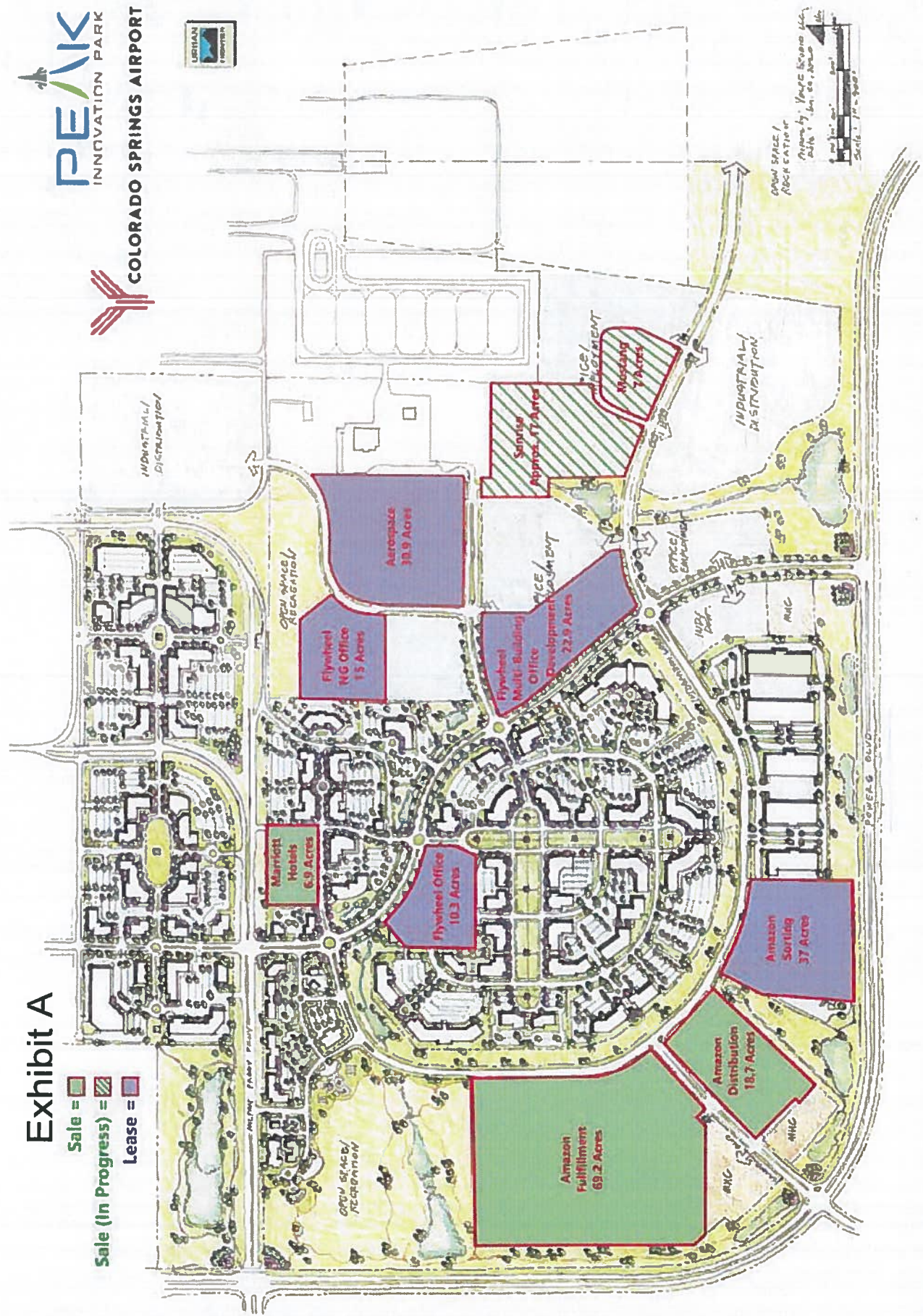


**EXHIBIT A**

(General Depiction of the Project and Property)

# Exhibit A

- Sale =
- Sale (In Progress) =
- Lease =



OPEN SPACE / RECREATION  
Approx. 100 Acres  
Scale: 1" = 100'

**EXHIBIT B**

(June 14, 2006, FAA Letter Releasing the Peak Innovation Park Land from Aeronautical Use requirements)

EXHIBIT B



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Denver Airports District Office  
26805 E. 68<sup>th</sup> Avenue, Room 224  
Denver, Colorado 80249  
303-342-1250; FAX 303-342-1260

June 14, 2006

Mr. Mark Earle, Director of Aviation  
Colorado Springs Airport  
7770 Milton E. Proby Parkway, Suite 50  
Colorado Springs, CO 80916-4900

Dear Mr. Earle:

This is in response to your request dated January 10, 2006, on behalf of the City of Colorado Springs, Colorado for the release of certain land at the Colorado Springs Airport, from restrictions and conditions of agreements with the U.S. Government.

Enclosed are two copies of Instrument of Release, please sign these copies and return one copy to our office.

Sincerely,

A handwritten signature in cursive script that reads "Craig A. Sparks".

Craig A. Sparks, Manager  
Denver Airports District Office

Enclosure

## INSTRUMENT OF RELEASE

**THIS INSTRUMENT OF RELEASE**, made by the United States of America, acting through the Federal Aviation Administration to the City of Colorado Springs, Colorado.

### **WHEREAS,**

The United States, acting by and through the Administrator, Federal Aviation Administration granted Federal Funds for land acquisition and development of the Colorado Springs Municipal Airport, in Grant Agreements numbered 6-08-0010-02 and 06-08-0010-05; and

### **WHEREAS,**

Said Grant Agreements provide that said land is for airports use, and

### **WHEREAS,**

The Administrator of the Federal Aviation Administration has determined that the hereinafter described land no longer serves the purpose for which it was acquired and made subject to certain terms, conditions, reservations and restrictions in said Grant Agreement.

**NOW THEREFORE**, for and in consideration of the City of Colorado Springs, Colorado, expending funds on grant eligible terminal development and the further benefits to accrue to the United States and to civil aviation, the Administrator of the Federal Aviation Administration, on behalf of the United States, hereby releases unto the City of Colorado Springs, Colorado, the hereinafter described real property subject to the following provisions and reservations:

1. That the City of Colorado Springs, Colorado agrees to continue to be bound by and further agrees to reserve unto itself, its successors and assignees in any instruments of transfer conveying title or interest in the hereinafter described real property, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the said airspace and for the use of said airspace for landing on, taking off from, or operating on the Colorado Springs Airport.



2. That the City of Colorado Springs, Colorado expressly agrees for themselves, their successors and assignees to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to a height consistent with 14 CFR Part 77. The City of Colorado Springs pledges that any necessary 7460-1 analysis will be completed prior to commencing vertical construction within the subject parcels. As of the date of this letter, the Federal Aviation Administration recommends that building heights not exceed 6,126 feet above sea level on Section 5 and westerly portion of Section 4; and 6,133 feet above sea level on Section 6 of Parcels 19A-B, 10B, 17, 21A, 20A-B and 21B2-B. However, both parties acknowledge that these allowable heights serve as a guide and buildings heights may exceed these limits or may be restrictive under these limits based on the appropriate 14 CFR Part 77 analysis to be completed prior to vertical construction commencing.
3. That the City of Colorado Springs, Colorado expressly agrees for themselves, their successors and assignees to prevent any use of the hereinafter described real property which would interfere with landing or taking off of aircraft at the Colorado Springs Airport, or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached, the grantor is to reserve the right to enter upon the land released hereunder and to remove the offending structure or object and to cut the offending growth, all of which shall be at the expense of the grantees.

By this Instrument of Release, the United States of America by and through the Administrator, Federal Aviation Administration, hereby releases the real property described below from all the remaining conditions, reservations and restrictions except those reserved herein, contained in the identified Grant Agreements.

The real property is located in the County of El Paso, State of Colorado, and legally described as follows:

All that certain Tract or Parcel of land in Section 31 and the Southwest quarter, Section 32, Township 14 South, Range 65 West of the Sixth Principal Meridian, City of Colorado Springs, El Paso County, Colorado, being described as follows:

Basis of Bearings: The southerly line of the Southwest quarter of Section 4, Township 15 South, Range 65 West, being monumented on the East end by 3 1/2"

aluminum cap stamped "RLS 10377", and at the West end by a 2 1/2" aluminum cap stamped "PLS 17664", being assumed to bear N89°51'15"W, a distance of 2636.20 feet.

Commencing at the South quarter corner to said Section 4, thence N89°51'15"W on the southerly line of said Southwest quarter and the southerly line of said Lot 2, a distance of 1734.20 feet to the point of beginning;

Thence continuing on the southerly line of said Lot 2 the following two (2) courses;

1. N89°51'15"W, a distance of 902.00 feet;
2. S89°34'00"W, a distance of 2618.33 feet;

Thence on the southerly and westerly line of said Lot 2 and the northerly and easterly line of Powers Boulevard as recorded in Book 5307 at page 1472 the following five (5) courses;

1. S89°35'33"W, a distance of 2678.10 feet;
2. S89°03'27"W, a distance of 2650.91 feet;
3. S89°03'28"W, a distance of 818.06 feet to a point of curve;
4. On the arc of a curve to the right, whose center bears N00°56'32"W, having a delta of 90°10'39", a radius of 1895.00 feet, a distance of 2982.53 feet to a point of tangent;
5. N00°45'53"W, a distance of 3410.72 feet;

Thence N00°45'53"W, on the easterly line of said Powers Boulevard and the westerly line of Lot 1 of said Colorado Springs Airport and Industrial Park, a distance of 220.00 feet;

Thence N89°33'22"E, a distance of 2011.64 feet;

Thence N00°27'36"W, a distance of 1536.35 feet;

Thence N89°17'34"E, a distance of 5385.24 feet;

Thence S00°30'05"E, a distance of 1657.01 feet;

Thence N89°30'14"E, a distance of 1640.30 feet;

Thence S00°25'41"E, a distance of 2235.59 feet;

Thence N89°34'07"E, a distance of 1552.85 feet;

Thence N00°27'20"W, a distance of 2148.01 feet to the southerly line of Lot 1, Colorado Springs Airport Filing No. 1 recorded under Reception No. 201029279;

Thence N89°11'37"E, along said southerly line, a distance of 15.91 feet;

Thence N89°11'37"E, along southerly line of Lot 1, Colorado Springs Airport and Industrial Park Filing No. 2, recorded under Reception No. 94150257, a distance of 119.69 feet;

Thence N89°24'29"E along the southerly line of said Lot 1, a distance of 911.07 feet;

Thence S00°02'11"E, a distance of 5317.29 feet to the point of beginning.

Containing a calculated area of 1546.8981 acres.

By its acceptance of this Instrument of Release the City of Colorado Springs, Colorado covenants and agrees for itself, its successors and assigns to comply with and observe all the limitations set forth herein, expressly limited to the above described property.

The Airport Layout Plan and the Exhibit "A" Property Map must be revised to reflect the revised airport boundaries.

IN WITNESS WHEREOF the United States of America has caused this Instrument of Release to be executed as of the 14<sup>th</sup> day of June 2006.

**UNITED STATES OF AMERICA**

**Administrator,**

**Federal Aviation Administration**

By *Eric A Sparks*  
Manager, Denver Airports District Office

ATTEST:

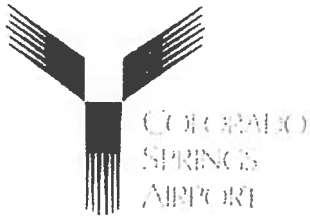
ACCEPTED:

By *Kathryn M. Young*  
City Clerk

By *[Signature]*  
Aviation Director, City of Colorado Springs

APPROVED: \_\_\_\_\_  
City

**APPROVED AS TO FORM**  
*[Signature]* 7/5/06  
**SENIOR ATTORNEY**  
**CITY OF COLORADO SPRINGS**



## INTEROFFICE MEMORANDUM

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**To:** Mark Earle, Director of Aviation

**From:** John Faulkner, Assistant Aviation Director, Development and Planning *JCF*

**Date:** June 29, 2006

**Subject:** Land Release for Business Park

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Per the request that I sent several weeks ago, the FAA has modified the land release agreement to reference Part 77 requirements rather than provide us with static height limits for the Business Park, as the last draft of the release had done. Bill and I concur that the revised release document, as enclosed, should provide us with the necessary guidance and flexibility to develop parcels in the Business Park. The FAA produced the letter with a signature block for the Mayor, however, I spoke to Pat McDivitt on 6/23 and he indicated that you have authority to execute the agreement. Once you have signed it, we will also need the City Clerk, Cindy Conway, to sign it. I have let her know that this will be coming. Accordingly, I recommend that you execute the enclosed land release.

:jcf

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