

RESOLUTION NO. 131-18

A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS CITY PROPERTY TO PROJECT RODEO ("PURCHASER") AS THE ONE LOGICAL, POTENTIAL PURCHASER

WHEREAS, City of Colorado Springs ("City"), by and through its enterprise, the Colorado Springs Municipal Airport ("Airport"), currently owns, by fee title, 900 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, 70.0 acres, more or less, of real property situated in the southwest quarter of Peak Innovation Park, as generally depicted and described on **Exhibit B**, which is attached and incorporated into this Resolution, (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 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 Property; and

WHEREAS, City Code § 7.7.1804 (B) (2001) and Chapter 5 of *The Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interest* ("Real Estate Manual") authorize the disposal of surplus property to one logical potential purchaser upon City Council approval; and

WHEREAS, the Property has been vacant since its initial acquisition in November, 1970, without interest from any party; and

WHEREAS, in April 2007, the City, via its request for procurement (RFP) process, retained COPT Cresterra Master, LLC ("Cresterra") as its master developer for the Airport business park; and

WHEREAS, Upon mutual termination of its contract with Cresterra, the City, via its RFP process, retained UFCS, Airport, LLC, ("Urban Frontier"), in May 2016, as its master developer for the Airport's business park. Urban Frontier rebranded the business park as "*Peak Innovation Park*"; and

WHEREAS, since 2006, the Property has been marketed by the Airport and both of its master developers; and

WHEREAS, the master developer's primary obligations are to coordinate the development of the Airport business park as a mixed-use business park, including: (i) providing market and economic research and/or analysis for the development of the business park, (ii) providing site work and design standards, (iii) providing marketing and promotion of the Property to and communications with prospective Lessees and/or Buyers, (iv) conducting negotiation of leases and/or sales of the business park property, and (v) providing the facilitation of necessary approvals and coordinate financing on behalf of the City for improvements to the business park property; and

WHEREAS, the development of a business park for the benefit of the Airport is unprecedented within the City and necessarily requires the City to sell a certain percentage of the land to private companies and other organizations on a case-by-case basis and subject to City Council's and the Federal Aviation Administration's ("FAA") approval; and

WHEREAS, Purchaser initiated discussions for the sale of the Property with the Airport for the purpose of constructing a warehouse distribution facility within the Colorado Springs and El Paso County, Colorado area (Warehouse Distribution Facility); and

WHEREAS, pursuant to City Code § 7.7.1804 (B) and Chapter 5, § 5.4 of the Real Estate Manual, Purchaser is the one logical, potential purchaser for the following reasons:

- Purchaser does not desire a leasehold interest in the Property, and without an agreement to sell the Property, Purchaser may seek other opportunities outside of Peak Innovation Park, Colorado Springs, and/or the State of Colorado;
- Selling the Property to Purchaser is anticipated to significantly benefit the Airport and the community due to the development type, projected employment opportunities, and need for immediate infrastructure. These factors provide a high probability of producing a catalyst for further economic development of Peak Innovation Park;
- Selling the Property to Purchaser for the intended use as a Warehouse Distribution Facility fits within the compatible land uses of the Airport;

- Selling the Property to Purchaser, in particular, for the intended use as a Warehouse Distribution Facility on 70 acres, more or less, of land is significant Airport business park development and therefore supports the Airport's reason for requesting the FAA release of the land from aeronautical use requirements;

- There are minimal utilities located within the Property site area and the access roadway, known as Grinnell Road, to the south-western portion of Peak Innovation Park is an undeveloped dirt path. Purchaser has the financial ability to pay the costs of installing main line utilities through Peak Innovation Park and to the Property site. Additionally, Purchaser has the financial ability to pay the costs of constructing a full movement, four-way intersection at Grinnell Road and Powers Boulevard. No other company has contacted the Airport with the ability to provide such large-scale infrastructure improvements which will also benefit multiple adjacent parcels;

- The installation of main line utilities, secondary internal roadways, and a full movement, four-way intersection are anticipated to increase the marketability and land value of Peak Innovation Park, because the development of the Property by Purchaser lowers the infrastructure improvement costs associated with the adjacent parcels and provides for efficient, faster development of adjacent parcels to include the development of "pad-ready" sites;

- Selling the Property to Purchaser for the intended use as a Warehouse Distribution Facility enhances the probability of attracting increased air-cargo services at the Airport, and therefore selling the Property to Purchaser, in particular, creates a strong synergy with the Airport;

- Purchaser is a Fortune 500 corporation and this particular company brought into Peak Innovation Park as an "anchor" development, elevates the Airport's business park prestige and recognition. This, in turn, creates a high probability of increased air travel to/from the Airport;

- The Airport has a federal, statutory obligation to be and remain self-sustainable. For the foregoing reasons and in light of the fact that no other company offering a development of Purchaser's size has contacted the Airport with interest in the Property and the fact that Purchaser's development will likely benefit Peak Innovation Park and the Airport as a whole, selling the parcel to Purchaser affords the Airport with a higher probability of continuing to comply with its federal, statutory obligations and sustaining the long-term viability of the Airport; and

WHEREAS, the Airport met with the FAA to discuss releasing the Property to Purchaser as fee simple sales transaction, and the FAA verbally agreed the intended use would be compatible with the Airport and thereby concurs with the sale of the Property to stimulate growth of Peak Innovation Park and the Airport; and

WHEREAS, the Airport followed the City process for retaining an appraiser, who is in the process of providing the fair market value ("FMV") of the Property. In compliance with FAA regulations, City Code § 7.7.1084(B), and the Real Estate Manual, the City shall negotiate a value equal to or greater than FMV for the sale of the Property; and

WHEREAS, the Airport recommends disposal of the Property to Purchaser, as the one logical, potential purchaser in accordance with the Real Estate Manual.

**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** is in compliance with the City's Real Estate Manual, the City Charter, the City Code, and all other applicable laws.

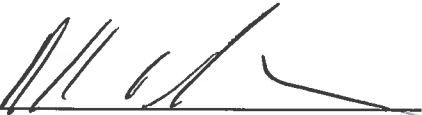
Section 2. In accordance with City Code § 7.7.1804 (B) and the Real Estate Manual, Chapter 5, City Council finds, for the reasons set forth in the recitals above, Purchaser, is the one logical, potential purchaser of the Property.

Section 3. In accordance with Chapter 5, § 5.4 of the Real Estate Manual, City Council hereby authorizes the sale of the Property to Purchaser, for not less than FMV as established by the City's real estate appraisal 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 Purchaser.

Dated at Colorado Springs, Colorado this 13<sup>th</sup> day of November, 2018.

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

ATTEST:

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

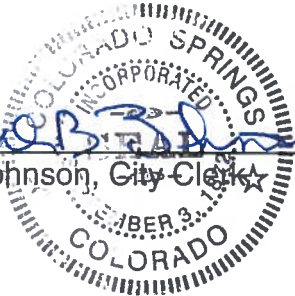
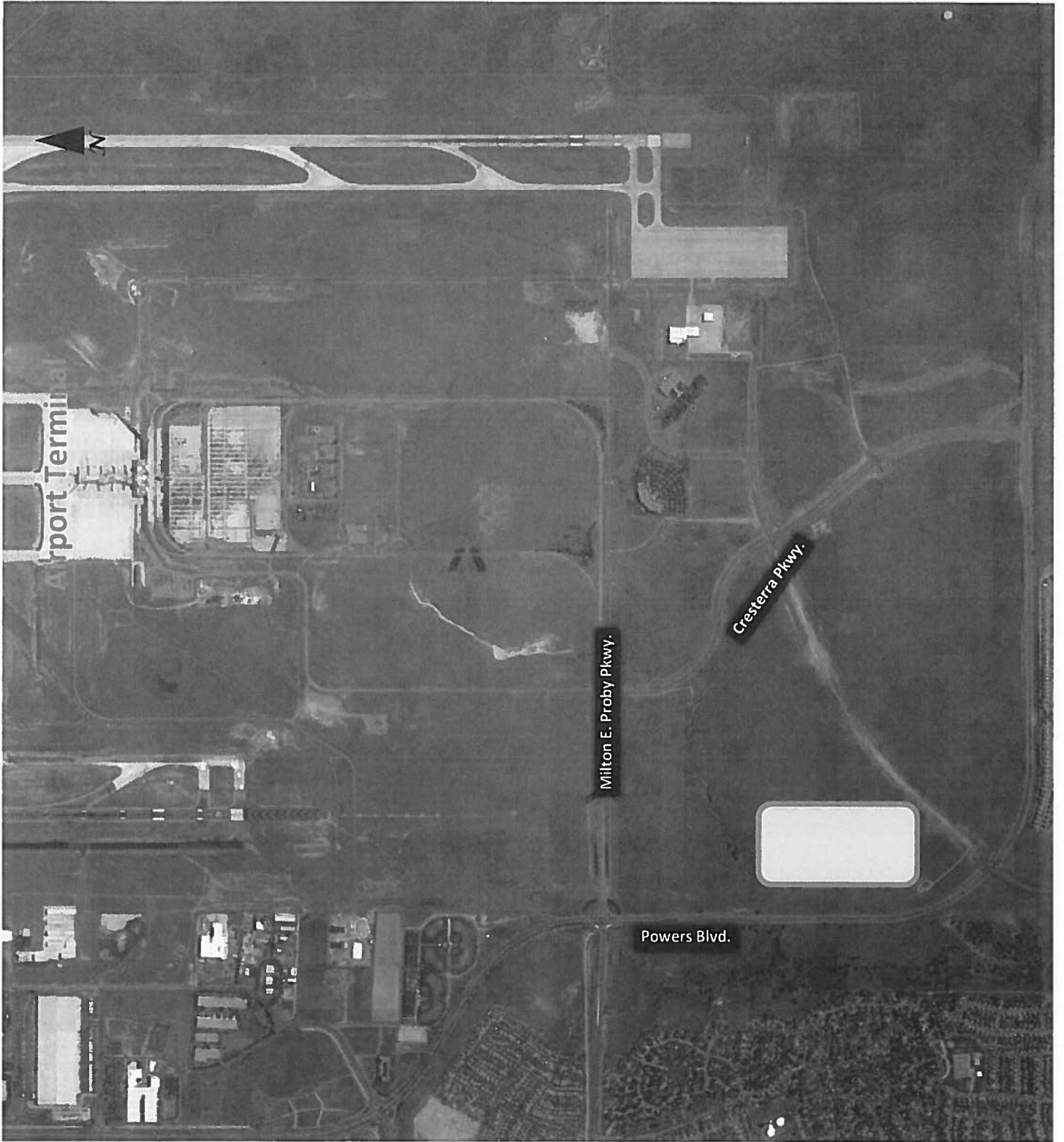




EXHIBIT A





U.S. Department  
of Transportation  
Federal Aviation  
Administration

Denver Airports District Office  
26805 E. 68<sup>th</sup> Avenue, Room 224  
Denver, Colorado 80248  
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

EXHIBIT C



## 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 Southeast 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 *Greg 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**