

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

DEPARTMENT: Airport
AGENDA DATE: December 13, 2011
CONTACT PERSON: Monica Lombraña 780-4724
DISTRICTS AFFECTED: All Districts

SUBJECT:

Approve a resolution authorizing the City Manager to sign a Second Amendment to the Lessor's approval of Assignment which releases Benjamin A. Vanecek as guarantor for the Golf Course Operations and Concession Agreement by and between the City of El Paso (Lessor) and Bueno Investments, (Concessionaire) for the area municipally know as Lone Star Golf Club located at 1510 Hawkins Blvd.

BACKGROUND / DISCUSSION:

On April 1, 1985, Lessor and William Eschenbrenner entered into a Golf Course Operation and Concession Agreement, which was subsequently assigned to Bueno Investments effective January 1, 2009, naming Benjamin A. Vanecek, as an individual, Guarantor. Bueno Investments, Inc. has requested that Benjamin A. Vanecek, in his individual capacity, be released as a guarantor of the terms and conditions of the Golf Course Operation and Concession Agreement and its amendments.

PRIOR COUNCIL ACTION:

- April 1, 1985, the Golf Course Operation and Concession Agreement was approved, and assigned to Golf Management Inc.
- March 28, 1991, First Amendment to the Concession Agreement was approved
- June 1, 2000, Second Amendment to the Concession Agreement was approved
- April 30, 2002, Third Amendment to the Concession Agreement was approved
- August 9, 2004, Fourth Amendment to the Concession Agreement was approved
- September 2, 2008, Fifth Amendment to the Concession Agreement was approved
- January 1, 2009, Lessor's approval of assignment to Bueno Investments was approved
- March 3, 2009, First Amendment to Assignment was approved discharging John William Eschenbrenner, in his individual capacity, as a guarantor

AMOUNT AND SOURCE OF FUNDING: N.A., this is a revenue generating Lease

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 a Second Amendment to Lessor's Approval of Assignment which releases Benjamin A. Vanacek as guarantor under the Golf Course Operation and Concession Agreement by and between the City of El Paso and Bueno Investments, Inc. for the real property known as Lone Star Golf Course located at 1510 Hawkins Boulevard, El Paso, Texas.

ADOPTED this ____ day of _____ 2011.

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:

for 

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

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

**SECOND AMENDMENT TO
LESSOR'S APPROVAL OF ASSIGNMENT**

THIS SECOND AMENDMENT TO LESSOR'S APPROVAL OF ASSIGNMENT (the "Second Amendment") is made by and between the City of El Paso ("City") and Bueno Investments, Inc. ("Assignee").

WHEREAS, City and John William Eschenbrenner entered into a Golf Course Operation and Concession Agreement, with an effective date of April 1, 1985 (the Golf Course Operation and Concession Agreement") for the improved real property known as the Lone Star Golf Club (f/k/a Cielo Vista Municipal Golf Course) located at 1510 Hawkins Boulevard, El Paso, Texas;

WHEREAS, effective April 1, 1985, John William Eschenbrenner assigned his rights and obligations under the Golf Course Operation and Concession Agreement to Golf Management, Inc., pursuant to Section 11 of the Golf Course Operation and Concession Agreement, and John William Eschenbrenner remained liable to the City under the Golf Course Operation and Concession Agreement notwithstanding the assignment;

WHEREAS, on March 28, 1991, the City Council approved the First Amendment to the Golf Course Operation and Concession Agreement between the City and Golf Management, Inc.;

WHEREAS, effective June 1, 2000, the City Council approved the Second Amendment to the Golf Course Operation and Concession Agreement between the City and Golf Management, Inc.;

WHEREAS, on April 30, 2002 the City Council approved the Third Amendment to the Golf Course Operation and Concession Agreement between the City and Golf Management, Inc.;

WHEREAS, effective August 9, 2004, the City Council approved the Fourth Amendment of the Golf Course Operation and Concession Agreement between the City and Golf Management, Inc.;

WHEREAS, on September 2, 2008, the City Council approved the Fifth Amendment of Lease to the Golf Course Operation and Concession Agreement between the City and Golf Management, Inc.;

WHEREAS, effective January 1, 2009, the City Council approved a Lessor's Approval of Assignment which allowed an assignment of the Golf Course Operation and Concession Agreement and its amendments by Golf Management, Inc. to Bueno Investments, Inc., contingent upon the execution of a Guaranty of Assignment by Benjamin A. Vanecek, individually,

WHEREAS, on March 3, 2009, the City Council approved a First Amendment to Lessor's Approval of Assignment which released and discharged John William Eschenbrenner, in his individual capacity, as a guarantor of the terms and conditions of the Golf Course Operation and Concession Agreement and its amendments;

WHEREAS, Bueno Investments, Inc. has requested that Benjamin A. Vanecek, in his individual capacity, be released as a guarantor of the terms and conditions of the Golf Course Operation and Concession Agreement and its amendments,

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Lessor's Approval of Assignment, effective January 1, 2009, as follows:

1. Paragraph 3, **GUARANTOR**, of the Lessor's Approval of Assignment is amended to read as follows:
 3. **GUARANTOR**. Assignor shall be released and discharged from all rights, privileges and obligations under the Concession agreement and Assignee shall, as of the effective date of the assignment, enjoy all rights and privileges and be responsible for satisfying all such obligations the same as if the Concession agreement had originally been executed between Lessor and Assignee.

Benjamin A. Vanecek, individually, is released and discharged from all rights, privileges and obligations under the Concession Agreement as assigned arising from and after the effective date of this Second Amendment to the Lessor's Approval Assignment.

2. Except as expressly modified herein, no provision of this Second Amendment to the Lessor's Approval of Assignment alters or modifies any of the terms and conditions of Lessor's Approval of Assignment and its amendments, and all other terms and conditions of the Golf Course Operation and Concession Agreement and its amendments shall remain in full force and effect.
3. This Second Amendment to Lessor's Approval of Assignment shall be effective January 1, 2012.

Approved this ___ day of _____, 2011.

(Signatures begin on following page)

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

for 

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

LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ___ day of _____, 2011,
by **Joyce A. Wilson as City Manager of the City of El Paso, Texas** (Lessor).

Notary Public, State of Texas

My Commission Expires:

(Signatures continue on following page)

ASSIGNEE: Bueno Investments, Inc.

[Handwritten Signature]

Printed Name: Benjamin Vanecel
Title: Owner / President

ASSIGNEE'S ACKNOWLEDGMENT

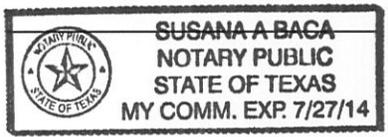
THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 23 day of November, 2011,
by Benjamin Vanecel as Owner/President of **Bueno Investments, Inc.**
(Assignee).

[Handwritten Signature]

Notary Public, State of Texas

My Commission Expires:



(Signatures continue on following page)

GUARANTOR: Benjamin A. Vanecek

[Handwritten signature of Benjamin A. Vanecek]

GUARANTOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged before me on this 23 day of November, 2011,
by Benjamin A. Vanecek Individually ("**Guarantor**").

[Handwritten signature of Susana A Baca]

Notary Public, State of Texas

My Commission Expires:

