

RESOLUTION NO. ____ – 23

A RESOLUTION AUTHORIZING ACQUISITION OF APPROXIMATELY 562 ACRES AND RECOGNIZING A PARTIAL DONATION

WHEREAS, City of Colorado Springs (the “City”), by and through its enterprise, the Colorado Springs Municipal Airport (the “Airport”), currently owns approximately 1,600 acres, more or less, of real property situated in Colorado Springs, El Paso County, Colorado, which is designated as a mixed use business park development for the benefit of the Airport, rather than for Airport aeronautical/operational use (“Peak Innovation Park”); and

WHEREAS, in order to expand Peak Innovation Park and to control real estate adjacent to operational Airport lands, the Airport has entered into that certain Purchase and Sale Agreement With Phased Acquisitions, dated May 31, 2023, as amended (the “Purchase Agreement”), concerning 562 acres, more or less, situated east of the Airport, west of Marksheffel Road, north of Drennan Road, and being a part of the lands depicted in **Exhibit A**, attached hereto and made a part hereof (the “Overall Property”); and

WHEREAS, the Airport has discussed the proposed acquisition of the 562 acres with the Denver Airport District Office of the Federal Aviation Administration, which supports the acquisition for purposes of controlling noise compatibility, protecting runway approaches, reducing the potential for incompatible residential development, and promoting growth and development consistent with the airport layout plan and master plan, as well as facilitating the Airport system through roadways providing additional terminal access from Marksheffel Road; and

WHEREAS, the future development, sale and/or leasing of the 562 acres will help the Airport to be self-sustaining and promote economic development within the City; and

WHEREAS, the Purchase Agreement contemplates an initial purchase of Parcels 1-3, comprised of 287.516 acres, more or less (the “Initial Acquisition Property”), together with options to purchase Parcels 4-6, as shown in **Exhibit A**; and

WHEREAS, Parcel 2 of the Initial Acquisition Property includes 11.21 acres, more or less, of land for Marksheffel Road (the “Marksheffel Land”), which must be conveyed at no cost to the City “prior to platting or . . . development” under Article IX of the Amended and Restated Banning Lewis Ranch Annexation Agreement, approved by City Council Resolution 38-18, on April 24, 2018; and

WHEREAS, the Airport will acquire the Marksheffel Land subject to the conveyance obligation and, therefore, must convey and transfer the Marksheffel Land to the Public Works Department for roadway use by the City without reimbursement therefore, prior to platting or development by the Airport; and

WHEREAS, pursuant to Chapter 9 of *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests, revised 2021* (the “RES Manual”), the Airport obtained an appraisal for the Overall Property, which determined the fair market value of the individual parcels within the Overall Property, based on the proposed use and division of the property; and

WHEREAS, the fair market value, by appraisal of the individual parcels, ranges from \$1.25 per square foot to \$2.10 per square foot, with an overall negotiated purchase price, based upon the average fair market value per square foot, of \$1.4656 per square foot (the “Initial Purchase Price”); and

WHEREAS, the Purchase Agreement requires the Initial Acquisition Property to be purchased at the Initial Purchase Price and requires options for future parcels to be exercised at the Initial Purchase Price, plus certain escalators, as more particularly set forth in the Purchase Agreement; and

WHEREAS, the Airport and the City’s Real Estate Services Department (“RES”) have followed the RES Manual, as applicable; and

WHEREAS, the Seller desires the conveyance of Parcel 2, which has a fair market value as determined by the Airport’s Base Appraisal, of \$2.10 per square foot to be acknowledged as a partial donation, in accordance with Section 4.4 of the RES Manual; and

WHEREAS, the Purchase Agreement contemplates that future City Council resolutions will be required to recognize donations, if any, based upon updated appraisals, made in conjunction with the exercise of future options; and

WHEREAS, the Purchase Agreement contemplates that the exact acreage of parcels to be purchased will be adjusted based upon surveys; and

WHEREAS, the Airport requests authorization to acquire the Overall Property in phases, according to the terms and conditions of the Purchase Agreement, for the total acquisition amount of \$38,133,774.10, subject to appropriations in future fiscal years.

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

Section 1. City Council finds that purchase of Parcels 1-6 of the Overall Property, as shown in **Exhibit A**, being comprised of approximately 562 acres, in the total acquisition amount of \$38,133,774.10, complies with the City Charter, the RES Manual, the City Code, and all other applicable laws.

Section 2. City Council further finds that the purchase of the 562 acres will support the Airport and economic development within the City.

Section 3. City Council hereby authorizes the Airport's purchase of the Initial Acquisition Property, for the Initial Purchase Price, and authorizes the Airport's purchase of the remainder of the Overall Property for the Initial Purchase Price, together with escalations, under the terms and conditions of the Purchase Agreement.

Section 4. In accordance with Colorado Constitution and Section 7-60 of the City Charter, the approval to purchase herein, and the Airport's obligations under the Purchase Agreement shall not constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by City Council, contrary to any constitutional, statutory, or charter debt limitation.

Section 5. The exercise of options and purchases under the Purchase Agreement in future fiscal years shall be subject to appropriations.

Section 6. In accordance with Section 4.4 of the RES Manual, the City Council hereby accepts the partial donation of Parcel 2 of the Initial Acquisition Property, to the extent the Initial Purchase Price paid for such parcel is less than its fair market value.

Section 7. Pursuant to the RES Manual, Section 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the acquisition of the 562 acres and the acceptance of the partial donation herein and to obtain the signature of the Mayor, and other persons, on instruments required to effect the purchase and acceptance of partial donation authorized herein.

Dated at Colorado Springs, Colorado this ____ day of _____ 2023.

Randy Helms, Council President

ATTEST:

Sarah B. Johnson, City Clerk

EXHIBIT A

(Depiction of Overall Property)

