



MEMORANDUM

Office of the City Attorney

000553

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: November 13, 2000
RESOLUTION

FROM: Marion J. Radson, City Attorney

SUBJECT: **SALE OF PROPERTY IN AIRPORT INDUSTRIAL PARK**

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.

RECOMMENDATION: City Commission adopt the proposed resolution.

On April 24, 1995, GACRAA and the City of Gainesville entered into a Real Property Purchase Option Agreement with the Kenneth O. Lester Company (KOLC), related to the 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. Pursuant to the option agreement, KOLC has exercised their option to purchase 3.0 additional acres to provide room for a further expansion. Prior to completing a sale, a Deed of Release must be obtained from 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 FAA, the real estate closing will be accomplished.

GACRAA is scheduled to adopt a similar resolution on November 9, 2000, recommending the sale for the same reasons and under the same conditions. Although the City Attorney's Office no longer represents the Airport Authority, the City Attorney has examined the underlying documentation on behalf of the City as owner of the Airport property, and is able to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:

Charles L. Hauck
Sr. Assistant City Attorney

Approved and
Submitted by:

Marion J. Radson
City Attorney

CLH:bs

RESOLUTION NO. _____

PASSED _____

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.

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 CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA; that:

1 **Section 1.** The representations made in the November 14, 2000 Request for Release of
2 Surplus Property Pursuant of Federal Aviation Regulations, Part 155.11, copy attached as
3 Exhibit A (without exhibits), are hereby ratified and approved.

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

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

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

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

16 (1) That the City of Gainesville reserves unto itself, its successors and assigns, for the
17 use and benefit of the public a right of flight for the passage of aircraft in the airspace above the
18 surface of the real property described in Exhibit B, together with the right to cause in said
19 airspace such noise as may be inherent in the operations of aircraft, now known or hereafter used,
20 for navigation of or flight in the said airspace, for use of said airspace for landing on, or taking
21 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 _____, 2000.

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PAULA M. DELANEY, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

KURT LANNON,
CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY



CITY OF GAINESVILLE

Office of the City Attorney

Marion J. Radson
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November 14, 2000

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 Sir:

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 quit claim 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 transferred 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 3.00 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 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 \$30,500.00 per acre for the **property**, for a total contract price of \$91,500.00, 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 enhance its storage facilities for aircraft.

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,

Marion J. Radson
City Attorney
City of Gainesville

Gene P. Clerkin
Director of Aviation
Gainesville-Alachua County
Regional Airport Authority

Enclosure(s)

MJR:CLH:sw

April 21, 2000

Legal Description

Parcel B-1

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 138.43 feet to the POINT OF BEGINNING; thence continue South 24°34'43" West along said northwesterly right-of-way line, 233.41 feet; thence South 89°01'24" West, parallel to the south boundary of said Lot 11, a distance of 570.09 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, 210.58 feet; thence North 89°01'24" East, parallel to the south boundary of said Lot 11, a distance of 671.09 feet to the POINT OF BEGINNING.

Containing 3.00 acres (130,680 square feet), more or less.

C:\WPWIN60\WPDOCS\KOLA\PARCEL B1.WPD



A handwritten signature in black ink, appearing to read "Robert W. Jones".

