

**OFFICE OF THE CITY MANAGER
DES MOINES, IOWA**

**CITY COUNCIL COMMUNICATION 96-212
MAY 20, 1996 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
APPROVAL OF WAIVER OF LEASE FEES FOR RIGHT-O-WAY TRANSPORTATION, INC.	◆ RESOLUTION ORDINANCE RECEIVE/FILE	WILLIAM FLANNERY AVIATION DEPARTMENT

SYNOPSIS —

It is proposed that an existing lease agreement with Right-O-Way Transportation for space at the Des Moines International Airport be cancelled.

FISCAL IMPACT —

Right-O-Way is delinquent on rental invoices for the months of February through May 1996 for a total of \$1,776.60. The value of the total remaining lease payments is \$6,218.10 through the expiration date of the lease agreement on March 31, 1998. However, due to a pending lease with American Airlines, lost revenue will be limited to \$2,220.75.

RECOMMENDATION —

Approval of the lease cancellation and a waiver by the City to any claim for collection of unpaid payments due.

BACKGROUND —

On April 4, 1995, by Resolution A95-68, the Airport Board approved a lease agreement with Right-O-Way Transportation, Inc. for the lease of office space in the Airport Terminal Building.

On October 26, 1995, Right-O-Way Transportation formally notified the Aviation Department that they would be closing their Des Moines office and requested a release from the requirements of their lease agreement. The lease agreement term was for a period of three years with no provision for early termination, so the request was denied.

Subsequently, Right-O-Way has declared Chapter 7 Bankruptcy. As of this date, no formal written notification has been received by the City concerning the bankruptcy. However, on March 29, 1996, the Airport's Properties Administrator contacted the Bankruptcy Trustee for Right-O-Way concerning the possible release of the terminal office space. The Trustee stated that if the City would release Right-O-Way from unpaid invoices owed the City by Right-O-Way, the Trustee would provide an unconditional release of the office space.

Due to the fact that it appears highly unlikely that any meaningful settlement will be received from the bankruptcy court, and American Airlines has made a formal request to lease the subject office space as soon as possible, it is prudent to proceed with the release of this space. Staff believes that very little, if any, of the rental amounts due will be recoverable in any bankruptcy proceedings.

At their meeting of May 7, 1996, the Airport Board, by Resolution A96-106, recommended approval of the action outlined above.