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**Date** August 7, 2006

**APPROVAL OF AMENDMENT TO CURRENT OPERATING AGREEMENT  
WITH ABX AIR INC. EXTENDING THEIR SCHEDULED CARGO AIRLINE  
OPERATING AGREEMENT AT THE DES MOINES INTERNATIONAL  
AIRPORT UNTIL JUNE 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 June 12, 2001, by Resolutions A01-186-A0197, the Des Moines International Airport approved Scheduled Airline Operating Agreement and Terminal Lease or a Cargo Airline Operating Agreements (collectively "Signatory Agreements") with, among other airlines : American Airlines, Comair, Inc., Mesa Air Group d/b/a America West Express, Midwest Express Airlines, Northwest Airlines, Inc., United Air Lines, Inc., ABX Air, Inc. and United Parcel Service beginning on July 1, 2001, for aviation transportation of persons, property, and/or mail; and

WHEREAS, on July 7, 2004, by Resolutions A04-127-A135, the Des Moines International Airport Board approved amendments to certain Signatory Agreements which included the extension of the Agreements until June 30, 2006; and

WHEREAS, as other Airlines have begun operations at the Airport, the City and the other Airlines have entered into similar Signatory Agreements, which now also expire on June 30, 2006 ; and

WHEREAS, on May 2, 2006, by Resolution A06-84, the Des Moines International Airport Board recommended staff negotiate and present to City Council amendments extending the terms of the current Signatory Agreements until June 30, 2008; and

WHEREAS, ABX Air Inc. has returned a Second Amendment to Scheduled Cargo Airline Operating Agreement extending the term of the original Signatory Agreement until June 30, 2008; and

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WHEREAS, the Scheduled Cargo Operating Agreement with amendment(s) will be greater than three years, which therefore requires a public hearing and City Council approval; and

WHEREAS, on July 24, 2006, by Roll Call No. 06-1458, City Council directed the City Clerk to publish the notice of said proposal to set a date of public hearing for August 7, 2006; and

WHEREAS, the City Clerk published said notice on August 2, 2006; 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 Second Amendment to Scheduled Cargo Airline Operating Agreement between the City of Des Moines and ABX Air Inc. 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 said Agreement with ABX Air Inc., both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, the City of Des Moines has determined that such Agreement would be advantageous and beneficial to the City; and

WHEREAS, the City Council deems it advisable to act favorably and finally upon said 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 Second Amendment to Scheduled Cargo Airline Operating Agreement with ABX Air Inc. are hereby overruled.

★ **Roll Call Number**

**Agenda Item Number**

46D

**Date** August 7, 2006

2. That the Mayor is hereby authorized and directed to sign the Second Amendment to Scheduled Cargo Airline Operating Agreement with ABX Air Inc. and the City Clerk is hereby authorized and directed to attest to the Mayor's signature.

(Council Letter 06-508 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				
BROOKS				
VLASSIS				
TOTAL				

**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.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

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