

**CITY OF EL PASO, TEXAS
MASS TRANSIT DEPARTMENT BOARD
REQUEST FOR BOARD ACTION**

DEPARTMENT: Mass Transit Department (Sun Metro)

AGENDA DATE: February 11, 2013

CONTACT PERSON/PHONE: Jay Banasiak, Sun Metro Director (915) 534-5810

DISTRICT(S) AFFECTED: 1 and 6

SUBJECT:

Approve a resolution that the City Manager be authorized to sign the Second Amendment to the Lease and Concession Agreement entered on February 8, 2011 by and between the **CITY OF EL PASO** and **DANIEL H. MORALES DBA BIG BOY CONCESSIONS**, to extend the term of the Agreement for an additional two (2) years from the effective date of the Second Amendment.

BACKGROUND / DISCUSSION:

Sun Metro is recommending amending original concession agreement with Daniel H. Morales, dba Big Boy Concessions of El Paso, Texas. The provision of food and beverage service at our Transfer Centers is essential for the traveling public and other patrons. The effective date of the term in Second Amendment will be February 14, 2013 and will be in effect for two years.

PRIOR COUNCIL ACTION:

The City Council approved a concessionaire lease agreement for Bert Williams Downtown Transfer Center on February 8, 2011 and approved 1st amendment on December 13, 2011.

AMOUNT AND SOURCE OF FUNDING:

Vendor will pay rental fees of \$2,600/month.

BOARD / COMMISSION ACTION:

N/A

*******AUTHORIZATION*******

DEPARTMENT HEAD: _____

RESOLUTION

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

THAT the City Manager be authorized to sign the Second Amendment to the Lease and Concession Agreement entered on February 8, 2011 by and between the **CITY OF EL PASO** and **DANIEL H. MORALES DBA BIG BOY CONCESSIONS**, to extend the term of the Agreement for an additional two (2) years from the effective date of the Second Amendment.

ADOPTED this ____ day of _____ 2013.

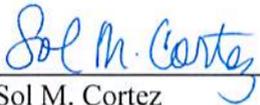
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

Jay Banasiak, Director
Mass Transit Department

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**SECOND AMENDMENT TO
LEASE AND CONCESSION AGREEMENT**

This second Amendment to the Lease and Concession Agreement (“Second Amendment”) made this ___ day of _____ 2013, between the City of El Paso, acting by and through its Mass Transit Department Board, (hereinafter “Lessor”) and Daniel H. Morales d/b/a Big Boy Concessions (hereinafter “Concessionaire”).

RECITALS

WHEREAS, the Lessor and Concessionaire entered into a Lease and Concession Agreement on February 8, 2011 (the “Original Agreement”), for the provision of food and beverage service to the traveling public and other patrons at Lessor’s transfer centers, specifically for Sun Metro’s Bert Williams Downtown Santa Fe Transfer Center (hereinafter “Downtown Transfer Center”); and

WHEREAS, the Lessor and Concessionaire executed a First Amendment to Lease and Concession Agreement (the “First Amendment”) on December 13, 2011 to provide for provide food, beverage, vending, and retail concession services at Sun Metro’s Nestor A. Valencia Mission Valley Transfer Center; and

WHEREAS, the Federal Transit Administration (hereinafter “FTA”) authorized Sun Metro to contract directly with Concessionaire under the same terms and conditions of the Original Agreement, except as amended herein; and

WHEREAS, the Lessor and Concessionaire desire to enter into a new Amendment to the Lease and Concession Agreement to amend the term on the Original Agreement for an additional two years.

NOW, THEREFORE, for and in consideration of the following mutual covenants and agreements of this Amendment, the parties hereby agree to modify the Lease and Concession Agreement as follows:

1. **Section 4.1 Term** of the Original Agreement is hereby amended to read as follows:

The Effective date of this Amendment shall be February 14, 2013. The term of the Original Agreement shall be extended for a period of two (2) additional years from the effective date of this Amendment.

2. **Section 14.25 Notices** of the Original Agreement is hereby amended to read as follows:

All notices provided under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City: City of El Paso
City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

Copy to: City of El Paso
Sun Metro Department
Director
700-A San Francisco
El Paso, TX 79901

Concessionaire: Daniel H. Morales
dba Big Boy Concessions
attn: Daniel H. Morales, Owner/President
2309 Bassett Ave.
El Paso, Texas 79901

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to the other party in the manner set forth herein.

3. All other terms and conditions of the Original Agreement and First Amendment shall remain in full force and effect.

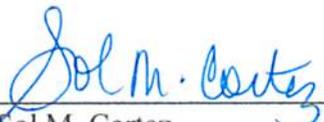
IN WITNESS WHEREOF the parties hereto have executed this Second Amendment at El Paso, Texas as of this ____ day of February, 2013.

CITY OF EL PASO

Joyce A. Wilson
City Manager

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

APPROVED AS TO FORM:

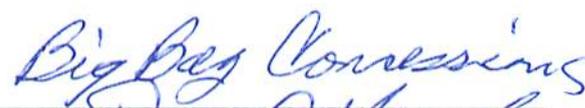


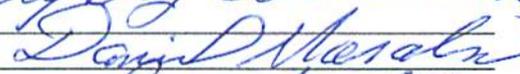
Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

Jay Banasiak, Director
Mass Transit Department

CONCESSIONAIRE:



By: 
Title: 