

1 BY AUTHORITY

2 ORDINANCE NO. _____

COUNCIL BILL NO. _____

3 SERIES OF 2011

COMMITTEE OF REFERENCE:

4 BUSINESS, WORKFORCE & SUSTAINABILITY

5 A BILL

6 For an ordinance approving a proposed First Amendment to Airport Use and Facilities
7 Lease Agreement between the City and County of Denver and ExpressJet Airlines, Inc.,
8 concerning a lease at Denver International Airport.
9

10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** The proposed First Amendment to Airport Use and Facilities Lease Agreement
12 between the City and County of Denver and ExpressJet Airlines, Inc. in the words and figures
13 contained and set forth in that form of the First Amendment to Agreement filed in the office of the
14 Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, on the 3rd day of February,
15 2011, City Clerk's Filing No. 07-032-A is hereby approved.
16

17 COMMITTEE APPROVAL DATE: January 28, 2011

18 MAYOR-COUNCIL DATE: February 1, 2011

19 PASSED BY THE COUNCIL _____ 2011

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____ 2011

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER
25

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011 _____ 2011

27 PREPARED BY: Helen E. Raabe, *[Signature]* DATE: February 3, 2011

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
31 of the Charter.
32

33 David R. Fine, City Attorney

34 BY: _____, _____ City Attorney

35 DATE: February 3, 2011

FIRST AMENDMENT TO
AIRPORT USE AND FACILITIES LEASE AGREEMENT

This First Amendment to Airport Use and Facilities Lease Agreement is made and entered into as of this _____ day of _____, 2011, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado ("the City"), and **EXPRESSJET AIRLINES, INC.**, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and authorized to do business in the State of Colorado ("Airline").

WHEREAS, the City and Airline have previously entered into an Airport Use and Facilities Lease Agreement at Denver International Airport ("DIA"), dated February 6, 2007 ("Existing Agreement");

WHEREAS, City and Airline desire to modify the Existing Agreement to create an amended agreement ("Amended Agreement");

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements, herein contained, City and Airline do hereby mutually undertake, promise and agree, each for itself and its successors, as follows:

1. Paragraph 6.01, "TERM OF AGREEMENT," of the Existing Agreement is deleted in its entirety and replaced with the following:

"The term of this Agreement shall commence on January 1, 2006 and shall terminate at Noon MST on December 31, 2011, unless this Agreement is earlier cancelled, terminated, or extended as hereinafter provided."

2. Except as otherwise modified or amended herein, all terms and conditions of the Existing Agreement shall remain in full force and effect as though set out in full herein.

3. This First Amendment to Airport Use and Facilities Lease Agreement is expressly subject to and shall not be or become effective or binding on the City until approved by the Denver City Council and fully executed by all signatories of the City.

[SIGNATURE PAGE FOLLOWS]

07-052-A

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.


ATTEST:

CITY AND COUNTY OF DENVER

By _____
STEPHANIE Y. O'MALLEY
Clerk and Recorder, Ex-Officio Clerk of
the City and County of Denver

By _____
Mayor

RECOMMENDED AND APPROVED:

By  _____
Manager of Aviation

APPROVED AS TO FORM:

DAVID R. FINE, Attorney for
the City and County of Denver

By _____
Assistant City Attorney

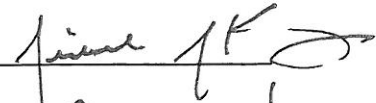
REGISTERED AND COUNTERSIGNED:

By _____
Manager of Finance
Contract Control No. AR 65021 (1)


By _____
Auditor

PARTY OF THE FIRST PART

ATTEST:

By  _____
Title Corporate Secretary

EXPRESSJET AIRLINES, INC.

By  _____
Title President, COO

PARTY OF THE SECOND PART