

AN ORDINANCE 2008-08-21-0719

**CONSENTING TO THE ASSIGNMENT OF A CONCESSION LEASE AT SAN ANTONIO INTERNATIONAL AIRPORT TERMINAL 2 FROM MONTERREY PRODUCTS COMPANY, INC. TO TEXAN ACCENT GENERAL STORE, LLC.**

\* \* \* \* \*

**WHEREAS**, on September 28, 2001, the City and Monterrey Products Company, Inc. (Assignor) entered into a Concession Lease Agreement ("Lease") pursuant to Ordinance No. 94214 of June 28, 2001; and the Lease was subsequently amended pursuant to Ordinance 2006-10-05-1152; and

**WHEREAS**, Assignor has requested to assign the Lease to Texas Accent General Store, LLC; and

**WHEREAS**, the City is agreeable to the Assignment; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Manager, or her designee, is hereby authorized to execute the attached Assignment & Assumption Agreement transferring the interest of Monterrey Products Company, Inc. in that certain Lease entered into pursuant to Ordinance No. 94214.

**SECTION 2.** The \$1,500.00 fee for the lease assignment will be deposited into Fund 51001000, Internal Order 233000000002, General Ledger 4405927.

**SECTION 3.** Revenue generated from the lease will continue to be deposited in Fund 51001000, and internal order and general ledger(s) previously designated for this lease.

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** This Ordinance shall take effect ten (10) days after its passage.

**PASSED AND APPROVED** this 21<sup>st</sup> day of August, 2008.

  
MAYOR  
PHIL HARDBERGER

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
for City Attorney

<b>Agenda Item:</b>	<b>14 ( in consent vote: 5, 9, 12, 13, 14, 15, 16, 17, 20, 21, 23, 25, 26, 27B )</b>						
<b>Date:</b>	08/21/2008						
<b>Time:</b>	09:45:18 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance consenting to the assignment of a concession lease at San Antonio International Airport Terminal 2 from Monterrey Products Company, Inc. to Texan Accent General Store, LLC. [Penny Postoak Ferguson, Assistant City Manager; Mark Webb, Director, Aviation]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				x
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x			x	
John G. Clamp	District 10		x				

## ASSIGNMENT & ASSUMPTION AGREEMENT

**THIS ASSIGNMENT & ASSUMPTION AGREEMENT ("AGREEMENT")** is made and entered into by and between **Monterrey Products, Inc. ("Assignor")**, a Texas corporation, **Texas Accent General Store, LLC ("Assignee")**, a Texas corporation, with the consent of the **City of San Antonio ("City" or "Lessor")** acting by and through its City Manager pursuant to Ordinance No. \_\_\_\_\_ passed and approved on \_\_\_\_\_ with reference to the following facts:

**WHEREAS**, Assignor is the tenant under that certain San Antonio International Airport Concession Agreement dated September 28, 2001 for Lease No. 133022/Space No. 210, as amended, originally authorized by Ordinance No. 75828 of May 28, 1992 and subsequently amended pursuant to Ordinance 2006-10-05-1152, (the Concession Agreement and its subsequent Amendment herein after referred to as the "Original Agreement"); and

**WHEREAS**, Assignor desires to assign to Assignee all of Assignor's right, title and interest in and to the Original Agreement, and Assignee desires to accept the assignment of such right, title and interest in and to the Original Agreement and to assume all of Assignor's rights and obligations under the Original Agreement that may arise or are to be performed under the Original Agreement; and

**WHEREAS**, Assignor has requested that the City approve the assignment of Assignor's rights and obligations under the Original Agreement to Assignee; and

**WHEREAS**, the City is willing to grant this request of Assignor to assign its rights and obligations under the Original Agreement to Assignee;

**NOW THEREFORE:** in consideration of the terms, covenants and promises, agreements and demises herein contained, and for other good and valuable consideration, each to the other given, the receipt and sufficiency of which is hereby acknowledged, Assignor, Assignee and City agree as follows:

A. The Assignor hereby transfers, assigns, and sets over to the Assignee all right, title and interest of the Assignor in and to the Original Agreement.

B. The Assignee hereby accepts, assumes, takes over and succeeds to all of the Assignor's rights, duties, interests, liabilities and obligations under the Agreement. Assignee agrees to all of the terms, conditions, provisions, covenants and obligations contained therein which the Assignor is obligated to keep or perform, including, but not limited to, liabilities for any prior and/or existing environmental contamination of any premises leased; Assignee agrees to indemnify and hold harmless the City of San Antonio with respect to any and all such duties, liabilities, or obligations.

C. Assignee hereby acknowledges that the Original Agreement includes an **INDEMNITY CLAUSE FOR THE BENEFIT OF THE CITY**.

D. The effective date of this Assignment & Assumption shall be ten (10) days after the passage of an Ordinance by the City Council of San Antonio approving this Assignment and Assumption Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Assignment & Assumption Agreement as of the dates set forth below.

**ASSIGNOR:**  
Monterrey Products, Inc.

By: [Signature]

Its: owner

Date: 7-25-08

**ASSIGNEE:**  
Texas Accent General Store, LLC

By: [Signature]

Its: Owner

Date: July 25 '08

**Consented to by:**  
**LESSOR: CITY OF SAN ANTONIO**

By: \_\_\_\_\_  
Sheryl Sculley, City Manager

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

**ATTEST:**

\_\_\_\_\_  
City Clerk



**CITY OF SAN ANTONIO**  
**Request for Council Action**

Agenda Item # 14  
Council Meeting Date: 8/21/2008  
RFCA Tracking No: R-3591

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**DEPARTMENT:** Aviation Department

**DEPARTMENT HEAD:** Mark Webb

**COUNCIL DISTRICT(S) IMPACTED:**  
City Wide

**SUBJECT:**  
Airport Lease Assignment with Texan Accent General Store, LLC

**SUMMARY:**  
This Ordinance authorizes the assignment of a lease agreement at San Antonio International Airport from Monterrey Products Company, Inc. to Texan Accent General Store, LLC.

**BACKGROUND INFORMATION:**  
Monterrey Products Company, Inc. has requested to assign its Concession Agreement to Texan Accent General Store, LLC. The lease consists of approximately 177 square feet of retail space, located in Terminal 2. This lease expires on June 30, 2009 and continues on a month-to-month basis until Terminal 2 airline passenger service ceases. Texan Accent General Store, Inc was formed on March 10, 2008.

The original five-year Lease Agreement was authorized by City Council on September 28, 2001 and a subsequent amendment extending the term of the Lease was authorized by City Council on October 5, 2006.

**ISSUE:**

In accordance with the standard lease agreement, assignments are permitted with the consent of the City through the enactment of an Ordinance. Therefore, City Council action is required to authorize this assignment.

**ALTERNATIVES:**  
The City could terminate the current lease and issue a Request for Proposals (RFP) for a replacement retail concession. However, this would create a temporary loss of revenue to the Airport, as well as potentially cost the City a valuable and successful tenant. Additionally, any new lease would be for a term shorter than two years, as Terminal 2 will cease its airline passenger operations in 2010. It would not be cost effective for a new tenant to build out the space for such a short-term lease.

**FISCAL IMPACT:**

Under the terms of the Lease Agreement, Texan Accent General Store, LLC will continue to pay the Minimum Annual Guaranteed rent in the amount of \$41,976.00. The required \$1,500.00 Assignment Fee has been paid.

**RECOMMENDATION:**

Staff recommends approval of the lease assignment to Texan Accent General Store, LLC.

The required Discretionary Contracts Disclosure form is attached.

**ATTACHMENT(S):**

File Description	File Name
<a href="#">Discretionary Contracts Disclosure</a>	DCD Texan Accent.pdf
<a href="#">Assignment &amp; Assumption</a>	texan accent assignment agrmnt.pdf
<a href="#">Voting Results</a>	
<a href="#">Ordinance/Supplemental Documents</a>	200808210719.pdf

**DEPARTMENT HEAD AUTHORIZATIONS:**

Mark Webb Director Aviation Department

**APPROVED FOR COUNCIL CONSIDERATION:**

Penny Post oak Ferguson Assistant City Manager