

ORDINANCE NO. 15,054

AN ORDINANCE AUTHORIZING THE LEASE AND CONVEYANCE OF CITY OF  
DES MOINES AVIATION FACILITIES TO THE DES MOINES AIRPORT AUTHORITY

WHEREAS, the City Council on February 14, 2011, adopted Ordinance No. 14,989 creating the Des Moines Airport Authority in accordance with Iowa Code chapter 330A; and

WHEREAS, there is before the Des Moines City Council a proposed Real Estate Lease and Asset Transfer Agreement (“Lease”) to transfer city owned aviation facilities (as that term is defined in Iowa Code chapter 330A) to the Des Moines Airport Authority; and

WHEREAS, in the Lease, there is a requirement that the Authority assume the obligations of the outstanding bonds and notes previously issued by the City for the Aviation System; and

WHEREAS, the Master Resolution, Council Resolution No. 10-2090, dated December 20, 2010, authorizing the Series 2010 Notes, permits the transfer of the Aviation System (as defined in the Master Resolution) if, in the opinion of the Airport Consultant (as defined in the Master Resolution), the ability to meet the rate covenant and other covenants under the Master Resolution is not materially and adversely affected by the transfer of the Aviation System to the Authority; and

WHEREAS, the Council has been provided the Airport Consultant’s opinion that the ability to meet the rate covenant and other covenants under the Master Resolution is not materially and adversely affected; and

WHEREAS, the terms of the Master Resolution dated December 20, 2010, govern all outstanding obligations for the Aviation System; and

WHEREAS, having complied with all statutory prerequisites for the transfer of aviation facilities to the Authority and having duly held the hearing required by Iowa Code section 330A.11, the Council determines it to be in the best interests of the City to enact an ordinance authorizing the transfer of all city owned aviation facilities upon the following key terms:

- (a) Airport land to be leased for an initial term of 99 years with provision for renewals;
- (b) All other aviation facilities to be transferred to the Authority outright;
- (c) The lease and transfer to the Des Moines Airport Authority to be effective as of November 1, 2011, or as soon thereafter as is reasonably practicable; and
- (d) Terms required or called for by the federal government.

NOW THEREFORE, be it ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Airport Consultant's opinion that the ability to meet the rate covenant and other covenants under the 2010 Resolution (and any resolution authorizing the issuance of bonds) is not materially and adversely affected by the transfer of the aviation system to the Des Moines Airport Authority is hereby received and filed.

Section 2. That the transfer of all City owned aviation facilities to the Des Moines Airport Authority containing substantially the terms found in the proposed Real Estate Lease and Asset Transfer Agreement is approved subject to legal review.

Section 3. That the mayor is authorized to execute transfer documents containing substantially the terms found in the proposed Real Estate Lease and Asset Transfer Agreement and any others required or called for by the Federal Aviation Administration that, in the opinion of the legal department, do not have a material adverse effect on the City's interest, and the clerk is authorized to attest to the mayor's signature.

Section 4. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

David Ferree, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 11-1735), passed by the City Council of said City at a meeting held October 10, 2011 signed by the Mayor on October 10, 2011 and published as provided by law in the Business Record on October 28, 2011. Authorized by Publication Order No. 7764.

Diane Rauh, City Clerk