

RESOLUTION NO. 132 - 25

A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS, CITY PROPERTY CONSISTING OF AN 18.12-ACRE PARCEL TO THE LEGAL ENTITY KNOWN AS OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY, OR ITS ASSIGN

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 1,600 acres of land which is generally described and depicted in Exhibit A attached hereto and incorporated herein by this reference (the "Project"); and

WHEREAS, Opus Development Company, LLC ("Purchaser") desires to purchase a portion of the Project consisting of approximately 18.12 acres, more or less (the "Land" or "Land Parcel"). The Land to be purchased by Purchaser is currently platted Lot 3 ("Lot 3") and a portion of platted Lot 5 (such portion, the "Lot 5 Portion") within that certain Colorado Springs Airport Filing No. 1F recorded on September 20, 2022, at Reception No. 2022715016 in the El Paso County, Colorado Records (the "Plat"). The general legal description of the Land Parcel is set forth in Exhibit B-1 and a depiction of the Land Parcel is attached hereto as Exhibit B-2; and

WHEREAS, the Land Parcel, in accordance with the *City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interest* ("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 Land Parcel, 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 C; and

WHEREAS, no other department or City enterprise has expressed an interest in the Land Parcel; 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 Land Parcel for sale and lease.

WHEREAS, Purchaser initiated discussions with the Airport for the sale of the Land Parcel for the purpose of constructing one or more office and warehousing and distribution facilities of not less than 200,000 square feet in the aggregate, and to construct and complete an access roadway and related improvements on the Lot 5 Portion.

WHEREAS, the Airport initiated discussions with the FAA for the release of the Land Parcel 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 Land Parcel 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 cooperate to determine the fair market value ("FMV") of the Land Parcel; and

WHEREAS, the sale of the Land Parcel supports economic development and therefore the Airport recommends disposal of the Land Parcel to the Purchaser, in accordance with the Real Estate Manual, the City Charter, and the City Code.

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

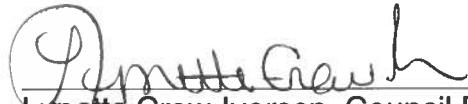
Section 1. City Council finds that the sale of the 18.12 acre Land Parcel, described and depicted in Exhibits B-1 and B-2 is in compliance with the City's Real Estate Manual, the City Charter, the City Code, and all other applicable laws.

Section 2. City Council finds that the Land Parcel is unneeded for proper conduct of City Affairs and therefore authorizes the sale of the Land Parcel to Purchaser in accordance with the Real Estate 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 Real Estate 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 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 Land Parcel and to obtain the Mayor's signature on the Quitclaim Deed and other necessary documents to convey the Land Parcel to Purchaser.

DATED at Colorado Springs, Colorado this 28th day of October 2025.


Lynette Crow-Iverson, Council President

Attest:


Sarah B. Johnson, City Clerk



EXHIBIT A
(General Depiction of the Project)

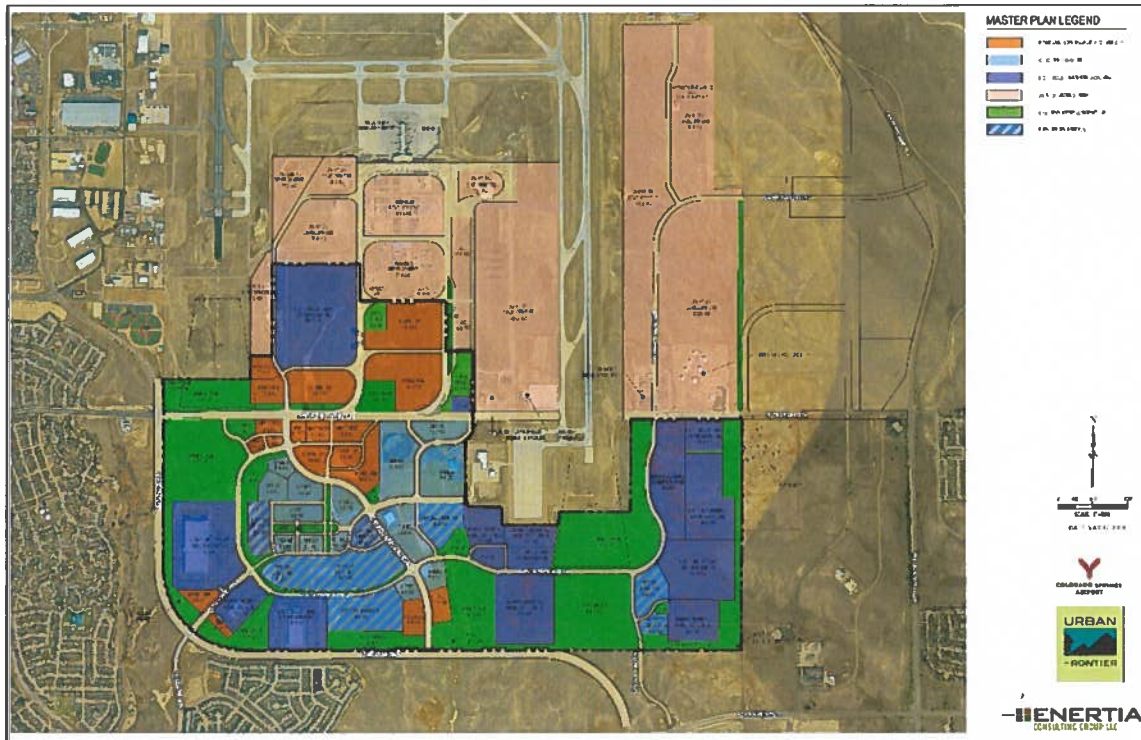


EXHIBIT B-1

(Legal Description of the Land Parcel)

LEGAL DESCRIPTION

Lot 3 and a portion of Lot 5, Colorado Springs Airport Filing No. 1F, a subdivision plat recorded under Reception Number 222715016 of the Records of El Paso County, Colorado located in Section 5, Township 15 South, Range 65 West of the 6th P.M., El Paso County, Colorado, described as follows:

Commencing (POC) at the South X Corner of said Section 5 from which the Southeast Corner of said Section 5 bears S89°55'56"E (Basis of bearing), 2,618.33 feet; thence N03°36'23"W, 2,414.42 feet to a point on a South line of said Lot 5 the TRUE POINT OF BEGINNING;

Thence S89°57'18"W, 594.86 feet along a South line of said Lot 5 and a Southerly line of said Lot 3 to a point of curve to the left;

Thence Southwesterly, 246.25 feet along the arc of said curve to the left and along a Southerly line of said Lot 3 to the Southwest Corner thereof, said arc having a radius of 279.50 feet and a central angle of 50°28'44" and being subtended by a chord that bears S64°42'56"W, 238.36 feet;

Thence N50°31'26"W, 69.39 feet along a Westerly line of said Lot 3;

Thence N11°22'35"W, 686.29 feet along a Westerly line of said Lot 3 to a point of curve to the right;

Thence Northerly, 74.07 feet along the arc of a curve concave to the East and along a Westerly line of said Lot 3, said arc having a radius of 376.00 feet, a central angle of 11°17'11", and being subtended by a chord that bears N05°50'12"W, 73.95 feet;

Thence N00°11'37"W, 263.61 feet along a Westerly line of said Lot 3 to the Northwest Corner thereof;

Thence N90°00'00"E, 115.02 feet along a Northerly line of said Lot 3;

Thence S00°37'09"W, 95.91 feet along a Northerly line of said Lot 3;

Thence S89°30'50"E, 777.25 feet along a Northerly line of said Lot 3;

Thence S00°22'10"W, 414.95 feet along an Easterly line of said Lot 3;

Thence S89°54'46"E, 118.86 feet along a Easterly line of said Lot 3 and the North line of said Lot 5;

Thence S00°02'42"E, 434.21 feet to a point on a South line of said Lot 5 and the TRUE POINT OF BEGINNING.

Area = 789,217 square feet (18.12 acres), more or less.

Randall D. Hency, PLS 27605
For and on behalf of
Polaris Surveying, Inc.
1903 Lelaray Street, Suite 102
Colorado Springs, Co. 80909
719-448-0844



EXHIBIT B-2

(Depiction of the Land Parcel)

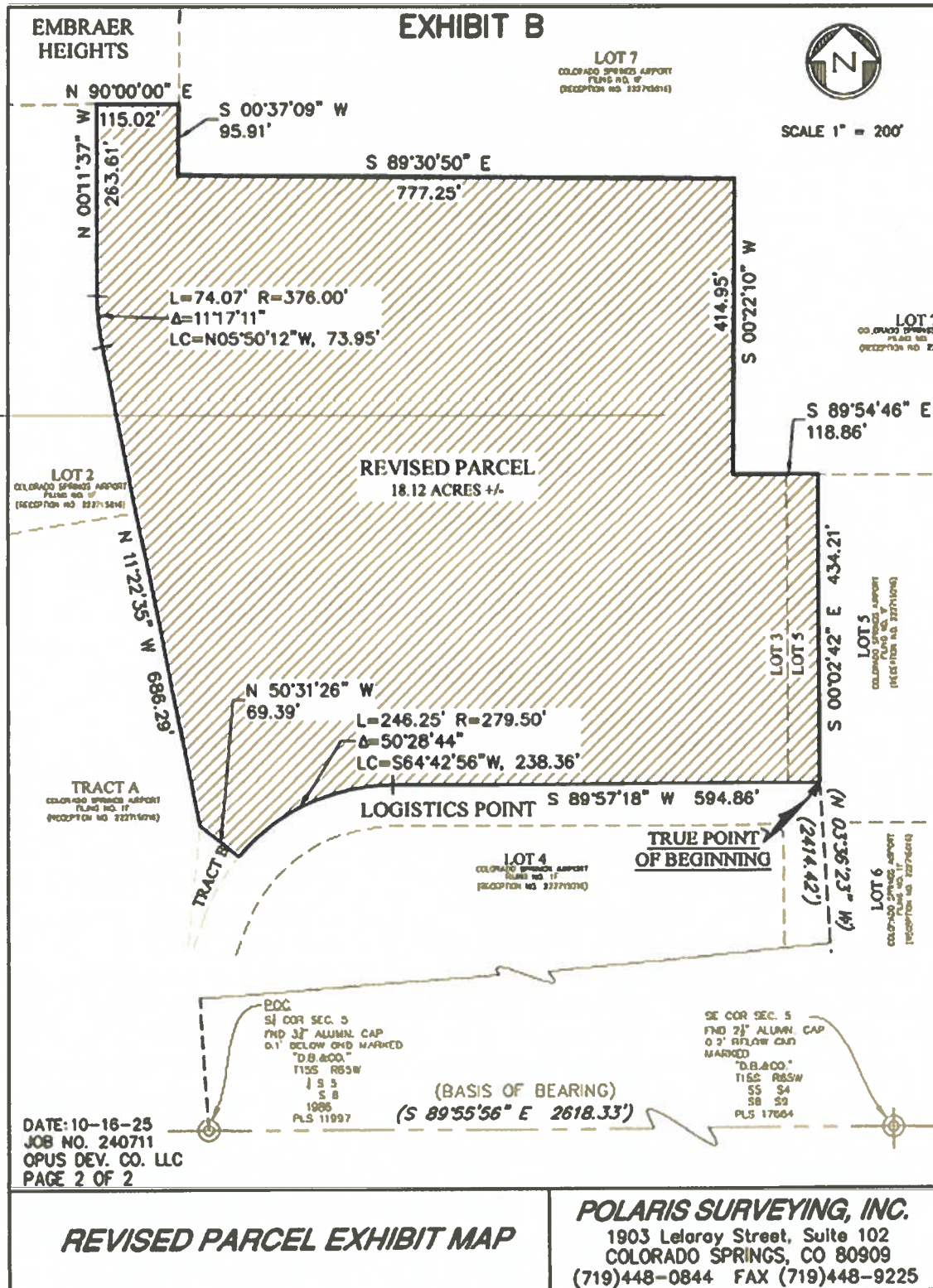


EXHIBIT C

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



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

Denver Airports District Office
26805 E. 68th 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 dark ink, appearing to read "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 14th day of June 2006.

UNITED STATES OF AMERICA

Administrator,

Federal Aviation Administration

By Cheng 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] 7/3/06
SENIOR ATTORNEY
CITY OF COLORADO SPRINGS