

**ORDINANCE NO. 22-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, AUTHORIZING THE CONVEYANCE OF LOT 2A, LAGAE FAMILY TRUST MINOR DEVELOPMENT FINAL PLAT, 1<sup>ST</sup> AMENDMENT, TO CP COMMERCIAL, LLC**

**WHEREAS**, the City of Castle Pines (“City”) is a home rule municipality with all powers granted by Article XX of the Colorado Constitution and the City’s Home Rule Charter (“City Charter”); and

**WHEREAS**, Section 14.6 of the City Charter requires the adoption of an ordinance to authorize the sale or conveyance of the City’s interest in real property; and

**WHEREAS**, the City entered into that certain Public-Private Partnership Agreement with LS Partners, LLC (“LS Partners”) dated August 5, 2020 (“PPP Agreement”), to initiate and process a rezoning of a tract of land designated as Planning Area 12, legally described as Tract I, Castle Pines Town Center Filing No. 2, recorded in the Clerk and Recorder’s Office of Douglas County, Colorado at Reception No. 2017035484 (“Tract I”) to amend, among other things, the permitted uses of Tract I to allow for single family/multi-family residences; and

**WHEREAS**, through the PPP Agreement, the proceeds from the sale of the Parties’ joint interest in and to Tract I were allocated and used by LS Partners and the City to enable LS and the City to acquire and develop a parcel of land located in the southwest corner of Castle Pines Parkway and Lagae Road comprised of 10.056 acres (the “Lagae Family Parcel”); and

**WHEREAS**, LS Partners processed, and the City Council approved, via Resolution No. 20-12, a subdivision plat titled Lagae Family Trust Minor Development final plat, to create lots within the Lagae Family Parcel for development by LS Partners and the City, respectively; and

**WHEREAS**, in accordance with the terms of the PPP Agreement, LS Partners conveyed Lot 2, Lagae Family Trust Minor Development Plat, now known as **Lot 2A**, Lagae Family Trust Minor Development Final Plat, Amendment No. 1, City of Castle Pines, Colorado recorded in the Clerk and Recorder’s Office of Douglas County at Reception No. 2022055309 on August 15, 2022 (“Lot 2A”) and Lot 4 of the Lagae Family Trust Minor Development Plat to the City for the City’s future construction of a city administrative building (“City Hall”) on Lot 4, and a city recreational facility on Lot 2A (“City Recreation Facility”); and

**WHEREAS**, pursuant to the PPP Agreement, the City agreed to pay, and has paid, its pro rata share of the overall site work associated with the Lagae Family Parcel (“City Contribution”); and

**WHEREAS**, in conjunction with the conveyance of Lot 2A, the City and CP Commercial, LLC, a Colorado limited liability company and a 1031 exchange accommodation entity for LS Partners (“CP Commercial”), entered into that certain Repurchase Option Agreement dated August

25, 2020 (“Repurchase Option Agreement”) wherein the City agreed to commence construction of the City Recreation Facility on Lot 2A on or before August 25, 2025 (“Commencement Obligation”); and

**WHEREAS**, under the Repurchase Option Agreement, if the City fails to meet the Commencement Obligation, the City is obligated to convey Lot 2A to CP Commercial for a purchase price of \$1.00; and

**WHEREAS**, by letter dated August 8, 2022, CP Commercial has requested that the City convey Lot 2A to CP Commercial based on its contention that the City cannot fulfill the Commencement Obligation by August 25, 2025 “as the surrounding lots are being developed and the absence of adequate parking for a Recreation Facility will prohibit the City such a Facility on Lot 2”; and

**WHEREAS**, the City Council has determined that a City Recreation Facility is no longer feasible on Lot 2A because of lack of adequate parking and other constraints on the site; and

**WHEREAS**, the City Council has determined that the availability of business and commercial sites within the City is limited, and, therefore, holding Lot 2A for the duration of the Commencement Obligation (another three years) does not benefit the City’s economic development goals; and

**WHEREAS**, a private recreational use is intended to be located within the Canyons development and is likely to serve the indoor recreational needs of the Castle Pines community; and

**WHEREAS**, as a condition of conveying Lot 2A to CP Commercial, the City Council requires CP Commercial to pay the City its pro rata share of the City Contribution for Lot 2A site work; and

**WHEREAS**, the City Council finds that this Ordinance furthers the public health, safety and welfare of the community by returning a commercial site to the open market for development and paying the City its pro rata share of site work associated with Lot 2A.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO THAT:**

**Section 1. Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

**Section 2. Conveyance of Property Authorized.** The City Council hereby approves execution of a special warranty deed to CP Commercial, LLC, a Colorado limited liability company, (“Deed”), for the conveyance of Lot 2A. The Mayor and City Clerk are hereby authorized to execute the Deed in a form approved by the City Attorney, provided that the Deed shall not be executed or

recorded until CP Commercial reimburses the City for the City's pro rata share of site work associated with Lot 2A.

**Section 3. Severability.** If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 4. Safety Clause.** The City Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

**Section 5. Publication and Effective Date.** The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

**INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 11<sup>th</sup> day of OCTOBER, 2022.**

**READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 25<sup>th</sup> day of OCTOBER, 2022.**



ATTEST:

*Tobi Duffey*

Tobi Duffey, MMC, City Clerk

*Tracy Engerman*

Tracy Engerman (Nov 2, 2022 08:53 PDT)

Tracy Engerman, Mayor

Approved as to form:

*Linda C Michow*

Linda C. Michow, City Attorney

### CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on October 11, 2022; published by title only in the Douglas County News-Press, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on October 25, 2022”; and finally passed and adopted by the City Council on October 25, 2022, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on October 26, 2022.

ATTEST:



Tobi Duffey, MMC, City Clerk

