

1 BY AUTHORITY

2 ORDINANCE NO. _____

COUNCIL BILL NO. _____

3 SERIES OF 2010

COMMITTEE OF REFERENCE:

4 ECONOMIC DEVELOPMENT

5 A BILL

6 For an ordinance approving a proposed Second Amendment to Agreement between the
7 City and County of Denver and RMES Communications, Inc. concerning internet kiosk
8 services at Denver International Airport.

9
10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** The proposed Second Amendment to Agreement between the City and County of
12 Denver and RMES Communications, Inc. in the words and figures contained and set forth in that form
13 of the Second Amendment filed in the office of the Clerk and Recorder, Ex-Officio Clerk of the City
14 and County of Denver, on the 3rd day of June, 2010, City Clerk's Filing No. 07-031-B is
15 hereby approved.

16
17 COMMITTEE APPROVAL DATE: May 28, 2010

18 MAYOR-COUNCIL DATE: June 1, 2010

19 PASSED BY THE COUNCIL _____ 2010

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____ 2010

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER
25

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2010 _____ 2010

27 PREPARED BY: George "Skip" Gray, III, Jr. DATE: June 3, 2010

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
31 of the Charter.

32
33 David R. Fine, City Attorney

34 BY: _____, _____ City Attorney

35 DATE: June 3, 2010

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT is made and entered into this _____ day of _____, 2010 by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation acting for and on behalf of its Department of Aviation ("City"), Party of the First Part, and **RMES COMMUNICATIONS, INC.**, a Colorado corporation ("Concessionaire"), Party of the Second Part.

RECITALS

A. The City and RMES Communications, Inc. entered into a License Agreement dated January 30, 2007 for the installment and operation of public access Internet equipment in kiosks in the Airport's concourses and Terminal at Denver International Airport ("Airport") and a First Amendment to Agreement dated December 12, 2008 (collectively, the "Original Agreement").

B. Concessionaire has requested and the City has agreed to extend the term of the Concessionaire's Pay Telephone Agreement to match the term of the Original Agreement and to adjust the Minimum Annual Guarantee (MAG) for both agreements.

NOW THEREFORE, as consideration for Concessionaire's agreement to remove or relocate, at Concessionaire's own cost and expense and upon a mutually agreed upon date but not later than July 1, 2010, all pay telephones, TDD/TTY telephone devices and pre-paid calling card vending machines/units located in the east and west center cores and sub-cores of Concourses A, B and C to other locations in the Airport pursuant to Concessionaire's Pay Telephone Agreement, good and for other valuable consideration the sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Section 5.01 of the Original Agreement (Compensation), hereby is amended and given effect as of January 1, 2010 to reduce the MAG from \$120,000 to \$60,000 (so that with no change in the Percentage Compensation Fee, the Monthly Minimum Guarantee will become \$5,000 or 15% of Gross Revenues, whichever is greater). The Performance Guarantee will be adjusted accordingly.

2. The Original Agreement is further amended by adding an ACDBE goal of 36% to Concessionaire's ACDBE obligations pursuant to the requirements of the U.S. Department of Transportation's regulation 49 CFR Part 23.

3. Except as modified or amended by this Second Amendment to Agreement, all of the terms, provisions and conditions of the Original Agreement shall remain valid, enforceable and in full force and effect as though fully set forth herein.

4. This Second Amendment to Agreement is expressly subject to, and shall not be or become effective or binding on the City, until it is approved by the Denver City Council and fully executed by all signatories of the City and County of Denver.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER

By _____
STEPHANIE Y. O'MALLEY Clerk
and Recorder, Ex-Officio Clerk of the City
and County of Denver

By _____
Mayor

APPROVED AS TO FORM:
DAVID R. FINE, Attorney
for the City and County of Denver

RECOMMENDED AND APPROVED:

By _____
Assistant City Attorney

By  _____
Manager of Aviation

REGISTERED AND COUNTERSIGNED:

By _____
Manager of Finance

Contract Control No. AR57004(2)

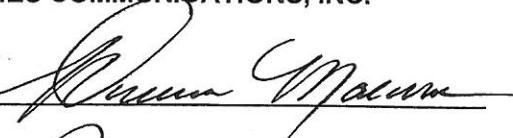
By _____
Auditor

ATTEST:

Party of the First Part

RMES COMMUNICATIONS, INC.

By _____
Witness

By  _____

Title President
Party of the Second Part