

**CITY COUNCIL
COMMUNICATION:**

ITEM _____

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

99-350

SYNOPSIS -

AGENDA:

AUGUST 16, 1999

SUBJECT:

SETTING DATE OF
PUBLIC HEARING
FOR APPROVAL OF
LEASE AGREEMENT
WITH MEREDITH
CORPORATION

TYPE:

**RESOLUTION
ORDINANCE
RECEIVE/FILE**

SUBMITTED BY:

WILLIAM F.
FLANNERY
AVIATION
DIRECTOR

On December 1, 1998, by Resolution No. A98-428, the Airport Board approved Airport Regulation No. 98-17 which established Minimum Standards for Non-Commercial Aviation Operators at the Des Moines International Airport. The Airport Board is required under Municipal Code to notify City Council of the proposed effective date of regulations and to provide City Council with a copy for review. On October 26, 1998, City Council, by Roll Call No. 98-3354, received and filed Airport Regulation 98-17 and determined that Regulation 98-17 was not inconsistent with Chapter 4 of the Municipal Code or otherwise objectionable.

The proposed lease has a term of 20 years beginning on September 1, 1999 and expiring on August 31, 2019, with two five-year options that are subject to approval of the City and consists of three separate parcels containing 96,649 square feet. The lease exceeds the minimum standards and requirements set out in Regulation 98-17. A summary of some of the non-standardized provisions of the lease can be found in the Background section of this Communication. **Ownership of all buildings and improvements constructed on the leased premises will remain with Meredith during the lease term and be subject to ad valorem taxes.** Ownership of the improvements will revert to the City (Airport) at the expiration or termination of the lease.

On July 7, 1999, by Resolution No. A99-248, the Airport Board approved recommending approval of the Non-Commercial Aviation Operator Lease with Meredith Corporation to City Council.

FISCAL IMPACT -

The lease calls for rentals to be paid at a rate of 1.3 times the rate established by independent appraisal. The Airport's

appraisal of the property reflected a fair market value rate of \$.60 per square foot per annum, which equals \$.78 per square foot per annum when increased by the 1.3 multiplier. The per square foot rental rate is to be adjusted every five years during the initial term (20 years) based on changes in the Consumer Price Index (CPI) from the start of the period when compared to the end of the period. Rentals during the first five-year option period (years 21 through 25) are to be determined by an independent appraisal process with the resulting fair market value rate multiplied by 1.3. Rentals for the second five-year option period are established based on changes in the CPI over the five-year period. The lease stipulates that in no event shall the rental rate be reduced below the \$.78 per square foot per annum as established for the first five years of the lease. The total square footage of Parcels A, B, and C is 96,649, which results in an annual rental amount of \$75,386.22. The lease also requires that a fuel flowage fee equal to the per gallon fee charged under Board Regulation be paid on each gallon of fuel delivered to the lessee. The current fuel flowage fee is \$.12 per gallon.

Additionally, the lease provides that Meredith will: (1) demolish the old maintenance facility after the Airport has vacated and relocate the electric, gas, water, and sewer utilities; (2) relocate the Airport's existing underground storage tanks, which contain fuel and glycol, to the new site and have the tanks recertified; (3) construct Taxiway R-2 as reflected on Exhibit B; and (4) if requested by City, provide a loan to the Airport for the construction of the replacement maintenance facility with a repayment term of up to ten years at 7 percent with a loan amortization and principal repayment beginning on the later of the Airport's last borrowing under the loan or December 31, 2000. The loan, if desired, would need to be approved by City Council in the future.

RECOMMENDATION -

Set the date for public hearing for approval of the proposed lease agreement.

BACKGROUND -

The Airport Master Plan includes the relocation of the Airfield Maintenance Facility from its present location on McKinley

Avenue to a site south of old Army Post Road near the south general aviation (G/A) area (see map attached to roll call). Meredith Corporation currently subleases a corporate hangar facility on the south G/A area from Signature Flight Support. Meredith has purchased two new corporate aircraft that are anticipated to be delivered in early to mid 2000. The new aircraft cannot be accommodated in their existing corporate hangar facility on the south G/A leasehold area.

On September 24, 1998, by Resolution No. A98-359, the Board (1) directed the Board Clerk to receive and file a letter and other documents from Meredith Corporation, dated September 14, 1998, requesting to lease land to construct a corporate hangar; and (2) directed the Aviation Director to prepare minimum standards for the leasing of Airport land for construction of corporate hangars for future Board consideration. At that time, there were no minimum standards for those types of activities or for the leasing of land to allow for the construction of corporate hangars for other than commercial aviation purposes. On December 1, 1998, by Resolution No. A98-428, the Board approved Airport Regulation No. 98-17.

Under Board Regulation No. 98-17, Non-Commercial Aviation Operators who wish to establish a base of operation at the Airport have the option to negotiate an agreement with an existing authorized fixed base operator or other licensed commercial operator or enter into a ground rental lease with the Airport for the leased premises. The Regulation specifically allows for the leasing of City-owned aircraft hangars and other associated City-owned improvements to Non-Commercial Aviation Operators under terms and conditions different from those contained within the Regulation. Under the Regulation, any Non-Commercial Aviation Operator who constructs an aircraft fueling facility on their leased premises is precluded from dispensing fuel into any aircraft that is not wholly or partially owned or leased and used by the entity that is obligated under the lease. The Non-Commercial Aviation Operator is required to pay normal fuel flowage fees paid by other general aviation users of the Airport.

Under Regulation 08-17, a Non-Commercial Aviation Operator is strictly **prohibited** from engaging in the business of providing for compensation any aviation, aeronautical, or air transportation related activity, including but not limited to the following:

- (1) Flight line services, which may include dispensing aviation fuels and oils, aircraft tie-down and parking, and minor aircraft repairs not requiring a certified mechanic;
- (2) Sale of new or used aircraft, including servicing and repair during warranty periods;
- (3) Rental or leasing of aircraft to members of the public;
- (4) Flight training and related instructions;
- (5) Air taxi or commuter airline operations certificated under Federal Aviation Regulation Part 135;
- (6) Airframe or power plant repair service;
- (7) Avionics, instrument, or propeller repair services;
- (8) Specialized commercial aeronautical activities, including but not limited to agricultural application, banner towing and aerial advertising, aerial photography and survey, and non-stop sightseeing flights that begin and end at the airport.

Aviation Department staff and representatives of Meredith Corporation have negotiated a lease for the development of a corporate aircraft hangar, which is governed by Airport Regulation 98-17.

Provisions of the lease related to Federal Aviation Administration (FAA) and Airport Regulations, Maintenance and Operations, Damage and Destruction, Insurance and Indemnification, Default, Termination and Cancellation, and General Provisions are consistent with the provisions included in similar land lease agreements that have been previously approved by the Board and City Council for the Airport.

The leased premises is made up of three parcels, which are to be turned over to Meredith at specified times to allow for an orderly transition from the Airport's existing airfield maintenance facility to a new airfield maintenance facility planned for construction south of "old" Army Post Road in the spring of 2000. Exhibit B reflects the legal description of the three different parcels. Parcel A (11,999 square feet), which is to be turned over on the effective date of the lease, initiates the lease and allows Meredith to complete their design and

planning for their corporate hanger facility. Parcel B (77,175 square feet), which is to be made available no later than April 1, 2000, removes the westerly 100 feet of the existing airfield maintenance facility and allows Meredith to construct their new facility during the construction season of calendar year 2000. Parcel C (7,475 square feet), which is to be made available by March 31, 2003, causes the demolition of the remaining 50 feet of the existing maintenance facility and allows Meredith to expand their parking area and complete their project.

The agreement also provides for Meredith, if requested by the City, to loan the Airport up to \$1,000,000 to assist in the construction of the new airfield maintenance facility. The loan, if presented to and approved by City Council in the future, would be for a term of ten years with interest at 7 percent and subordinate to the existing Bond Resolution.