

★ **Roll Call Number**

**Agenda Item Number**

**24**

**Date** ..... October 10, 2011 .....

**APPROVING TERMINATION AGREEMENT FOR UNITED PARCEL SERVICE, INC.  
LEASES AT THE AIRPORT**

WHEREAS, on October 18, 1999, the City and United Parcel Service, Inc. entered into a Land Lease for Parcel Distribution Facility (the "Land Lease"). The Land Lease has been amended five times: the First Amendment on January 8, 2001; the Second Amendment on April 22, 2002; the Third Amendment on December 8, 2003; the Fourth Amendment on February 7, 2005; and the Fifth Amendment on May 22, 2006; and

WHEREAS, on July 3, 2001, the parties entered into a lease entitled 2870 "old" Army Post Road Lease (the "2870 Lease"). The 2870 Lease has been amended twice: the First Amendment on December 8, 2003; and the Second Amendment on October 3, 2006; and

WHEREAS, on February 5, 2002, the parties entered into a lease entitled Lease Agreement (the "3251 Lease"). The 3251 Lease has been amended twice: the First Amendment on December 8, 2003; and the Second Amendment March 26, 2007; and

WHEREAS, UPS initially planned to construct a parcel distribution facility utilizing the properties covered by the three leases listed above; and

WHEREAS, UPS no longer intends to construct the parcel distribution project on the properties and wishes to terminate all three leases; and

WHEREAS, UPS and Airport staff have negotiated a Termination Agreement For United Parcel Service, Inc. Leases whereby, upon UPS paying the City \$12,333,000, the three leases will be terminated; and

WHEREAS, of the \$12,333,000, \$7,333,000 would be placed in Airport funds; and

WHEREAS, the Des Moines International Airport Board at its October 4, 2011, meeting passed a resolution recommending approval of the Termination Agreement; and

WHEREAS, the Council believes it is in the interests of the City to terminate the leases upon the terms set out in the proposed agreement.

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

1. The Termination Agreement For United Parcel Service, Inc., Leases is approved.
2. The Mayor is authorized and directed to sign the agreements on behalf of the City of Des Moines and the City Clerk to attest to the Mayor's signature.

(Council Communication 11-640 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

\_\_\_\_\_  
Mayor

**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.

\_\_\_\_\_  
City Clerk