



Legislation Text

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A Resolution amending Resolution No. 73-05 authorizing the Colorado Springs Airport to lease or grant the right of use airport property in excess of twenty-five (25) years but not to exceed ninety-nine (99) years for the purpose of economic development.

From:

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Summary:

Article X, §10-60 of the City Charter provides, in part, that no lease or right to use City property may exceed 25 years except for the purpose of economic development. In 2005 City Council determined that aviation and commercial development on Airport property constituted an economic activity and adopted guidelines authorizing the Airport to grant lease terms for Airport property in excess of 25 years not to exceed 99 years. To ensure compliance with current Federal Aviation Administration (FAA) grants assurances, as well as still encourage development of Airport property and facilities, by new and existing tenants, Airport staff recommends that the guidelines be amended to parallel FAA grants assurances and compliance guidance.

Previous Council Action:

City Council previously approved Resolution No. 73-05 on April 26, 2005.

Background:

Article X, §10-60 of the City Charter limits the term of any lease of City property to 25 years or less except for the purpose of economic development. For the purpose of economic development, the City Charter allows a lease term be granted in excess of 25 years but not exceeding 99 years. In 2005, City Council adopted Resolution No. 73-05 finding and determining that aviation and commercial development at the Airport constituted an economic development activity and setting forth parameters for leasing property at the Airport.

Resolution No. 73-05 instructed Airport staff to review the lease term guidelines every 5 years, which has since been completed. The review conducted by Airport staff has identified areas of concern and recommendations for modification as presented in this resolution.

First, the existing lease term guidelines could be applied in such a way as to conflict with FAA grants assurances and compliance guidance for airport development. In addition to City Charter, City Code, and other City requirements, the Airport must comply with federal requirements, including FAA grants assurances. Those grants assurances regulate the types of use, development, and value received for the use of Airport property. The grants assurances also require the Airport to not unjustly discriminate against aeronautical users. FAA compliance guidance

requires lease terms to be given fairly and in proportion to the investment. For example, the FAA treats lease terms in excess of 50 years as a “sale” of Airport property that requires separate FAA approval, including formal release of the federal obligations attached to the property through an intensive land release process.

In addition, through increased marketing efforts and recent tax incentives such as the City, County and PPRTA Commercial Aeronautical Zones (CAZ) as well as the Airport’s designation as a Colorado Aviation Development Zone and Foreign Trade Zone, the Airport has received increased interest in development and use of existing facilities at the Airport. Through recent negotiations with prospective and current tenants of Airport property, it has become apparent that the existing lease term guidelines have had unintended consequences. For example, the maximum term authorized for a \$20 million investment is the same as that for a \$10 million investment even though the investment is twice as much. Airport staff believes that the current lease term guidelines are not encouraging development and the highest and best use of the Airport property. Airport staff recommends the lease term guidelines be amended to align better with the current business economic climate to further stimulate and encourage development of or use of facilities on the Airport property. Paralleling the guidelines with the FAA grants assurances and compliance guidance will adequately address this concern.

The existing lease term guidelines could be construed to apply only to green field, new development. The use of existing facilities at the Airport, including redevelopment and reinvestment in the facilities, however, also constitutes an economic development activity. The proposed resolution, therefore, amends Resolution No. 73-05 to clarify that use of facilities is also an economic development activity.

Finally, the proposed modifications to the lease term guidelines include notice to the Airport Advisory Commission (AAC) within its existing role for land use purposes. This was not previously required by Resolution No. 73-05.

Financial Implications:

N/A

Board/Commission Recommendation:

The Airport’s land use and development processes are regularly presented to the Airport Advisory Commission (AAC) for public input. The AAC has been briefed on the proposed resolution and voted unanimously to offer a letter of support (attached).

Stakeholder Process:

In addition to briefing and obtaining the support of the AAC, Airport staff has discussed the implications of the proposed resolution with prospective and current tenants of the Airport property. Airport staff has also discussed and obtained comments on the Airport’s leasing strategy with local FAA representatives.

Alternatives:

If City Council does not adopt the proposed resolution, the terms of Resolution No. 73-05 will remain in effect potentially causing compliance issues with FAA grants assurances.

Proposed Motion:

Move approval of the resolution.

N/A