

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

**ITEM NUMBER:** 12

**DATE:** May 6, 2003

**STAFF:** Dave Gordon

### **SUBJECT:**

First Reading of Ordinance No. 067, 2003, Authorizing the City Manager to Execute Amendments to Two Long-Term Leases of Property at the Fort Collins-Loveland Municipal Airport in Order to Reduce the Amount of Liability Insurance Required of the New Tenant, Eagle Air Investments, LLC, and to Make Other Insurance Related Changes.

### **RECOMMENDATION:**

Staff recommends adoption of the Ordinance on First Reading.

### **FINANCIAL IMPACT:**

There is no financial impact to the City. The costs to provide the liability insurance coverage are a responsibility of Eagle Air Investments, LLC.

### **EXECUTIVE SUMMARY:**

The Firewall Lease Agreement to be assigned to Eagle Air Investments, LLC requires proof of liability insurance in the amount of \$5,000,000. Since the September 11, 2001 terrorist act, the insurance industry has been trying to recover from the significant losses that occurred as a result of this tragedy. In addition, since the tragedy, the insurance industry has become very reluctant to insure companies involved in any manner with the aviation industry. As a result it has become very difficult to obtain insurance quotes, even at high premiums. As a result, Eagle Air Investments has asked for a reduction in the level of liability limits from five million to one million. An amendment to the lease will be prepared that requires a review of insurance industry conditions at the end of two years. If the industry conditions have improved or if any liability concerns from the cities arise, the limits will be raised to the five million dollar amount. Given the insurance and aviation industry current conditions, Airport management supports this request to temporarily reduce the limits of coverage.

The Ordinance also permits the City Manager, in consultation with the City Attorney, to make other amendments to the insurance coverage requirements of the Firewall and Gracon Lease Agreements (Eagle Air Investments desires to assume both leases) based on current insurance industry practices. Eagle Air Investments has expressed concern that insurance companies are not willing to provide the cities with 30 days notice of policy cancellation. This amendment allows the City Manager to allow a shorter cancellation notice requirement if necessary.

ORDINANCE NO. 067, 2003  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENTS TO TWO  
LONG-TERM LEASES OF PROPERTY AT THE FORT COLLINS-LOVELAND  
MUNICIPAL AIRPORT IN ORDER TO REDUCE THE AMOUNT OF LIABILITY  
INSURANCE REQUIRED OF THE NEW TENANT, EAGLE AIR INVESTMENTS, LLC.  
AND TO MAKE OTHER INSURANCE RELATED CHANGES

WHEREAS, the Cities of Loveland and Fort Collins, Colorado (the "Cities") have leased certain property to Firewall Forward, Inc., now known as Firewall Forward Aircraft Engines, Inc. ("Firewall") pursuant to the terms of a Lease Agreement dated March 1, 1987, ("Firewall Lease Agreement"), and to Gracon Leasing Co. pursuant to the terms of the Lease Agreement dated February 17, 1994 ("Gracon Lease Agreement"); and

WHEREAS, effective April 1, 2002, Firewall assigned the Firewall Lease Agreement to a separate entity, formerly known as Firewall Forward Investments, LLC, and now using the name of Eagle Air Investments, LLC, a Colorado Limited Liability Company ("Eagle Air"); and

WHEREAS, effective on or about May 18, 2001, the Gracon Lease Agreement was assigned to an entity currently known as Runway Runaway Investments, LLC, which now desires to assign the Gracon Lease Agreement to Eagle Air; and

WHEREAS, Eagle Air is currently in the process of seeking the Cities' approval of the two above described assignments, which approval will be considered by the City Managers of each City; and

WHEREAS, Section 6.1 H. of the Firewall Lease Agreement requires Eagle Air to provide proof of liability insurance to the Cities in an amount of not less than five million dollars (\$5,000,000); and

WHEREAS, both Eagle Air and the Cities have determined that the acquisition of liability insurance in such an amount is very difficult at this time because of the state of the insurance industry following the tragedy of September 11, 2001; and

WHEREAS, Eagle Air is able and willing to provide liability insurance in the amount of not less than one million dollars (\$1,000,000) at this time; and

WHEREAS, the Cities believe that a reduction of the liability insurance limit in the Firewall Lease Agreement from five million dollars (\$5,000,000) to one million dollars (\$1,000,000) on a temporary basis is warranted and will not unduly increase the risk to the Cities; and

WHEREAS, current insurance industry practices make it difficult for Eagle Air to procure certain detailed insurance provisions required in both the Firewall and Gracon Lease Agreements, thereby necessitating the use of discretion by the City in determining which provisions are necessary for the protection of the interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO as follows:

Section 1. That the City Manager is hereby authorized to enter into an amendment to Section 6.1 H. of the Firewall Lease Agreement which will reduce the amount of liability insurance coverage required to be provided by the tenant from FIVE MILLION DOLLARS (\$5,000,000) to ONE MILLION DOLLARS (\$1,000,000), with adequate provision for an increase in the amount when deemed necessary by the City Manager based on insurance market conditions and any liability concerns of the City, and to make such other amendments to the insurance coverage requirements of the Firewall and Gracon Lease Agreements as the City Manager, in consultation with the City Attorney, may deem necessary in light of current insurance industry practices and to protect the interests of the City.

Section 2. That all other terms and conditions of the Firewall and Gracon Lease Agreements shall remain in full force and effect.

Introduced and considered favorably on first reading and ordered published this 6th day of May, A.D. 2003, and to be presented for final passage on the 20th day of May, A.D. 2003.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 20th day of May, A.D. 2003.

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Mayor

ATTEST:

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City Clerk