

RESOLUTION NO. ____-22

A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS CITY PROPERTY TO THE ONE LOGICAL, POTENTIAL PURCHASER, BEING THE DIRECTORS OF PEAK METROPOLITAN DISTRICT NO. 3

WHEREAS, City of Colorado Springs ("City"), by and through its enterprise, the Colorado Springs Municipal Airport (the "Airport"), currently owns, by fee title, 1,600 acres, more or less, of real property situated in Colorado Springs, El Paso County, Colorado, as generally depicted and described on Exhibit A, which is attached and incorporated into this Resolution ("Peak Innovation Park") and is an area of land designated as a mixed use business park development for the benefit of the Airport; and

WHEREAS, the City currently owns, by fee title, the parcel of land to be disposed of in accordance with this Resolution which is 0.114 acres (4,955 square feet), more or less, of real property situated in Peak Innovation Park, as depicted and described on Exhibit B, which is attached and incorporated into this Resolution (the "Property"); and

WHEREAS, on August 16, 2018, the City entered into separate Sale and Purchase Agreements with Garrett Baum, William R. Branyan, Bonner G. Gilmore, Michelle M. McDonald, and J. Sean O'Hearn, the Board of Directors for Peak Metropolitan District Nos. 1, 2, and 3 (collectively, the "Directors"), as later amended on August 15, 2021 (collectively, the "PSA"), for property within the Peak Metropolitan District Nos. 1, 2, and 3, including the original Peak Metropolitan District No 3 Directors' Parcel ("Original MD 3 Directors' Parcel"); and

WHEREAS, Section 7 of the PSA allows the City, upon City Council's and FAA's approval, to substitute an undivided interest in another parcel of property within the Project for the interest in the Property contained therein, and/or may delete from or add to the property at any time during the term of the PSA; provided the result of such a substitution, deletion or addition shall not increase the purchase price without the consent of the purchaser; and

WHEREAS, J. Sean O'Hearn recently resigned as a Director and it is the desire of J. Sean O'Hearn to assign his PSA to Zachary J. Knight; and

WHEREAS, Section 10 of the PSA requires the consent of the City prior to a purchaser assigning or transferring the purchaser's rights or obligations under the PSA.

WHEREAS, on August 28, 2018, by Resolution 95-18, City Council approved the Service Plan for Peak Metropolitan District Nos 1, 2, and 3; and

WHEREAS, on November 13, 2018, City Council, by Resolutions 132-18 through 136-18 and Resolutions 23-19 through 27-19, approved the transfer of land to the Directors, for purposes of establishing a director parcel for Peak Metropolitan District Nos. 1 and 2 and qualifying those certain purchasers as eligible electors in order to serve on those District Board of Directors pursuant to the Special District Act, C.R.S. § 32-1-103(5)(b); and

WHEREAS, on February 12, 2019, by Resolution No. 22-19, City Council approved a First Amendment of the Service Plan for the Peak Metropolitan Districts Nos., 1, 2, and 3; and

WHEREAS, on March 22, 2022, by Resolution No. 28-22, City Council approved a Second

Amendment of the Service Plan for the Peak Metropolitan Districts Nos., 1, 2, and 3; and

WHEREAS, Garrett Baum, William R. Branyan, Bonner G. Gilmore, Michelle M. McDonald, and Zachary J. Knight (collectively the "Purchaser") desire to purchase the Property; and

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

WHEREAS, Peak Innovation Park, which includes the Property, was purchased with Federal Aviation Administration ("FAA") grant funds on December 23, 1977, for the purpose of runway approach protection and airport development, and the FAA, by instrument dated June 14, 2006, released certain real estate, including the Property, for use by the City, subject to certain terms and conditions; and

WHEREAS, the Property has been vacant since its initial acquisition in December of 1977, without interest from any other potential purchaser; and

WHEREAS, the Property sits on the slope of an embankment to a detention pond, which is neither feasible nor economical to develop; and

WHEREAS, no other department or City enterprise has expressed an interest in the Property; and

WHEREAS, City Code § 7.7.1804(B) and Chapter 5 of the City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests, Revised 2021 (the "Real Estate Manual"), authorizes the disposal of surplus property to one logical, potential purchaser upon City Council approval; and

WHEREAS, pursuant to City Code Section § 7.7.1804(B) and Chapter 5, § 5.6 of the Real Estate Manual, the Purchaser is the one logical potential, purchaser for the following reasons:

- Selling the Property furthers the purposes of Peak Metropolitan District No. 3 in compliance with the Special District Act, C.R.S. § 32-1-101 *et seq*;
- The Property, being situated on the slope of an embankment to a detention pond, is not independently developable and has a fair market value that is estimated to be less than the amount required by Chapter 5, § 5.6(d)(v) of the Real Estate Manual (\$100,000.00) for disposal to one logical purchaser; and

WHEREAS, the Airport met with the FAA to discuss releasing the Property for sale to the Purchaser as a fee simple sales transaction, and the FAA agrees the intended use would be compatible with the Airport and thereby concurs with the sale of the Property and will provide a release to facilitate such sales transaction; and

WHEREAS, the City's Real Estate Services department has prepared a Value Finding determining that the fair market value of the Property is \$20,000.00, or less, under the Real Estate Manual, Chapter 9, § 9.2. In compliance with FAA regulations, City Code § 7.7.1803, and the Real Estate Manual, the City shall negotiate a value equal to or greater than fair market value for the sale of the Property; and

WHEREAS, the Airport recommends disposal of the Property to the Purchaser, as the one logical, potential purchaser in accordance with the Real Estate Manual and City Code § 7.7.1804 (B).

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 Property, described and depicted in Exhibit B, complies with the Real Estate Manual, the City Charter, the City Code, and all other applicable laws.

Section 2. In accordance with City Code § 7.7.1804(B) and the Real Estate Manual, Chapter 5, City Council finds, for the reasons set forth in the recitals above, the Purchaser, collectively as directors of the metropolitan district, constitute the one logical, potential purchaser of the Property.

Section 3. In accordance with Chapter 5, § 5.6 of the Real Estate Manual, City Council hereby authorizes the sale of the Property to the Purchaser, for not less than the fair market value as established by the Real Estate Services Department's Value Finding and subject to the applicable terms and conditions of the Real Estate Manual, FAA regulations (including all required deed restrictions), and all contractual obligations negotiated by the parties.

Section 4. Pursuant to the Real Estate 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 to convey the Property to the Purchaser.

Section 5. The Mayor is authorized to sign all necessary amendments to the PSA and other documents for the substitution of property from the Original MD 3 Directors' Parcel to the Property, provided the result of such a substitution, deletion or addition shall not increase the purchase price without the consent of the Purchaser.

Section 6. The Mayor is authorized to sign all necessary documents assigning or transferring J. Sean O'Hearn's rights or obligations under the PSA to Zachary J. Knight.

Section 7. The Mayor is authorized to sign all necessary petitions and other documents for the Inclusion, which includes the Property, into the boundaries of the Peak Metropolitan District No. 3 and for the exclusion of the Original MD 3 Directors' Parcel.

Dated at Colorado Springs, Colorado this _____ day of _____ 2022.

Council President

ATTEST:

Sarah B. Johnson, City Clerk

EXHIBIT A

Depiction of Peak Innovation Park

EXHIBIT B

Depiction of 0.114 Acre Property to be Conveyed