

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: August 29, 2011
	Agenda Item No. 59B Roll Call No. [_____] Communication No. <u>11-575</u> Submitted by: Don Smithey, Aviation Director

AGENDA HEADING:

Transfer of City of Des Moines Aviation Facilities to the Des Moines Airport Authority.

SYNOPSIS:

On January 10, 2011, by Roll Call No. 11-0064, the City Council held a public hearing on the proposal and determined it to be in the best interests of the City to proceed with creation of an Airport Authority. The City Council on February 14, 2011, adopted Ordinance No. 14,989, creating the Des Moines Airport Authority in accordance with Iowa Code Chapter 330A. Staff recommends a proposal to enter into three agreements to carry out the transfer.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

On December 20, 2010, the City Council set a date of hearing on a proposal to create an Airport Authority, pursuant to Iowa Code Chapter 330A, and a notice of the hearing was published on December 24, 2010, in the Des Moines Register. On January 10, 2011, the City Council held a public hearing on the proposal, and by Roll Call No. 11-0064, the Council determined it to be in the best interests of the City to proceed with creation of an Airport Authority. The City Council on February 14, 2011, adopted Ordinance No. 14,989, creating the Des Moines Airport Authority in accordance with Iowa Code Chapter 330A.

Pursuant to the ordinance, the Authority does not assume its duties until both the City and the Authority approve a document transferring control of the Des Moines International Airport to the Authority. At its July 11, 2011 meeting, by Roll Call No. 11-1254, the Council appointed members to the Des Moines Airport Authority Board.

There is now before Council a proposal to enter into three agreements to carry out the transfer. The first is an agreement between the City of Des Moines and the Des Moines Airport Authority for the Provision of City Services (Services Agreement) which transfers all city-owned aviation facilities to the Des Moines Airport Authority and transfers the operation of the Des Moines International Airport to the Authority. The Services Agreement also lays out the services the Authority will purchase from the City and the terms of payment from the Authority.

There is also before Council a proposal to enter into a Lease Agreement and Asset Transfer Agreement (Lease) with the Des Moines Airport Authority, which leases all airport land and transfers outright and all other aviation assets to the Des Moines Airport Authority. As originally sent to the Federal Aviation Administration (FAA), and presented in the roll call setting hearing on the agreements, the transfer of all assets except the land was contained in the Services Agreement. With FAA's approval, those transfers are now in the Lease so that one document contains the terms for transfer of all City airport assets to the Authority.

The third agreement before Council is an Assignment and Assumption Agreement regarding Grant Agreements required by the FAA which grants, conveys, transfers and assigns to the Authority all of the City's rights, titles, interests and obligations in, to and under Grant Agreements with the FAA. All three of these agreements are subject to FAA approval and all three contain provisions for amending them, if required by FAA.

The City, as provided by Iowa Code section 330A.11, set hearing on the matter of the transfer for August 29, 2011, at 5:00 p.m. to receive public input on the proposals. Notice of the hearing was published on August 11, 2011. After the hearing, if Council finds it to be in the best interests of the City, the Council will take action to enact an ordinance authorizing the lease of airport land to the Authority by approving the Lease Agreement and authorizing the conveyance and transfer of all other city-owned aviation facilities to the Authority by approving the Services Agreement. The agreements have been previously provided to Council members for examination. The goal is to have these agreements in place and the transfer of the Airport to the Authority effective October 1, 2011.

Summary of Agreements

Lease

The Lease transfers absolute ownership of all aviation assets to the Authority, except the land, and leases all airport land to the Authority for an initial term of 99 years. The Lease may be terminated before then if there is a major breach of the Lease by either party or the City determines to dissolve the Authority and regain operation of the Airport. In the Lease, there is also a requirement for the Authority to assume the obligations of the outstanding bonds and notes previously issued by the City for the Airport System. The master roll call authorizing the bonds permits the transfer if the Airport's consultant opines that the ability to meet the rate covenant and other covenants under the 2010 roll call (and any roll call authorizing the issuance of bonds) is not materially and adversely affected. That opinion has been given and Council acceptance of that opinion is provided for at this meeting.

Services Agreement

Up to now, the Airport has been operated by the City Aviation Department as an enterprise fund with separate finances and accounting. As a City department, it has been provided, and paid for out of Airport funds, the services of other City departments, e.g. Engineering, Finance, Human Resources, Information Technology, Legal and others. After the transfer, the Authority will need those same services. The Services Agreement sets out the general provisions by which the City will provide and the Authority will pay for those services. By and large, the City will provide the same services it provided when the Airport was operated by a City department and the Authority will pay the City's reasonable costs for those services in accordance with federal guidelines. If the City cannot for some reason provide a particular service, the Authority may purchase it elsewhere.

Assignment and Assumption Agreement

The Assignment and Assumption Agreement is required by the FAA. Under the Agreement, the City

transfers all of its rights and obligations in federal grant agreements to the Authority and the Authority accepts the transfers.

PREVIOUS COUNCIL ACTION(S):

Date: July 11, 2011

Roll Call Number: 11-1254

Action: Recommendation from Mayor Cownie, submitting appointments to the Des Moines Airport Authority. **Moved by Coleman to adopt. Motion Carried 7-0.**

Date: February 14, 2011

Roll Call Number: 11-0244

Action: On proposal to create an Airport Authority. ([Council Communication No. 11-097](#)) **Moved by Hensley that this ordinance do now pass, #14,989. Motion Carried 6-1. Nays: Meyer.**

Date: January 10, 2011

Roll Call Number: 11-0064

Action: On proposal to create an Airport Authority. ([Council Communication No. 11-016](#)) **Moved by Hensley to adopt. At the January 24th Council meeting, the City Manager will respond to questions raised by the Council. Motion Carried 5-2. Nays: Meyer and Moore.**

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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