CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: **Aviation**

AGENDA DATE: **September 25, 2007**

CONTACT PERSON/PHONE: **Patrick T. Abeln-780-4724**

DISTRICT(S) AFFECTED: **3**

SUBJECT:

Authorize the City Manager to sign the First Amendment to the Airline Operating Agreement and Terminal Building Lease by and between the City of El Paso and US Airways, Inc. This amendment extends the term of the agreement through August 31, 2009.

BACKGROUND / DISCUSSION:

The City entered into an Airline Operating Agreement and Terminal Building Lease effective October 1, 2001 granting US Airways (formerly known as America West Airlines) the right to operate at El Paso International Airport.

The Department of Aviation recommends extension based on the following:

- The existing agreement continues to reflect state of the art thinking.
- Terminal construction is proposed for 2008 – 2009.
- Airlines have requested the extension.
- Facility use and airline space is balanced and meeting airline and community needs.

Amendments for remaining Airline Operating Agreements will be brought to City Council upon execution by respective airlines.

PRIOR COUNCIL ACTION:

No

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Recommended by Airport Advisory Board on July 26, 2007

CITY CLERK DEPT.
07 SEP 12 PM 4:26

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) _____ **FINANCE:** (if required) _____
Raymond L. Telles, Asst. City Attorney

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the First Amendment to the Airline Operating Agreement and Terminal Building Lease by and between the City of El Paso and US Airways, Inc. for the purpose of extending the term to August 31, 2009 and replacing Exhibits A, B-1 and B-2.

ADOPTED this _____ day of _____ 2007.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Raymond L. Telles
Assistant City Attorney

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Doc. No.: 31980
Doc. Name: 1st Amendment - US Airways, Inc. (fka America West)
Doc. Author: RTEL

STATE OF TEXAS)
)
COUNTY OF EL PASO)

FIRST AMENDMENT TO AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE

This First Amendment to the Airline Operating Agreement and Terminal Building Lease is made by and between the City of El Paso ("City") and US Airways, Inc. ("Airline").

WHEREAS, the City entered into an Airline Operating Agreement and Terminal Building Lease ("Agreement") effective October 1, 2001 granting America West Airlines, Inc. the right to operate and maintain certain operations at the El Paso International Airport;

WHEREAS, in accordance with Section 12.05 of the Agreement, America West Airlines, Inc. assigned the Agreement to the Airline in connection with the Airline's merger with America West Airlines, Inc.; and

WHEREAS, the City and Airline now desire to amend the Agreement for the purpose of extending the term to August 31, 2009;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **EXTENDED TERM.** The City and Airline mutually agree that the term of the Agreement is hereby extended through August 31, 2009.

2. **EFFECTIVE DATE.** Regardless of the date of execution, this First Amendment shall be effective on September 1, 2007.

3. **EXHIBITS A, B-1 AND B-2.** The City and Airline acknowledge that various changes to the Cost Centers, Terminal and location of the various airlines have occurred since the execution of the Agreement. Accordingly, Exhibits A, B-1 and B-2 of the Agreement shall be and are hereby replaced with Revised Exhibits A, B-1 and B-2, as attached hereto and incorporated herein for all purposes.

4. **TERMS AND CONDITIONS.** All remaining terms and conditions of the Agreement not specifically amended by this First Amendment shall remain in full force and effect.

CITY CLERK DEPT.
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(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, this amendment was executed on this _____ day of _____ 2007.

CITY OF EL PASO

_____
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Patrick T. Abeln, A. A. E.
Director of Aviation

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____ 2007, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso**.

_____
Notary Public, State of Texas

My Commission Expires:

_____

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

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IN WITNESS WHEREOF, this amendment was executed on this 30th day of August 2007.

AIRLINE: US Airways, Inc.

By: _____
Name: PAUL M. LAMBERT
Title: VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF Arizona)
)
COUNTY OF Maricopa)

This instrument was acknowledged before me on this 30th day of August 2007, by Paul M. Lambert as Vice President of **US Airways, Inc.**

OFFICIAL SEAL
LORRAINE CAREY
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires May 11, 2011

Lorraine Carey
Notary Public, State of Arizona

My Commission Expires:

May 11, 2011

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