

CITY COUNCIL
COMMUNICATION:

03-585

AGENDA:

DECEMBER 8, 2003

SUBJECT:

UNITED PARCEL
SERVICE
AGREEMENT
AMENDMENTS

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

SUBMITTED BY:

WILLIAM F.
FLANNERY
AVIATION DIRECTOR

ITEM _____

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

SYNOPSIS —

Set a date of Public Hearing for consideration of the Third Amendment to the Airport Land Lease Agreement with United Parcel Service, Inc. (UPS) which extends the completion date for their new, on-airport, sort and distribution facility to December 31, 2009 and sets a date of public hearing for consideration of the First Amendments to their existing airport facility leases for 2870 and 3251 "old" Army Post Road extending the lease agreements until December 31, 2009.

FISCAL IMPACT —

With the approval of the Second Amendment, UPS has been paying to the Airport the following monthly land and facility rentals (excluding any airfield and aircraft apron charges):

Cargo Building & GSE Support, 2501 "old" Army Post Road	\$ 8,167.34
New Sort & Distribution Facility land (original agreement)	\$20,833.33
Church Property (first parcel-Option Land)	\$14,801.48
Second parcel-Option Land	\$ 3,774.24
Offices, 2870 "old" Army Post Road	\$ 3,056.68
Temporary Sort Center, 3251 "old" Army Post Road	<u>\$10,200.00</u>
Total Monthly Rental =	\$60,833.07
Total Annual Rental =	\$729,996.84

Upon approval of the proposed Third Amendment and the First Amendments for 3251 and 2870 "old" Army Post Road, UPS will pay to the Airport the following monthly rentals (excluding any airfield and aircraft apron charges):

Cargo Building & GSE Support, 2501 "old" Army Post Road	\$ 8,167.34
New Sort & Distribution Facility land	\$42,161.71
Offices, 2870 "old" Army Post Road	\$ 3,056.68
Temporary Sort Center, 3251 "old" Army Post Road	<u>\$10,200.00</u>
Total Monthly Rental=	\$63,585.73
Total Annual Rental =	\$763,028.76

Upon completion of their new sort and distribution facility, it is expected that UPS will terminate the leases for the office space at 2870 "old" Army Post Road and the temporary sort center at 3251 "old" Army Post Road.

In addition to these land and facility rental payments, in FY03 UPS paid to the Airport an additional amount of \$1,111,136.80 in other airport fees and charges.

RECOMMENDATION —

On November 4, 2003, the Airport Board recommended (1) approval of the Third Amendment to the Airport Land Lease Agreement with United Parcel Service, Inc. for a new, on-airport, sort and distribution facility and (2) recommended approval of the First Amendments to the Airport facility leases for 2870 and 3251 "old" Army Post Road.

BACKGROUND —

Upon recommendation of the Airport Board, on October 18, 1999, by Roll Call No. 99-3257, the Des Moines City Council approved the Land Lease Agreement with UPS. The following is a summary of the main provisions of the Lease Agreement:

- Required UPS to construct a new sort and distribution facility of at least 250,000 square feet with a construction cost of not less than \$12,000,000 with a deadline for construction of the new facility as December 31, 2003. By the Second Amendment, this date was changed to December 31, 2005. The new facility is to remain under the ownership of UPS throughout the lease term thereby requiring the payment of ad valorem taxes by UPS. The City is to provide a 10-year partial declining exemption from taxation on the facility and improvements.
- The Lease has a term of thirty (30) years beginning on January 1, 2000, and expiring on December 31, 2029, with two additional option periods if exercised by UPS. The first option period is for a term of twelve (12) years and six (6) months. The second option period is for a term of ten (10) years.
- The initial leasehold was for 30.74 acres of land, including a portion of "old" Army Post Road. On or before July 1, 2005, the Airport was to offer for lease to UPS an additional fifteen (15) acres of land adjacent and contiguous with the initial leased premises. (By amendment 12.5 acres of option land has since been added to the leasehold.)
- The Lease obligated the Airport to install a traffic signal at SW 28th Street and Relocated Army Post Road, and installation of water, telephone, and sanitary sewer to the site.
- Construction of the project is to be in accordance with all federal, state, and local laws, regulations, ordinances, and codes. Ownership of all buildings and improvements constructed on the leasehold revert to the Airport upon termination of the Lease.

Upon recommendation of the Airport Board, on January 8, 2001, by Roll Call No. 01-107, the City Council approved the First Amendment to the Land Lease Agreement with UPS. The First Amendment provided for UPS to lease the first parcel of Option Land (old Airport Baptist Church property) once the City had possession of the property.

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Upon recommendation of the Airport Board, on April 22, 2002, by Roll Call No. 02-1063, the City Council approved the Second Amendment to the Land Lease Agreement with UPS. The Second Amendment leased to UPS the first and second parcel of Option Land as set forth in the original Agreement. The Second Amendment also extended the deadline for completion of their new package sort and distribution facility from the original deadline of December 31, 2003 to December 31, 2005. UPS is now requesting a third amendment to this land lease agreement to further extend the deadline for completion of their new facility until December 31, 2009.

In addition to the long term Land Lease Agreement with UPS as detailed above, UPS currently has three other facility lease agreements for Airport property. In conjunction with the request to extend the completion date for their new on-airport sort and distribution facility to December 31, 2009, they are also requesting two of the three existing facility lease agreements (i.e. facility lease agreements for 3251 and 2870 "old" Army Post Road) be amended so that they can continue leasing these existing airport facilities until their new on-airport sort and distribution facility is completed. UPS also wishes to begin leasing the entire building located at 2870 "old" Army Post Road. (The Lease Agreement for 3251 "old" Army Post Road requires the payment of \$10,200.00 per month in rent to the Airport and is currently due to expire on February 4, 2005. The Lease Agreement for 2870 "old" Army Post Road requires the payment of \$3,056.68 per month in rent to the Airport and is currently due to expire on July 2, 2004.)

Although disappointing, the request for extension of the deadline to complete their new sort and distribution facility does not adversely affect financially the Airport or the City. With this proposed Third Amendment, UPS agrees to:

- Increase rental payments to the Airport for the land on which their new facility will eventually be constructed. (This proposed Third Amendment would increase the monthly land rental payments from \$39,409.05 to \$42,161.71.)
- Continue to rent two existing airport buildings, which they plan to give up only after their new sort and distribution facility is completed. (The current monthly rental payments to the Airport from these two buildings total \$13,256.68.)
- Since they did not complete their new on-airport sort and distribution facility with a minimum assessed value of \$12,000,000 by January 1, 2003, (and by the proposed Third Amendment this amount is to be increased \$1,500,000 each year) they are required to make "a payment in lieu of taxes" (PILOT) to the City each year until such time as the new facility is complete and normal property taxes are being paid. (At the current City tax rate this PILOT charge will be \$230,155.69 per year and increasing by approximately 12% or approximately \$26,000 annually until such time as the new facility is complete and normal property taxes are being paid.)
- Pay a \$1 million "lost opportunity" penalty if they do not complete the facility by the new completion date of December 31, 2009.

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- Eliminate any further Airport obligation to lease additional option land.
- Eliminate any further Airport obligation to provide fill dirt.
- Reduce the size of their leasehold for the new sort and distribution facility from 43.2 acres to 41.7 acres. (Upon termination of the lease agreement for the facility at 2870 "old" Army Post Road, by additional amendment, the leasehold for their new sort and distribution facility will again increase to 43.2 acres.).
- Redefining the UPS Leasehold will allow the construction of a new service road as set forth in the Land Lease Agreement with UPS south of the UPS Leased Premises. The Agreement calls for a 50-50 sharing of costs for its construction between the City (Airport) and UPS. In addition, the development of the service road will aid in development of Airport property north of relocated Army Post Road.

On November 17, 2003, by Roll Call No. 03-2582, City Council set a Date of Public Hearing for approval of the Third Amendment to the Land Lease Agreement with United Parcel Service.

On November 17, 2003, by Roll Call No. 03-2583, City Council set a Date of Public Hearing for approval of the First Amendment to the 2870 "Old" Army Post Road Lease with United Parcel Service.

On November 17, 2003, by Roll Call No. 03-2584, City Council set a Date of Public Hearing for approval of the First Amendment to the 3251 "old" Army Post Road Lease with United Parcel Service.

