

★ Roll Call Number

08-1992

Agenda Item Number

57-D

1

Date October 27, 2008

**APPROVING SCHEDULED AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE WITH EXPRESSJET AIRLINES, INC. AT THE DES MOINES INTERNATIONAL AIRPORT**

WHEREAS, the City of Des Moines owns and operates an airport known as Des Moines International Airport (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 (the "Board"), including the right to enter into leases and certain other agreements of up to three years in duration; and

WHEREAS, the City of Des Moines and various airlines have in the past entered into Scheduled Airline Operating Agreements and Terminal Leases or Cargo Airline Operating Agreements covering all aspects of aviation transportation of persons, property, and mail at the Airport; and

WHEREAS, Aviation Department Staff and representatives of a) Allegiant Air LLC; b) American Eagle Airlines, Inc.; c) Delta Air Lines, Inc.; d) ExpressJet Airlines, Inc.; e) Midwest Airlines, Inc.; f) Northwest Airlines, Inc.; g) United Air Lines, Inc.; h) US Airways, Inc.; i) United Parcel Service Co.; and j) Federal Express Corporation have collectively negotiated the terms and conditions of proposed new operating agreement (the "Agreement"); and

WHEREAS, ExpressJet Airlines, Inc. (dba Continental Airlines) desires to provide scheduled air service at the Airport and lease facilities and premises in the Airport's terminal building; and

WHEREAS, the term of the Agreement begins on July 1, 2008, and is scheduled to terminate on June 30, 2013, so being greater than three years requires approval of the City Council; and

WHEREAS, on October 7, 2008, by Resolution No. A08-213, the Board recommended that City Council approve the Agreement;

WHEREAS, on October 13, 2008, by Roll Call No. 08-1755, City Council directed the City Clerk to publish the notice of said proposal to set a date of hearing for October 27, 2008; and

WHEREAS, pursuant to Sections 364.7 and 362.3 of the Code of Iowa, notice of the hearing on the proposed authorization of the Agreement has been duly published as provided by law; and

WHEREAS, the public meeting and hearing has been duly held at the time and place provided and in accordance with said notice, those interested in proposal both for and against, have been

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given an opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, it is in the best interest of the City to approve the Agreement;

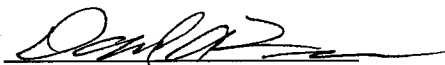
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That upon due consideration of the facts and statements of interested persons, the objections to said proposed Scheduled Airline Operating Agreement and Terminal Building Lease with ExpressJet Airlines, Inc., is hereby overruled.
2. That the Mayor is hereby authorized and directed to sign the Scheduled Airline Operating Agreement and Terminal Building Lease with ExpressJet Airlines, Inc. and the City Clerk is hereby authorized and directed to attest to the Mayor's signature.

(Council Communication \_\_\_\_\_ is attached.)

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        |      |      |      |        |
| 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