

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

DEPARTMENT: Aviation

AGENDA DATE: August 30, 2022

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, Director of Aviation, (915) 212-7301

DISTRICT(S) AFFECTED: District 3

CITY STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

Resolution to authorize the City Manager to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc ("Assignor") and EP GolfCo, LLC ("Assignee") for the following described property: A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.

BACKGROUND / DISCUSSION:

The Department of Aviation requests the approval of this Seventh Amendment and Lessor's Approval of Assignment to allow the transfer of rights and obligations possessed by Bueno Investments, Inc to EP GolfCo, LLC. In addition, this request amends the option term to allow the Concessionaire to extend the agreement to March 31, 2035.

PRIOR COUNCIL ACTION:

January 1, 2009 - Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Golf Management, Inc. ("Assignor"), and Bueno Investments, Inc. ("Assignee").

March 3, 2009 – First Amendment to Lessor's Approval of Assignment.

January 1, 2012 – Second Amendment to Lessor's Approval of Assignment.

March 12, 2013 – Sixth Amendment to Golf Course Operation and Concession Agreement.

AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue generating item.

BOARD / COMMISSION ACTION:

N/A

DEPARTMENT HEAD:



Sam Rodriguez, P.E.
Chief Operations & Transportation Officer/Director of Aviation

RESOLUTION

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

That the City Manager be authorized to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc. ("Assignor") and EP GolfCo LLC ("Assignee") for the following described property:

A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.

ADOPTED this the ____ day of _____, 2022.

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

Samuel Rodriguez, P.E.
Director of Aviation

STATE OF TEXAS § SEVENTH AMENDMENT TO GOLF COURSE
 § OPERATIONS AND CONCESSION AGREEMENT
COUNTY OF EL PASO § AND LESSOR'S APPROVAL OF ASSIGNMENT

WHEREAS, the City of El Paso ("Lessor") entered into a Golf Course Operation and Concession Agreement ("Concession Agreement") dated April 1, 1985 between the Lessor and John William Echenbrenner, for the property legally described as:

A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, being more particularly described in **EXHIBIT A**, attached hereto and made a part hereof, and municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas ("Premises").

WHEREAS, the Concession Agreement was subsequently assigned to Golf Management, Inc. pursuant to Section 11 of the Concession Agreement;

WHEREAS, effective April 1, 1991, the Concession Agreement amended by the execution of the First Amendment to the Concession Agreement;

WHEREAS, effective June 1, 2000, the Concession Agreement was further amended by execution of the Second Amendment;

WHEREAS, effective April 30, 2002, the Concession Agreement was further amended by the execution of the Third Amendment;

WHEREAS, effective August 9, 2004, the Concession Agreement was further amended by the execution of the Fourth Amendment;

WHEREAS, effective September 8, 2008, the Concession Agreement was further amended by the execution of the Fifth Amendment; and

WHEREAS, effective January 1, 2009, the Concession Agreement was subsequently assigned from Golf Management, Inc. to Assignee Bueno Investments, Inc. (as "Assignor" herein below); and

WHEREAS, effective March 3, 2009, the Concession Agreement was further amended by the execution of the First Amendment to Lessor's Approval of Assignment; and

WHEREAS, effective December 11, 2011, the Concession Agreement was further amended by the execution of the Second Amendment to Lessor's Approval of Assignment; and

WHEREAS, effective March 12, 2013, the Concession Agreement was further amended by the execution of the Sixth Amendment; and

LESSOR'S APPROVAL OF ASSIGNMENT & 7TH AMENDMENT
22-1003-1301/1185622.4/1510 Hawkins Blvd//Bueno Investments, Inc. to EP GolfCo LLC/LBJ

WHEREAS, the parties now desire to agree to a Seventh Amendment to the Concession Agreement to increase the one (1) final option term from five (5) years to nine (9) years; and

WHEREAS, Assignor now desires to assign its interest in 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 as follows:

1. **RENEWAL OPTION.** Concessionaire is hereby granted one (1) final option, provided that Concessionaire is not then in default, to extend the existing term of the Concession Agreement, for one (1) additional term of nine (9) years, such option term, if exercised, to expire on March 31, 2035. To exercise such option right, Concessionaire must notify City in writing of Concessionaire's election to exercise such option at least one hundred and twenty (120) days prior to the inception of such option. In the event Concessionaire exercises such option, the Concession Agreement shall be extended upon the same terms and conditions.
2. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to EP GolfCo LLC (as "Assignee" herein below), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
3. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
4. **SECURITY DEPOSIT.** 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 Lease had originally been executed between Lessor and Assignee. Provided, however, Assignee shall tender to Lessor an irrevocable letter of credit, or a rental bond or other surety acceptable to the Director of Aviation ("Security Deposit") in an amount equal to three (3) months of Rent to guarantee the faithful performance of Assignee of its obligations under this Lease and the payment of all Rents due hereunder. Assignee shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months from the Effective Date of this Lessor's approval of Assignment. Within thirty (30) days after expiration of such eighteen (18) month period and if no Event of Default by Assignee has occurred, Lessor will return the Security Deposit to Assignee.

5. **RATIFICATION OF LEASE.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.
6. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:
- ASSIGNOR:** Bueno Investments, Inc.
7500 Viscount, Suite 202
El Paso, Texas 79935
Attention: Benjamin A. Vanecek
- ASSIGNEE:** EP GolfCo LLC
P.O. Box 3157
El Paso, Texas 79923-3157
Attn: William C. Collins, Manager
7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the authority legally to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
8. **NON-WAIVER.** This Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
9. **EFFECTIVE DATE.** The Effective Date of this Lessor's Approval of Assignment will be the date this document is signed by the City of El Paso.
10. **COUNTERPARTS.** This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

[Signatures Begin on the Following Page]

ASSIGNEE: EP GOLFCO LLC, a Texas limited liability company

By: [Signature]
William C. Collins, Manager

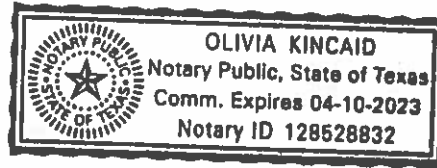
ASSIGNEE'S ACKNOWLEDGEMENT

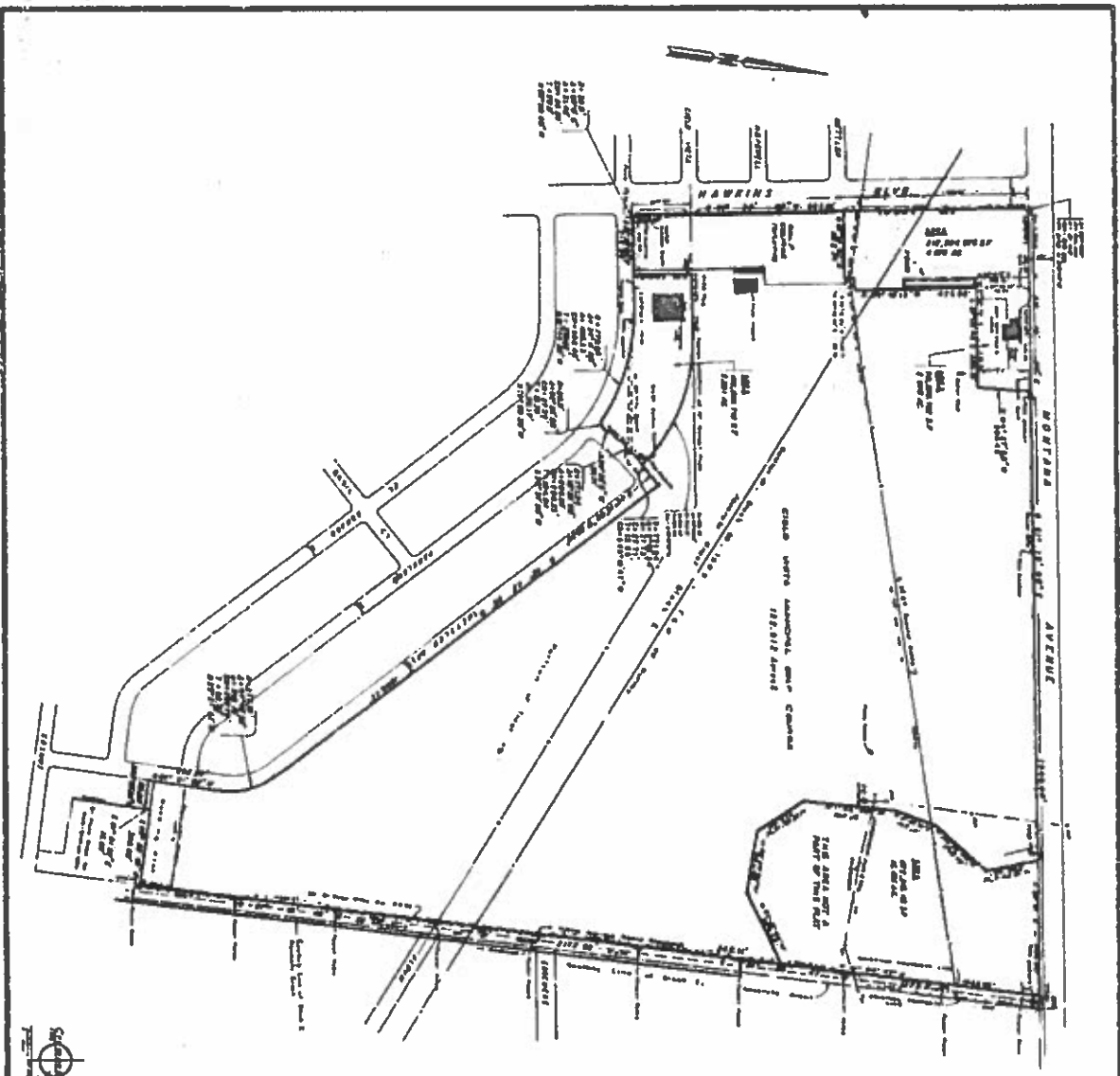
THE STATE OF Texas)
COUNTY OF El Paso)

This instrument was acknowledged before me on this 12th day of August, 2022, by William C. Collins, as Manager of EP GolfCo LLC (Assignee)

[Signature]
Notary Public, State of Texas

My Commission Expires:
4/10/2023





- AREA 100 MODIFIES**
- 1 GOLF COURSE, INCLUDING EXISTING LOT 427 SQ. FT.
 - 2 MUNICIPAL LOT 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
 - 3 NOT PART OF LOT 100
 - 4 PROPOSED ROAD

EXHIBIT

A

PLAT

CIELO VISTA MUNICIPAL GOLF COURSE

EL PASO INTERNATIONAL AIRPORT



APRIL 17, 1954.

SCALE 1/2" = 100'