

★ **Roll Call Number**

Agenda Item Number

47 B

.....
Date January 25, 2010

Approval of First Amendment to Commercial Operator Lease and Agreement with Elliott Aviation of Des Moines, Inc.

WHEREAS, City is the owner and operator of the Des Moines International Airport, located in Polk County, Iowa; and

WHEREAS, the City and Mid-America Transportation Inc. dba Mid-America Jet Center ("Mid-America") entered into a Commercial Operator Lease and Agreement approved by the City Council on June 18, 2007, by Roll Call 07-1231 ("Agreement"); and

WHEREAS, on December 31, 2009, Mid-America agreed to assign the Agreement to Elliott Aviation of Des Moines, Inc. ("Elliott"), subject to City approval. In previous action at today's meeting, the Council approved the assignment; and

WHEREAS, Elliott has requested to amend the Agreement to extend its term; and

WHEREAS, Elliott and staff have negotiated the terms of a First Amendment to the Agreement; and

WHEREAS, Chapter 22 of Des Moines City Code assigns certain rights and responsibilities pertaining to the Airport to the Des Moines International Airport Board, but reserves for the City Council the authority to enter into agreements of greater than three years duration affecting real estate; and

WHEREAS, the Agreement as amended, being for a duration of greater than 3 years, requires City Council approval; and

WHEREAS, on January 5, 2010, by resolution A10-016, the Airport Board recommended approval of the amendment; and

WHEREAS, notice of the hearing on the proposed First Amendment has been duly published; and

WHEREAS, the Council believes it is in the best interest of the City to approve the First Amendment to the Agreement;

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NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF DES MOINES, IOWA:

1. That upon due consideration of the facts and the statements of interested persons, the objections, if any, to the proposed First Amendment to Commercial Operator Lease and Agreement, are overruled.
2. That the Mayor is hereby authorized and directed to sign the consent to the First Amendment and the City Clerk is hereby authorized and directed to attest to the Mayor's signature.

(Council Communication 10-029 is attached.)

Moved by _____ to adopt.

Approved as to form:


 David A. Ferree
 Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|----------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GREISS | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| MOORE | | | | |
| TOTAL | | | | |
| MOTION CARRIED | APPROVED | | | |

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk