

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Aviation

**AGENDA DATE:** February 28, 2012

**CONTACT PERSON/PHONE:** Monica Lombraña, A.A.E. -780-4793

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

Resolution authorizing the City Manager to sign a Second Amendment to the Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions (Agreement) at El Paso International Airport (Airport) by and between the City of El Paso (City) and Host International, Inc. (Host)

**BACKGROUND / DISCUSSION:**

The City and Host entered in to the Agreement effective November 22, 2006 which allowed Host to develop and operate food and beverage concession services at the Airport. The First Amendment to the Agreement amended the description of the Lease Premises and allowed for re-concepting of concessions as well as reallocation of square footages.

This Second Amendment delegates authority to the Director of Aviation to fulfill the City's obligations required and allowed by and subject to the terms of the Agreement including:

- Revisions to the Food & Beverage Concept Plan
- Addition or deletion of leased space
- Addition or deletion of rights, licenses or privileges granted to Host

**PRIOR COUNCIL ACTION:**

- Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions awarded to Host International, Inc. on October 31, 2006.
- First Amendment approved on December 8, 2009

**AMOUNT AND SOURCE OF FUNDING:**

N/A - Revenue Generating

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**



Monica Lombraña, A.A.E., Director of Aviation

*Information copy to appropriate Deputy City Manager*

## 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 Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions at El Paso International Airport ("Concession Agreement") by and between the City of El Paso ("Lessor") and Host International, Inc. ("Concessionaire") to delegate authority to the Director of Aviation to fulfill the Lessor's obligations required and allowed by the Concession Agreement.

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2012.

THE CITY OF EL PASO

ATTEST:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Monica Lombraña, A.A.E.  
Director of Aviation

STATE OF TEXAS            )  
                                          )  
COUNTY OF EL PASO        )       **SECOND AMENDMENT TO THE LEASE AND  
CONCESSION AGREEMENT FOR THE  
DEVELOPMENT AND OPERATION OF  
FOOD & BEVERAGE CONCESSIONS AT  
EL PASO INTERNATIONAL AIRPORT**

This Second Amendment to the Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions (the "Second Amendment") is made and entered into this \_\_\_ day \_\_\_\_\_ of 2012, by and between the City of El Paso, a municipal corporation existing under the laws of the State of Texas (the "Lessor"), and Host International, Inc., a corporation organized under the laws of the State of Delaware (the "Concessionaire").

**WHEREAS**, Lessor and Concessionaire entered into a Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions (the "Concession Agreement"), with an effective date of November 22, 2006, to provide food and beverage concession services at the El Paso International Airport (the "Airport") on a non-exclusive basis;

**WHEREAS**, effective December 8, 2009 the Concession Agreement was amended by the First Amendment to Lease and Concession Agreement for the Development and Operation of Food & Beverage Concessions at El Paso International Airport, which amended the description of the Leased Premises and allowed for re-concepting of concessions and reallocation of square footage based upon new uses;

**WHEREAS**, the Concession Agreement expressly provides for the addition and deletion of space as well as re-concepting of concessions due to changes in Airport usage; and

**WHEREAS**, the Concession Agreement expressly allows for any duly constituted agent/committee appointed by the Council to fulfill the Lessor's obligations required by the Concession Agreement,

**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 to amend the Concession Agreement as follows:

1. Section 1.2, Incorporation of Concessionaire's Proposal, of the Concession Agreement is amended to read as follows:

**Section 1.2 Incorporation of Concessionaire's Proposal**

Portions of Concessionaire's timely response to Lessor's "Request for Proposals to Lease, Develop and Operate Food and Beverage Concessions at El Paso International Airport," issued August 15, 2006, and supplemental information thereto including, without limitation, Concessionaire's written proposal is attached hereto as Exhibit B, and

is incorporated and made of part of this Agreement by reference (said portions of which are hereinafter referred to as the "Concessionaire's Proposal").

The Lessor, acting through its Director, and Concessionaire may, from time to time, by mutual written agreement, revise the Food & Beverage Concept Plan identified in Concessionaire's Proposal and reallocate the Minimum Initial Construction Investment identified in Concessionaire's Proposal, as appropriate, any costs associated with the Concessionaire's obligation to construct, furnish and equip the Facilities.

Concessionaire and the Lessor acknowledge that Concessionaire's Proposal was a valuable consideration in the award of this Agreement to Concessionaire, and is an authoritative reference for understanding the intention of the parties to this Agreement. Accordingly, Concessionaire shall be obligated to meet all specifications described in Concessionaire's Proposal, the First Amendment and this Second Amendment; provided, however, that where an express provision of the Concession Agreement and any subsequent amendments conflict with any provision of Concessionaire's Proposal, the Concession Agreement and any subsequent amendments shall control.

2. Section 2.2 Additions and Deletions to the Leased Premises, of the Concession Agreement is amended to read as follows:

**Section 2.2 Additions and Deletions to the Leased Premises**

The Lessor, acting through its Director, and Concessionaire may, from time to time, by mutual written agreement, add additional space or spaces to or delete space or spaces from the Leased Premises and revise Exhibit A-1, Exhibit A-2 and Exhibit A-3 or may add rights, licenses, or privileges, or delete rights, licenses or privileges granted to Concessionaire. All space added to the Leased Premises or rights, licenses, or privileges added pursuant to this Section shall be subject to all the terms, conditions, and other provisions of this Agreement and Concessionaire shall pay to Lessor all sums, fees, and charges applicable to such additional space, rights, licenses, or privileges in accordance with the provisions of this Agreement. It is expressly understood and agreed that this Agreement anticipates significant construction and renovation of the Lease Premises. During any periods of construction in which the Concessionaire is unable to conduct its concession activities in a construction area normally used for concessions, the Director may provide such other temporary concession spaces as necessary to allow Concessionaire to provide its services. Such approval may be granted in the sole discretion of the Director.

3. **Ratification.** Except as herein amended, all other terms and conditions of the Concession Agreement and amended by that First Amendment not specifically modified by this Second Amendment shall remain unchanged and in full force and effect.

4. **Effective Date.** This Second Amendment shall be effective upon the date it is approved by the El Paso City Council.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)



CONCESSIONAIRE:  
Host International, Inc.

By: [Signature]  
Printed Name: RICHARD M. IAPICCA  
Title: Authorized Signatory

ACKNOWLEDGMENT

THE STATE OF MARYLAND )  
                                          )  
COUNTY OF MONTGOMERY )

This instrument was acknowledged before me on this 17<sup>th</sup> day of Feb., 2012,  
by Richard M. Iapicca, as Authorized Signatory of Host International, Inc.  
(Concessionaire).



[Signature]  
Notary Public, State of Maryland