

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

**DEPARTMENT:** Aviation  
**AGENDA DATE:** December 16, 2008  
**CONTACT PERSON/PHONE:** Patrick T. Abeln, 780-4724  
**DISTRICT(S) AFFECTED:** 3

**SUBJECT:**

Approve a Resolution authorizing the City Manager to sign Lessor's Approval of Assignment between the City of El Paso ("Lessor"), Golf Management, Inc. ("Assignor") and Bueno Investment, Inc. ("Assignee")

**BACKGROUND / DISCUSSION:**

The City of El Paso currently has a Golf Course Operation and Concession Agreement with Golf Management, Inc. to operate the Lone Star Golf Club golf course. Golf Management desires to assign the agreement to Bueno Investments, Inc. Bueno Investments will become liable to pay any and all sums owing or becoming due Lessor under terms of the Golf Course Operation and Concession Agreement, and agrees to accept and abide by all the terms, covenants, and conditions of the Golf Course Operation and Concession Agreement. In addition, Benjamin A. Vanecek, president of Bueno Investment, Inc., guarantees payment, as an individual, of rents and other charges or fees due to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Golf Course Operation and Concession Agreement.

The agreement has an effective date of April 1, 1985 with the term to expire March 31, 2026. There is one (1) option for one additional term of five (5) years, which if exercised would expire on March 31, 2031.

**PRIOR COUNCIL ACTION:**

The Golf course Operation and Concession Agreement was approved by City Council on April 1, 1985, and Council further approved five (5) amendments to the Concession agreement the last of which occurred on September 2, 2008.

**AMOUNT AND SOURCE OF FUNDING:**

N/A This is a revenue generation lease.

**BOARD / COMMISSION ACTION:**

The Airport Advisory Board at their November 20, 2008 meeting recommended approval of the Assignment.

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

**LEGAL:**

Cynthia Osborn, Asst. City Attorney

**FINANCE:** (if required)

**OTHER:**

Patrick T. Abeln, A. A. E., Director of Aviation

*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## RESOLUTION

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

That the City Manager be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Golf Management, Inc. ("Assignor"), and Bueno Investments, Inc. ("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 and numbered as the Lone Star Golf Club (f/k/a Cielo Vista Golf Course) located 1510 Hawkins Blvd., El Paso, Texas.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2008.

THE CITY OF EL PASO

ATTEST:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Cynthia Osborn  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Patrick T. Abeln, A. A. E.  
Director of Aviation

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

**LESSOR'S APPROVAL OF ASSIGNMENT**

The City of El Paso ("Lessor") entered into a Golf Course Operation and Concession Agreement Cielo Vista Municipal Golf Course dated April 1, 1985 ("Concession Agreement") between the Lessor and John William Eschenbrenner; which was subsequently assigned to Golf Management, Inc. ("Assignor") pursuant to Section 11 of the Concession Agreement; amended by the execution of the First Amendment to Golf Course Operation and Concession Agreement with an effective date of April 1, 1991; further amended by the execution of the Second Amendment of Concession Agreement with an effective date of June 1, 2000; further amended by the execution of the Third Amendment of Concession Agreement dated April 30, 2002; further amended by the execution of a Fourth Amendment to Golf Course Operation and Concession Agreement with an effective date of August 9, 2004; and subsequently amended by the execution of a Fifth Amendment to Golf Course Operation and Concession Agreement with an effective date of September 2, 2008 (collectively referred to herein as the "Concession Agreement") covering the following described leased premises:

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").

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Concession Agreement from Assignor to Bueno Investments, Inc. ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under the terms of the Concession Agreement from and after the effective date of the assignment of the Concession Agreement to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions 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 and expressly agrees to be bound by the indemnification provisions contained in the Concession Agreement.
3. **GUARANTOR.** Assignor shall be released and discharged from all rights, privileges and obligations under the Concession Agreement arising from and after the effective date of the assignment of 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, contingent upon the execution of a Guaranty of

Assignment by Benjamin A. Vanecek ("Guarantor"), Individually, which guarantees payment of rent and other charges or fees due to the Lessor and provides that Guarantor shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Concession Agreement.

4. **RATIFICATION OF CONCESSION 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 and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

**ASSIGNEE:** Bueno Investments, Inc.  
7500 Viscount, Suite 202  
El Paso, Texas 79935  
Attn: Benjamin A. Vanecek

**ASSIGNOR:** Golf Management, Inc.  
1510 Hawkins Blvd.  
El Paso, Texas 79925  
Attn: John William Echenbrenner

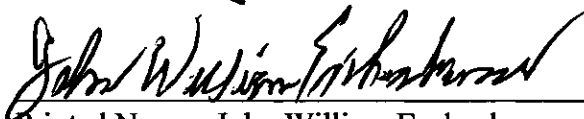
**GUARANTOR:** Benjamin A. Vanecek  
7500 Viscount, Suite 202  
El Paso, Texas 79935

6. **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 legal authority to bind the Assignee or Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
8. **EFFECTIVE DATE.** The effective date of this Lessor's Approval of Assignment is the 1<sup>st</sup> day of January, 2009.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)



**ASSIGNOR: Golf Management, Inc.**

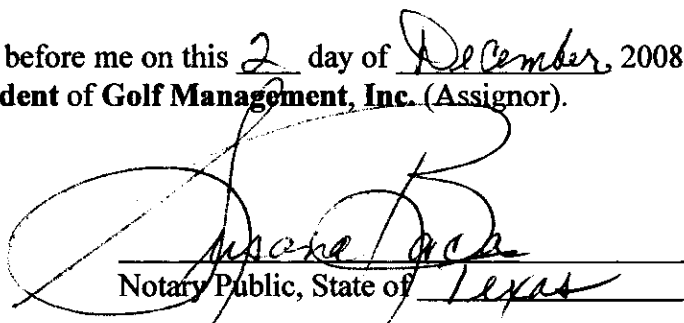


Printed Name: John William Eschenbrenner  
Title: President

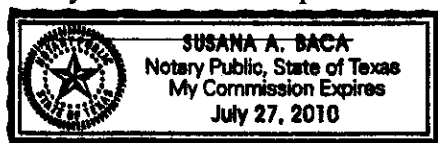
**ASSIGNOR'S ACKNOWLEDGMENT**

**THE STATE OF TEXAS**           )  
  )  
**COUNTY OF EL PASO**        )

This instrument was acknowledged before me on this 2 day of December, 2008,  
by **John William Eschenbrenner as President of Golf Management, Inc.** (Assignor).

  
\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:



(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

**ASSIGNEE: Buend Investments, Inc.**

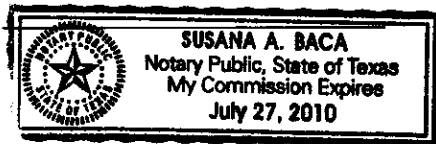
Printed Name: Benjamin A Vanecek  
Title: President

**ASSIGNEE'S ACKNOWLEDGMENT**

**THE STATE OF TEXAS** )  
 )  
**COUNTY OF EL PASO** )

This instrument was acknowledged before me on this 2 day of December, 2008,  
by Benjamin Vanecek as President of **Buend Investments, Inc.**  
(Assignee).

My Commission Expires:



Susana Baca  
Notary Public, State of Texas

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

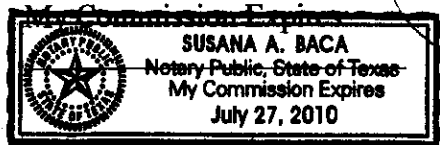
**GUARANTOR** Benjamin A. Vanecek

**GUARANTOR'S ACKNOWLEDGMENT**

**THE STATE OF TEXAS**

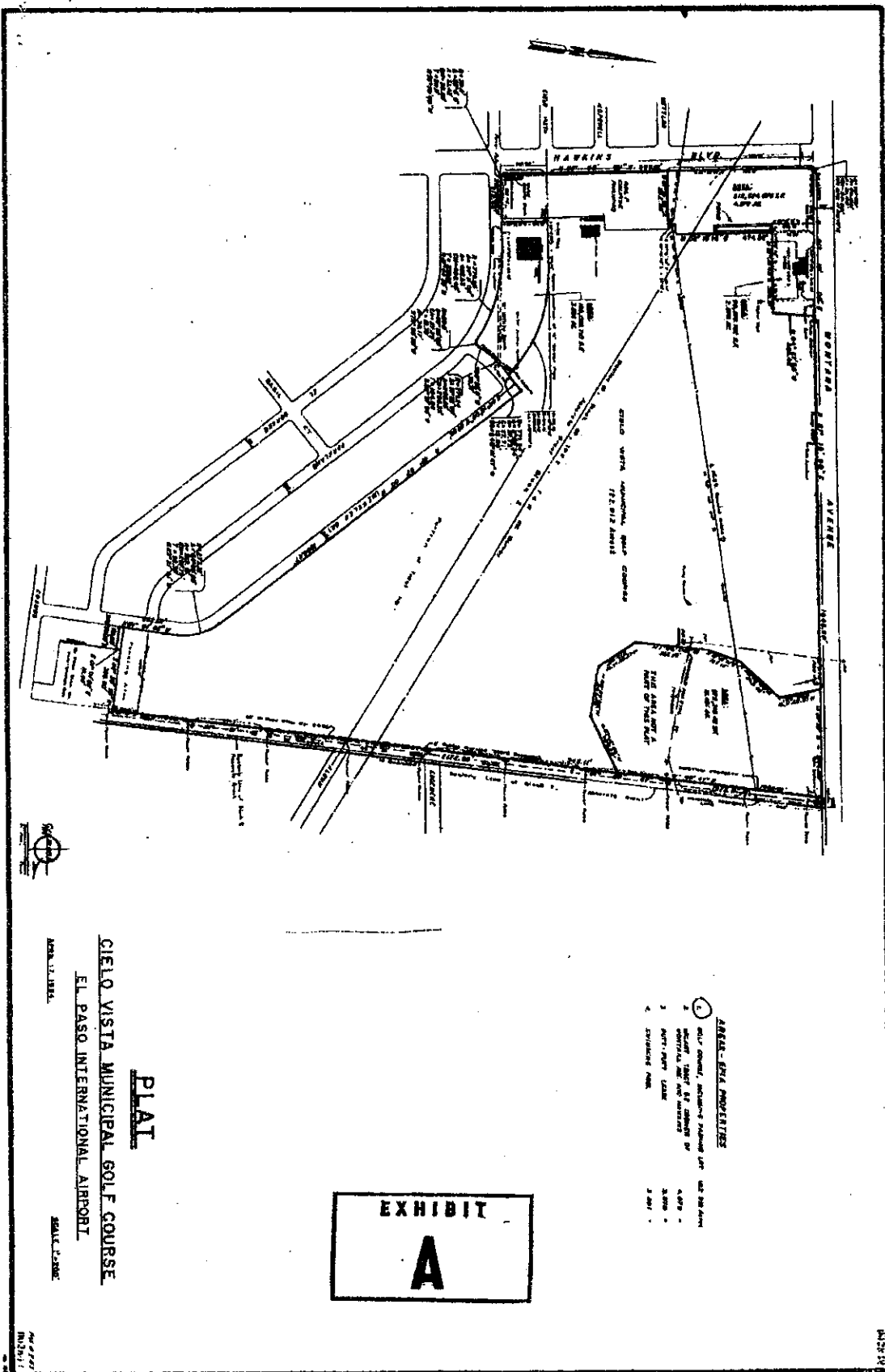
**COUNTY OF EL PASO**

This instrument was acknowledged before me on this 2 day of December, 2008,  
by Benjamin A. Vanecek individually ("Guarantor").



Susana A. Baca  
Notary Public, State of Texas





- LEGEND - GOLF COURSE**
- 1. GOLF COURSE, including clubhouse, pro shop, and other buildings
  - 2. GOLF COURSE, including clubhouse, pro shop, and other buildings
  - 3. GOLF COURSE, including clubhouse, pro shop, and other buildings
  - 4. GOLF COURSE, including clubhouse, pro shop, and other buildings

**EXHIBIT**  
**A**

**PLAT**  
**CIELO VISTA MUNICIPAL GOLF COURSE**  
**EL PASO INTERNATIONAL AIRPORT**



SCALE 1:1000

PLAT 1000