

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

CITY CLERK DEPT.  
07 DEC -7 AM 11:50

**DEPARTMENT:** Aviation  
**AGENDA DATE:** December 18, 2007  
**CONTACT PERSON/PHONE:** Patrick T. Abeln-780-4724  
**DISTRICT(S) AFFECTED:** 3

**SUBJECT:**

Authorize the City Manager to sign the Mutual Termination of a Temporary Use Agreement by and between the City of El Paso and Continental Airlines, Inc.

**BACKGROUND / DISCUSSION:**

The City entered into an Airline Operating Agreement and Terminal Building Lease effective November 1, 2001 granting Continental Airlines the right to operate at El Paso International Airport which included the use of leased space located in the Lower East Rotunda of the Airport Terminal.

The City entered into a Temporary Use Agreement effective April 1, 2003 granting Continental Airlines the use of an additional 553 square feet of space in the same area, which was intended for a short period of time. Continental Airlines desires the continued use of the space on a permanent basis; therefore the Department of Aviation believes that the incorporation of the additional space into the Airline Operating Agreement would be appropriate at this time.

The Temporary Use Agreement will be mutually terminated in order to incorporate the rental of this space into the First Amendment to the Airline Operating Agreement and Terminal Building Lease by and between the City of El Paso and Continental Airlines, Inc. (The First Amendment to the Airline Operating Agreement and Terminal Building Lease will be authorized by a separate City Council Resolution.)

**PRIOR COUNCIL ACTION:**

City Council approved the Temporary Use Agreement by and between the City of El Paso and Continental Airlines, Inc. on June 17, 2003.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

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

**OTHER:** Patrick T. Abeln, A. A. E., Director of Aviation Patrick T. Abeln \_\_\_\_\_  
(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**

**WHEREAS**, the City and Continental Airlines, Inc. ("Continental") entered into an Airline Operating Agreement and Terminal Building Lease ("Operating Agreement"), which grants Continental the right to operate and maintain certain operations at the El Paso International Airport;

**WHEREAS**, the City and Continental subsequently entered into a Temporary Use Agreement ("Use Agreement"), which granted Continental the use of an additional 553 square feet of space located in the Lower East Rotunda of the El Paso International Airport, as the use of this additional space by the Airline was only intended for a short period of time;

**WHEREAS**, Continental desires the continued use of the additional space referenced above on a permanent basis and the City has determined that it will be beneficial for the City to continue providing the additional space to Continental; and

**WHEREAS**, the City and Continental are amending the Operating Agreement in order to extend the term of such agreement and believe that the incorporation of the referenced additional space into the operating Agreement would be appropriate at this time and therefore desire to terminate the Use Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Mutual Termination of a Temporary Use Agreement by and between the City of El Paso and Continental Airlines, Inc.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007

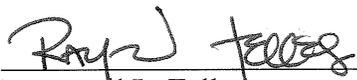
THE CITY OF EL PASO

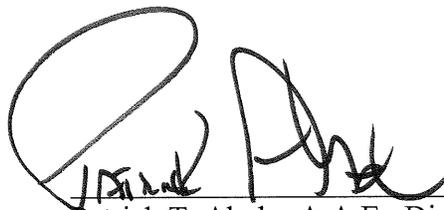
\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Raymond L. Telles  
Assistant City Attorney

  
\_\_\_\_\_  
Patrick T. Abeln, A.A.E., Director  
Aviation Department

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STATE OF TEXAS        )  
                                  )  
COUNTY OF EL PASO    )

**MUTUAL TERMINATION OF A  
TEMPORARY USE AGREEMENT**

This Mutual Termination of a Temporary Use Agreement (“Termination”) is made on this 18<sup>th</sup> day of DECEMBER, 2007, by and between the **CITY OF EL PASO** (“City”) and **CONTINENTAL AIRLINES, INC.** (“Airline”).

**WHEREAS**, the City and Airline entered into an Airline Operating Agreement and Terminal Building Lease (“Operating Agreement”), with an effective date of November 1, 2001, which grants the Airline the right to operate and maintain certain operations at the El Paso International Airport;

**WHEREAS**, the City and Airline subsequently entered into a Temporary Use Agreement (“Use Agreement”) with an effective date of April 1, 2003, which granted the Airline the use of an additional 553 square feet of space located in the Lower East Rotunda of the El Paso International Airport, as the use of this additional space by the Airline was only intended for a short period of time;

**WHEREAS**, the Airline desires the continued use of the additional space referenced above on a permanent basis and the City has evaluated the situation and determined that it will be beneficial for the City to continue providing the additional space to the Airline; and

**WHEREAS**, the City and Airline are amending the Operating Agreement in order to extend the term of such agreement and believe that the incorporation of the referenced additional space into the operating Agreement would be appropriate at this time and therefore desire to terminate the Use Agreement;

**IT IS THEREFORE MUTUALLY AGREED BY THE PARTIES**, that in consideration of the mutual promises, covenants, conditions, and other consideration set forth in this Termination:

1. The Temporary Use Agreement by and between the City of El Paso and Continental Airlines, Inc., with an effective date of April 1, 2003, shall be and hereby is terminated through the mutual agreement of the parties.
2. The effective date of this Termination shall be the effective date of an amendment to the Airline Operating Agreement and Terminal Building Lease between the parties, whereby the 553 square feet of space referenced within the Temporary Use Agreement is incorporated into the Airline Operation Agreement and Terminal Building Lease.

3. The persons signing this Termination on behalf of each party warrants that he or she has the authority to do so and further has the authority to bind the respective party.

IN WITNESS WHEREOF, this Mutual Termination of a Temporary Use Agreement has been executed on this \_\_\_\_ day of \_\_\_\_\_, 2007.

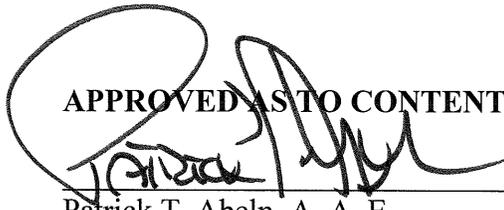
**CITY OF EL PASO:**

\_\_\_\_\_  
 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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