

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

DEPARTMENT: AIRPORT

AGENDA DATE: August 31, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombraña/780-4724

DISTRICT(S) AFFECTED: District 3

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

This is a resolution to allow the City Manager to sign an Approval of Assignment by and among the City of El Paso, Midwest Car Corporation, an independent licensee of National Car Rental and Alamo Rent A Car and EAN Holdings, LLC dba National Car Rental and Alamo Rent A Car of the July 1, 2006 Vehicle Rental Concession Agreement.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Midwest Car Corporation has entered into a definitive sales agreement with EAN Holdings, LLC for the sale of its rental car business in El Paso. The sale is to be effective on September 2, 2010. As such, Midwest Car Corporation is requesting the assignment of the Vehicle Car Rental Agreement to EAN Holdings, LLC dba National Car Rental and Alamo Rent A Car.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

City Council previously awarded Vehicle Rental Concession Agreement effective July 1, 2006.

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 - Revenue generating

BOARD / COMMISSION ACTION: N/A

Enter appropriate comments or N/A

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

DEPARTMENT HEAD: _____

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

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 an Approval of Assignment by and among the City of El Paso, Midwest Car Corporation, and Independent Licensee of National Car Rental & Alamo Rent-A-Car and EAN Holdings, LLC d/b/a National Car Rental and Alamo Rent A Car. of the July 1, 2006 Vehicle Rental Concession Agreement.

ADOPTED this the ____ day of _____ 2010.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

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 §

APPROVAL OF ASSIGNMENT

This Approval of Assignment is entered into this _____ day of _____, 2010 by and among the City of El Paso, a municipal corporation existing under the laws of the State of Texas, (“City”); Midwest Car Corporation, an Independent Licensee of National Car Rental & Alamo Rent-A-Car, incorporated under the laws of the State of Wisconsin, (“Concessionaire”), and EAN Holdings, LLC d/b/a National Car Rental and Alamo Rent A Car, incorporated under the laws of the State of Missouri (“Assignee”).

WHEREAS, City and Concessionaire entered into a Vehicle Rental Concession Agreement (the “Concession Agreement”), with an effective date of July 1, 2006, for a term of four (4) years with an option to extend the term for an additional one (1) year period;

WHEREAS, in accordance with the terms and conditions of the Concession Agreement, City exercised its option to extend the term of the Concession Agreement to June 30, 2011; and

WHEREAS, Concessionaire has requested City approve the assignment of its rights under the Concession Agreement to Assignee.

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 approve the Assignment of the Concession Agreement as follows:

1. **CONSENT TO ASSIGNMENT.** City hereby approves and consents to the assignment of the Concession Agreement from Concessionaire to Assignee on the condition that Assignee assumes and becomes responsible for any and all obligations under the Concession Agreement arising from and after the effective date of the assignment of the Concession Agreement to Assignee; Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Concession Agreement, including but not limited to the execution of a Payment Security as required by Section 7.03 of the Concession Agreement

2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Concession Agreement. In addition, Assignee expressly agrees to be bound by the indemnification provisions contained in the Concession Agreement.

3. **GUARANTOR.** Concessionaire remains responsible for any and all obligations under the Concession Agreement arising prior to the effective date of the assignment of the

Concession Agreement, and Assignee, as of the effective date of the assignment, accepts, assumes, takes over and succeeds to all of the Assignor's rights, duties, interests, liabilities and obligations under the Concession Agreement from the Effective Date forward and agrees to all of the terms, conditions, provisions, covenants and obligations contained therein.

4. **RATIFICATION OF AGREEMENT.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Concession Agreement; all other terms and conditions of the Concession Agreement shall remain in full force and effect.

5. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:

 ASSIGNEE: EAN Holdings, LLC d/b/a National Car Rental
 and Alamo Rent A Car
 4740 Pan American Freeway, NE
 Albuquerque, NM 87109

 COPY TO: Enterprise Holdings, Inc.
 600 Corporate Park Drive
 St. Louis, MO 63105
 Attn: Airport Relations Department

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Approval of Assignment on behalf of Concessionaire and Assignee represent and warrant that they have the authority legally to bind Concessionaire and Assignee, to the provisions of this Approval of Assignment.

7. **NON-WAIVER.** This Approval of Assignment hereby given by City shall not end the need for City's consent for any future assignments.

8. **EFFECTIVE DATE.** The effective date of this Approval of Assignment is Sept. 1, 2010.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

