



# MEMORANDUM

Office of the City Attorney

Registrar No. 020022

Phone: 334-5011/Fax 334-2229

Box 46

TO: Mayor and City Commission

DATE: June 10, 2002  
RESOLUTION

FROM: City Attorney

SUBJECT: Airport Industrial Park Sale of Property  
A Resolution of the City Commission of the City of Gainesville requesting release of certain real property from certain terms, conditions, reservations, obligations and restrictions contained in or referred to in existing grant agreements and instruments of transfer as they may relate to the property for purposes of sale and agreeing to use proceeds of such sale for developing and improving the Gainesville Regional Airport; and providing an immediate effective date.

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Recommendation: The City Commission adopt the proposed resolution.

On April 24, 1995, the Gainesville-Alachua County Regional Airport Authority (GACRAA) and the City of Gainesville entered into a Real Property Purchase Option Agreement with the Kenneth O. Lester Company (KOLC), related to land in the Airport Industrial Park. On April 14, 1997, the agreement was amended to revise the total acreage included in the option agreement and to reduce the number of acres that must be purchased in each option period. KOLC purchased 2.01 acres of the optioned property on July 28, 1998, and subsequently expanded their distribution center. Subsequently, KOLC purchased an additional 3.0 acres of the optioned property. Pursuant to the option agreement, KOLC has exercised their final option to purchase 3.72 additional acres to provide room for further expansion. Prior to completing a sale, a Deed of Release must be obtained from the FAA. As part of that process, resolutions are required from GACRAA and the City of Gainesville requesting the release, identifying the purpose of the sale and agreeing to use the proceeds of such sale for developing and improving the Airport. Following receipt of the Deed of Release from the FAA, the real estate closing will be accomplished.

GACRAA adopted a similar resolution on March 14, 2002, recommending the sale for the same reasons and under the same conditions. Although the City Attorney's Office no longer represents GACRAA, the City Attorney has examined the underlying documentation on behalf of the City as owner of the Airport property, and is able to confirm the Director of Aviation's representations related to this transaction. Based upon this investigation and examination, the City Attorney believes that the transaction and adoption of the proposed resolution would not violate any federal or state laws.

Prepared by:   
Walter Mathews, IV, Assistant City Attorney

Approved and Submitted by:   
Marion J. Radson, City Attorney

MJR:WM:sw

1 RESOLUTION NO. \_\_\_\_\_

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3 PASSED \_\_\_\_\_

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6 A Resolution of the City Commission of the City of Gainesville  
7 requesting release of certain real property from certain terms,  
8 conditions, reservations, obligations and restrictions contained in or  
9 referred to in existing grant agreements and instruments of transfer as  
10 they may relate to the property for purposes of sale and agreeing to  
11 use proceeds of such sale for developing and improving the Gainesville  
12 Regional Airport; and providing an immediate effective date.

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14  
15 WHEREAS, the City Commission for the City of Gainesville, Florida, desires to convey  
16 certain lands located at the Airport Industrial Park, which property was originally acquired from  
17 the United States Government by Instrument of Transfer dated October 15, 1948, recorded in  
18 Deed Book 260, page 239, of the Public Records of Alachua County, Florida, which Instrument  
19 of Transfer restricts the City of Gainesville from selling, leasing, or in any way disposing of said  
20 Airport lands without the prior approval of the United States Government; and

21 WHEREAS, the City of Gainesville desires to sell said certain lands to Kenneth O.  
22 Lester Company d/b/a Performance Food Group (hereinafter referred to as "KOLC"), for  
23 Airport Industrial Park developmental purposes, which purpose will not be in conflict with the  
24 aeronautical purposes of the Airport; and

25 WHEREAS, the United States Government requires submittal of certain information and  
26 requires certain agreements and conditions as a prerequisite to approving the release and sale of  
27 said lands.

28 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE  
29 CITY OF GAINESVILLE, FLORIDA:

1           **Section 1.** The representations made in the May 20, 2002 letter to U.S. Department of  
2 Transportation, Federal Aviation Administration (“ FAA”), Request for Release of Surplus  
3 Property Pursuant of Federal Aviation Regulations, Part 155.11, copy attached as Exhibit A  
4 (without exhibits), are hereby ratified and approved.

5           **Section 2.** The property described in Exhibit “ B”, attached hereto, shall be transferred  
6 and sold to the KOLC for purposes of industrial park development.

7           **Section 3.** The property shall be sold for the appraised fair market value and the net  
8 proceeds of such sale shall be immediately transferred to the Gainesville-Alachua County  
9 Regional Airport Authority for deposit into an interest bearing account where said funds shall  
10 remain until utilized for the purposes of Airport development and improvement.

11           **Section 4.** The City of Gainesville has determined that the parcel is not necessary for  
12 aviation purposes and the release will not affect the operation or maintenance of the Airport as a  
13 public airport, rather that the revenues generated by the sale will significantly enhance the  
14 Airport and its ability to serve the aviation public.

15           **Section 5.** The City of Gainesville shall include in the deed conveying title of the  
16 property to the KOLC provisions as follows:

17           (1) That the City of Gainesville reserves unto itself, its successors and assigns, for the  
18 use and benefit of the public a right of flight for the passage of aircraft in the airspace above the  
19 surface of the real property described in Exhibit B, together with the right to cause in said  
20 airspace such noise as may be inherent in the operations of aircraft, now known or hereafter used,  
21 for navigation of or flight in the said airspace, for use of said airspace for landing on, or taking  
22 off from or operating on Gainesville Regional Airport.

1           (2)     That the City of Gainesville expressly agrees for itself, its successors and assigns,  
2 to restrict the height of structures, objects of natural growth and other obstructions on the  
3 hereinafter described real property to such a height so as to comply with Federal Aviation  
4 Regulations, Part 77.

5           (3)     That the City of Gainesville expressly agrees for itself, its successors and assigns,  
6 to prevent any use of the hereinafter described real property which would interfere with the  
7 landing or takeoff of aircraft at Gainesville Regional Airport or interfere with air navigation and  
8 or communication facilities serving Gainesville Regional Airport, or otherwise constitute an  
9 airport hazard.

10          **Section 6.** The appropriate City of Gainesville officials are hereby authorized to execute  
11 any other documents necessary to effectuate the release of restrictions, the transfer of property, and  
12 the deposit and use of net proceeds of the sale.

13          **Section 7.** This resolution shall be effective immediately upon adoption.

14          **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2002.

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THOMAS D. BUSSING, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
KURT LANNON,  
CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON, CITY ATTORNEY



May 20, 2002

**Exhibit "A"**

Mr. Richard Owen  
U.S. Department of Transportation  
Federal Aviation Administration  
Orlando Airport's District Office  
5950 Hazeltine National Dr., Suite 400  
Orlando, Florida 32822

**Re: Request for Release of Surplus Property  
Pursuant to FAR Part 155.11**

Dear Mr. Owen:

I am writing on behalf of the City of Gainesville, Florida, sponsor of the Gainesville Regional Airport, Alachua County, Florida. The purpose of this letter is to request that the Federal Aviation Administration release surplus airport property from restrictions in an instrument of disposal. Pursuant to FAR 155.11, the following information is submitted:

1. **Identification of Instrument of Disposal:** The property sought to be released was released by the United States of America, pursuant to a quit claim deed dated October 15, 1948. A copy of the quitclaim deed is attached and marked as Exhibit 1. The City of Gainesville is requesting that the property be released from the restrictions concerning disposal so that it may be transferred to Kenneth O. Lester Company d/b/a Performance Food Group (KOLC).
2. **Description of Property:** The real property to be released is described in the attached Exhibit 2 and shall be referred to hereinafter as the "property", together with a copy of the boundary survey marked as Exhibit 3. A map of the airport, reflecting the location of the property sought to be released, is also attached and marked as Exhibit 4.
3. **Condition of Property:** The property is 3.72 acres, more or less, of dry woodland in a partially developed airport industrial park.
4. **Purpose for which Property was Transferred:** The instrument of release, attached as Exhibit 1, restricted the property herein sought to be released for use as "public airport purposes". The deed required that the property be utilized for that purpose until such

*Fly Easy. Fly Gainesville.*

time as the Civil Aeronautics Administration or its successor government agency deemed that release would not interfere with the operation of the remainder of the airport.

The City of Gainesville has determined that the **property** is not necessary for aviation purposes and release will not affect the operation or maintenance of the airport as a public airport but rather that the revenues generated by the sale will significantly enhance the airport and its ability to serve the aviation public.

5. **Nature and Purpose of Release Requested:** The City of Gainesville is requesting a deed of release from the FAA, releasing the **property** from any and all restriction imposed upon it by the government in accordance with attached Exhibit 5, so as to assure that marketable title may be delivered to the purchaser.

6. **Justification for Release:** KOLC is prepared to pay to the City of Gainesville the sum of \$31,000.00 per acre for the **property**, for a total contract price of \$115,500.00, as the fair market value of the **property** sought to be released. The fair market value was determined pursuant to an appraisal by Andrew Santangini. A copy of the appraisal is attached and marked as Exhibit 6. The net proceeds of the sale shall then be transferred to the Gainesville - Alachua County Regional Airport Authority for placement in the airport fund to be used for airport purposes.

7. **Advantage of Sale:** The proceeds of the sale will allow the airport to renovate its airfield facilities.


8. **Other Attachments Included:** (a) Certified copy of the Resolutions of the City Commission of the City of Gainesville and the Gainesville - Alachua County Regional Airport Authority are attached and marked as Composite Exhibit 7; (b) Two scaled drawings showing all airport property and facilities currently obligated for airport purposes is contained in the current AIP/Airport current AIP/Airport Master Plan and incorporated by reference herein.

9. **Conclusion:** The **property** is being purchased pursuant to KOLC's existing option agreement, which agreement requires approval of the sale by FAA within a set period of time. KOLC is proposing to expand its existing warehouse operations and needs this **property** for these purposes.

Yours truly,

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WAYNE BOWERS  
City Manager  
City of Gainesville

  
Richard Crider  
Director of Aviation  
Gainesville-Alachua County  
Regional Airport Authority

Enclosure(s)

MJR:CLH:sw

A portion of Section 23, Township 9 South, Range 20 East, City of Gainesville, Alachua County, Florida; being more particularly described as follows:

Commence at the southeast corner of Lot 11 of Airport Industrial Park, Unit II as per plat thereof recorded in Plat Book "T", page 37 of the Public Records of Alachua County, Florida and run thence South 24°34'43" West, along the northwesterly right-of-way line of NE 40th Terrace (80' R/W), a distance of 371.84 feet to the POINT OF BEGINNING; thence continue South 24°34'43" West along said northwesterly right-of-way line, 68.91 feet to the beginning of a curve, concave southeasterly, having a radius of 626.90 feet; thence southwesterly, along said right-of-way line and along the arc of said curve, through a central angle of 24°21'07", an arc distance of 266.44 feet, said arc being subtended by a chord having a bearing and distance of South 12°24'10" West, 264.44 feet; thence South 89°31'46" West, 430.33 feet; thence South 89°09'04" West, 41.94 feet; thence South 86°00'46" West, 6.45 feet to a point on the east boundary of a drainage right-of-way as shown on said plat of Airport Industrial Park Unit II; thence North 01°03'45" West, along said east boundary, 315.87 feet; thence North 89°01'24" East, parallel to the south boundary of said Lot 11, a distance of 570.09 feet to the POINT OF BEGINNING.

Containing 3.72 acres (162,092 square feet), more or less.

**Exhibit "B"**

**RESOLUTION NO. 02-004**

**PASSED March 14, 2002**

**A Resolution of the Gainesville-Alachua County Regional Airport Authority concerning release of certain real property from certain terms, conditions, reservations, obligations and restrictions contained in or referred to in existing grant agreements and instruments of transfer as they may relate to the property for purposes of sale and agreeing to use proceeds of such sale for developing and improving the Gainesville Regional Airport; and providing an immediate effective date.**

WHEREAS, the City Commission for the City of Gainesville, Florida, desires to convey certain lands located at the Airport Industrial Park, which property was originally acquired from the United States Government by Instrument of Transfer dated October 15, 1948, recorded in Deed Book 260, page 239, of the Public Records of Alachua County, Florida, which Instrument of Transfer restricts the City of Gainesville from selling, leasing, or in any way disposing of said Airport lands without the prior approval of the United States Government; and

WHEREAS, the City of Gainesville desires to sell said certain lands to Kenneth O. Lester Company d/b/a Performance Food Group (KOLC), for Airport Industrial Park developmental purposes, which purpose will not be in conflict with the aeronautical purposes of the Airport; and

WHEREAS, the United States Government requires submittal of certain information and requires certain agreements and conditions as a prerequisite to approving the release and sale of said lands.

**NOW, THEREFORE, BE IT RESOLVED BY THE GAINESVILLE-ALACHUA COUNTY REGIONAL AIRPORT AUTHORITY (GACRAA), that:**

**Section 1.** GACRAA concurs with the determinations and requests made by the City of Gainesville relating to the sale of this property and the use of the proceeds of the sale as reflected in the proposed City of Gainesville Resolution, copy attached as Exhibit A (without exhibits).

**Section 2.** The representations made in the Request for Release of Surplus Property Pursuant of Federal Aviation Regulations, Part 155.11, copy attached as Exhibit B (without exhibits), are hereby ratified and approved.

**Section 3.** The property described in Exhibit "C", attached hereto, shall be transferred and sold to the KOLC for purposes of industrial park development.



**Section 4.** The property shall be sold for the appraised fair market value and the net proceeds of such sale shall be immediately transferred to the Gainesville-Alachua County Regional Airport Authority for deposit into an interest bearing account where said funds shall remain until utilized for the purposes of Airport development and improvement.

**Section 5.** The GACRAA has determined that the parcel is not necessary for aviation purposes and the release will not affect the operation or maintenance of the Airport as a public airport, rather that the revenues generated by the sale will significantly enhance the Airport and its ability to serve the aviation public.

**Section 6.** The City of Gainesville shall include in the deed conveying title of the property to Kenneth O. Lester d/b/a Performance Food Group (KOLC) provisions as follows:

(1) That the City of Gainesville reserves unto itself, its successors and assigns, 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 described in Exhibit C, together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, for use of said airspace for landing on, or taking off from or operating on Gainesville Regional Airport.

(2) That the City of Gainesville expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77.

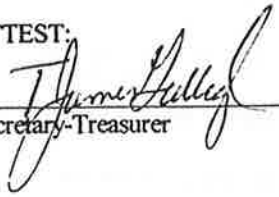
(3) That the City of Gainesville expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with the landing or takeoff of aircraft at Gainesville Regional Airport or interfere with air navigation and or communication facilities serving Gainesville Regional Airport, or otherwise constitute an airport hazard.

**Section 7.** The appropriate GACRAA officials are hereby authorized to execute any other documents necessary to effectuate the release of restrictions, the transfer of property, and the deposit and use of net proceeds of the sale.


**Section 8.** This resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of March, 2002.

ATTEST:

  
Secretary-Treasurer

GAINESVILLE-ALACHUA COUNTY  
REGIONAL AIRPORT AUTHORITY

  
Chair

APPROVED AS TO FORM AND LEGALITY:

