

**Date** July 14, 2008

**SET DATE OF HEARING FOR APPROVING AMENDMENT TO CURRENT AGREEMENT WITH EXPRESSJET AIRLINES, INC., EXTENDING THE SCHEDULED AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE AT THE DES MOINES INTERNATIONAL AIRPORT THROUGH SEPTEMBER 30, 2008**

WHEREAS, the City of Des Moines owns and operates an airport known as Des Moines International Airport (hereinafter called the "Airport"), located in Des Moines, Polk County, Iowa; and

WHEREAS, on September 20, 1993, by Roll Call No. 93-3490, the Des Moines City Council approved Ordinance 12,040 assigning certain rights and responsibilities pertaining to the Airport to the Des Moines International Airport Board (hereinafter called the "Board"), including the right to enter into leases up to three years in duration and certain other agreements; and

WHEREAS, on September 4, 2002, by Resolution No. A02-184, the Board approved the Scheduled Airline Operating Agreement and Terminal Building Lease ("Agreement") between the City and ExpressJet Airlines, Inc. (operating as Continental Express) ("Airline"); and

WHEREAS, the Agreement was scheduled to terminate on June 30, 2004; and

WHEREAS, the parties entered into a First Amendment which extended the term of the Agreement to June 30, 2006; and

WHEREAS, the parties entered into a Second Amendment which extended the term of the Agreement to June 30, 2008; and

WHEREAS, Airline desires to continue to lease from City those premises and facilities under the terms of the Agreement as Amended by the First and Second Amendments; and

WHEREAS, the parties in order to complete negotiations on a new agreement wish to extend the Agreement as amended by the First and Second Amendments for an additional three months, to September 30, 2008; and

WHEREAS, the term of the Agreement including the Third Amendment is greater than three years and requires approval of the City Council, and

WHEREAS, it is in the best interest of the City to approve the three month extension so that the parties will continue operating under the Agreement while Airline completes its internal review for execution of the new agreement, and


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

1. That this City Council meet in the Council Chambers, City Hall, City of Des Moines, Iowa, at 5:00 p.m. on the 28th day of July 2008 for the purpose of taking action on the matter of approving the Third Amendment; and
2. That the proposed Third Amendment is on file with the City Clerk; and,
3. That notice of said proposal be given by publication not less than four (4) nor more than twenty (20) days before the date of the public hearing, all as specified in Iowa Code Sections 364.7 and 362.3; and
4. That the City Clerk is hereby authorized and directed to publish the notice as provided above.

Moved by \_\_\_\_\_ to adopt.

Approved as to form:

  
 David A. Ferree  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
<b>TOTAL</b>				
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