

THE CITY OF COLORADO SPRINGS PROCEDURE MANUAL FOR THE ACQUISITION AND DISPOSITION OF REAL PROPERTY INTEREST (RES MANUAL)

City Council Adopted by Resolution No. 155-07 on
September 11, 2007

City Council Work Session
December 7, 2015

Background

- Pursuant to City Charter Article I-10, the City of Colorado Springs is authorized to own, acquire, and dispose of real property necessary for the exercise of any of its powers, privileges or functions.
- City Council intended this RES MANUAL to establish standards, procedures and uniform practices for the acquisition and disposition of City-owned real property interests for any program, project, or purpose.
- The Real Estate Services Manager, Project Managers, and Project Engineers use the RES MANUAL when acquiring and disposing of City real property interests to assure compliance with the City real estate acquisition and disposition policy.
- The various chapters in the RES MANUAL provide detail to further explain the process to use to ensure the necessary steps are taken by the appropriate person at the appropriate time.

Process Defined

- The RES MANUAL defines the acquisition and disposition, relocation, appraisal, survey, leasing, licensing, encroachment permits, revocable permits, and other real estate related services provided by City staff.
- City Code Section 7.7.1801 recognizes that certain types of real property acquisitions and dispositions are completed wholly or partially outside the procedures set forth in the RES MANUAL.
 - Plat dedications
 - Acquisitions of land per Annexation Agreements
 - Intergovernmental Agreements
 - Other public purpose conveyances
- City Council authorization by Resolution on key elements
 - Purchases Over \$50,000/One Logical Potential Purchaser/donee

Revision to the RES MANUAL

- Section 2.5 of the RES MANUAL states that the manual may only be amended by City Council Resolution.
- The Revision to the RES MANUAL is necessary to address conflicting language with the City Charter.
- The Revision to the RES MANUAL is necessary to address inconsistencies in real estate practice.

Revision to Chapter 10, Leases and Licenses

- Currently under the RES MANUAL, when a lease is granted for the use of public property, the lease is revocable at any time.
- The State of Colorado defined types of lease tenancies doesn't include a lease as being revocable.
- To remove the revocability provision for leases of City-owned property from the RES MANUAL would set forth that the lease would either expire or terminate by typical default situations.
In the absence of a revocable lease clause a tenant would rely on the terms and conditions of the lease in order to avoid a catastrophic loss of capital investment through the City's use of a revocable clause in the lease.
- Eliminating the revocability of leases of City-owned property will result in a real estate practice similar to other public and private leasing arrangements and will offer certainty for economic development purposes.

Chapter 10, Section 10.2.a

City as Landlord

- 10.2 City as Landlord
- a. Pursuant to City Charter Article 10, the City is authorized to grant temporary or revocable permission to use City-owned property. This permission is ~~is~~ **may be** in the nature of a temporary permit, license, **or** easement, ~~or lease~~ "in, on, above, through or under any street, alley or public place" and is expressly revocable at any time by City Council. **This permission may be in the nature of a lease, provided that the term of such lease does not exceed the limitations in City Charter § 10-60.**
- ~~Strikethrough~~ – Deleted Words
- **BOLD** – New Words/Sentence

Chapter 10, Section 10.2.b.iii

- b.iii. A “lease” is granted for the use of public property that has been designed for commercial or office use, ~~is revocable at any time,~~ is usually limited to a reasonable market term not in excess of twenty-five (25) years and is subject to the procedures in this Manual. There is no right to appeal the City’s grant or denial of a lease.
- ~~Strikethrough~~ – Deleted Words

Chapter 10, Section 10.2.d.iii.3

- d.iii.3. Be ~~subject to City Charter 10-100~~ and limited to an appropriate term in accord with City Charter § 10-60.
- ~~Strikethrough~~ – Deleted Words

Staff Recommendation and Next Step

City Council Regular meeting January 11, 2016

- Recommendation to adopt the Resolution approving the revisions to Chapter 10 of the RES MANUAL with respect to removing the revocability of leases.

Upon adoption of the Resolution, staff will prepare the revision to the RES MANUAL as directed.