

**CITY COUNCIL COMMUNICATION 97-593
DECEMBER 22, 1997 AGENDA**

SUBJECT:

**SUPPLEMENTAL AGREEMENT NO. 5 TO
EXTEND THE TERM OF THE U.S. GOVERNMENT
AIRPORT LEASEHOLD FOR THE IOWA AIR
NATIONAL GUARD**

SUBMITTED BY:

**WILLIAM FLANNERY
AVIATION DIRECTOR**

SYNOPSIS –

Supplemental Agreement No. 5 will extend the term of the U.S. Government lease for five years pending changes to Federal Aviation Administration (FAA) regulations regarding the treatment of Guard and other military tenants under the Policy and Procedures Concerning Use of Airport Revenues (Revenue Diversion policy) and current Grant Assurances.

FISCAL IMPACT –

No change to the current payment of \$1 per year for lease. The Airfield Use Fee remains at \$25,500 per year, and the Iowa Air National Guard (IANG) will continue providing Aircraft Rescue and Fire Fighting (ARFF) services for the Airport valued at more than \$1.2 million annually, of which approximately \$970,000 annually is the value of those services provided to the Airport to meet or exceed FAA requirements.

RECOMMENDATION –

Staff recommends that Council set a date of public hearing to approve Supplemental Agreement No. 5 to the Lease.

BACKGROUND –

On June 23, 1975, by Roll Call No. 2969, the City Council approved a Long-term Lease between the City and the United States of America for IANG. The term of the lease began on June 23, 1975, and extended through June 30, 1976, renewable thereafter from year-to-year without

further notice, but in no event to extend beyond June 30, 2025.

On May 20, 1991, by Roll Call No. 91-2057, the City Council agreed to cooperate with IANG in implementing the IANG Master Plan through the voluntary acquisition of property interests in land identified by the IANG Master Plan. The above roll call set forth a multi-faceted implementation plan to acquire the various properties, identify the funding sources for the purchases, and set the procedure for transferring the properties to IANG. The approval of Roll Call No. 91-2057 was the culmination of an understanding by which IANG would provide, at a minimum, ARFF personnel and equipment to meet FAA requirements for the Airport, and in return the City would use fees collected from airfield users using the Airport to purchase property on an owner-voluntary basis.

IANG' s Long-term Lease Agreement has been amended on four separate occasions during its term. IANG has again requested that the Lease Agreement be amended to extend the term to allow for their continued development under their Master Plan. According to IANG representatives, it is a requirement that in order to receive funding for facility development, their remaining lease term must be at least 25 years at the estimated completion date of the proposed project. IANG has requested funding from the National Guard Bureau (i.e., a federal agency within the Department of Defense that oversees the National Guard organizations within each state) to complete the relocation of McKinley Avenue and to allow for other expansions and improvements to their Airport facilities in accordance with their Master Plan. Because the current lease term does not extend beyond June 30, 2025, and the possible completion date of the proposed projects for which they are seeking funding for may be beyond June 30, 2005, the required 25-year period, IANG has requested that the term of the current Lease Agreement be extended for five years.

Airport staff has been participating in discussions with IANG to renegotiate their various lease and use agreements which provide for IANG' s operation at the Des Moines International Airport. However, that process had been put on hold due to pending changes to FAA regulations regarding the treatment of Guard and other military tenants under the Policy and Procedures Concerning Use of Airport Revenues (Revenue Diversion policy) and current Grant Assurances. The new or revised regulation, when issued, may likely effect the current relationship and fee structure between airports and military type tenants. Because of this, it is imprudent to continue with negotiations of a long-term lease to replace the current Lease Agreement. However, with certain protections, it seems appropriate to proceed with the requested five-year extension to allow IANG to continue with the development of their Leasehold and consistent with their Master Plan. The referenced protections are in the form of specific acknowledgments within the Amendment that if the Lease Agreement is in the future determined to be in “ noncompliance” with FAA regulations or with our Grant Assurances, a lease amendment or new lease will be promptly negotiated between the parties to correct the noncomplying provisions.