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

DEPARTMENT: **Legal**

AGENDA DATE: **INTRODUCTION: 6-24-08**
PUBLIC HEARING: 7-1-08

CONTACT PERSON/PHONE: **Raymond L. Telles – 541-4550**

DISTRICT(S) AFFECTED: ALL

SUBJECT:
APPROVE an Ordinance amending the Non-Exclusive Bus Bench Franchise previously granted to Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads by Ordinance Number 016796, to reflect El Paso Bench Ads, LLC as the new franchisee; the penalties being as provided in Section 13.20.110 of the El Paso City Code.

BACKGROUND / DISCUSSION:
The City of El Paso had previously granted a non-exclusive bus bench franchise to Oliva Manufactured Homes Sales, Inc. dba Southwest Bench Ads through ordinance number 016796. Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads now desires to assign its non-exclusive bus bench franchise to El Paso Bench Ads, LLC. The City of El Paso has determined that a continued need exists for the installation and maintenance of bus benches and shelters on public rights of way adjacent to established Sun Metro bus stops wherever possible for the convenience and benefit of members of the public utilizing the public transportation system provided by the City of El Paso.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one? If so, when?
No

AMOUNT AND SOURCE OF FUNDING:
How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?
N/A This is a revenue generating franchise.

CITY CLERK DEPT.
08 JUN 20 PM 12:06

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A
N/A

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) Raymond Telles **FINANCE:** (if required) _____
OTHER: _____
(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:** _____

AN ORDINANCE AMENDING THE NON-EXCLUSIVE BUS BENCH FRANCHISE PREVIOUSLY GRANTED TO OLIVA MANUFACTURED HOME SALES, INC. DBA SOUTHWEST BENCH ADS BY ORDINANCE NUMBER 016796, TO REFLECT EL PASO BENCH ADS, LLC AS THE NEW FRANCHISEE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso had previously granted a non-exclusive bus bench franchise to Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads through ordinance number 016796;

WHEREAS, Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads now desires to assign its non-exclusive bus bench franchise to El Paso Bench Ads, LLC; and

WHEREAS, the City of El Paso has determined that a continued need exists for the installation and maintenance of bus benches and shelters on public rights of way adjacent to established Sun Metro bus stops wherever possible for the convenience and benefit of members of the public utilizing the public transportation system provided by the City of El Paso;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

I. The City of El Paso (hereinafter referred to as the "City") hereby amends the non-exclusive bus bench franchise granted by Ordinance number 016796 to Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads, as follows:

A. The Grantee originally identified within Ordinance No. 016796 shall be and hereby is amended from Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads to El Paso Bench Ads, LLC; provided, however, that such amendment is subject to and conditioned upon El Paso Bench Ads, LLC compliance with the terms and conditions of the bus bench franchise, including but not limited to the requirements of Ordinance No. 016796, the Bus Bench Franchise Rules and all applicable El Paso City Code provisions.

B. Any notices provided pursuant to the amended franchise shall be provided by certified mail, return receipt requested, directed to the following addresses, as may be amended from time to time in writing by either party:

CITY:	Mayor 2 Civic Center Plaza El Paso, Texas 79901	City Clerk 2 Civic Center Plaza El Paso, Texas 79901
COPY TO:	Mass Transit Department Director Sun Metro 700-A San Francisco El Paso, Texas 79901	

GRANTEE: El Paso Bench Ads, LLC
2630 Yandell
El Paso, Texas 79903
Attn: Howard Goldberg

II. Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads and El Paso Bench Ads, LLC shall indicate acceptance and acknowledgment of the provisions of this ordinance in writing within thirty (30) calendar days after the passage and approval thereof. In the event either party fails to accept and acknowledge as required herein, the authority granted by this instrument shall immediately terminate.

III. All other remaining terms and conditions of Ordinance No. 016796 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____ 2008.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Tim Omick, Director
Mass Transit Department

(ACCEPTANCE AND ACKNOWLEDGMENT ON THE FOLLOWING PAGE)

ACCEPTANCE AND ACKNOWLEDGMENT

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this _____ day of _____, 2008.

OLIVA MANUFACTURED HOME SALES, INC. DBA SOUTHWEST BENCH ADS

_____
By: _____
Printed Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2008, by _____, as _____ of **Oliva Manufactured Home Sales, Inc. dba Southwest Bench Ads.**

_____
Notary Public, State of Texas

My Commission Expires:

_____

(ACCEPTANCE AND ACKNOWLEDGMENT ON THE FOLLOWING PAGE)

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this _____ day of _____, 2008.

EL PASO BENCH ADS, LLC

_____
By: _____
Printed Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2008, by _____, as _____ of **El Paso Bench Ads, LLC**.

_____
Notary Public, State of Texas

My Commission Expires:

_____

RECEIVED FOR FILING THIS _____ DAY OF _____, 2008.

_____
Richarda Duffy Momsen, City Clerk