

AN ORDINANCE 2008-05-01-0342

APPROVING A LEASE AGREEMENT WITH W. W. TICHENOR & CO., INC. D.B.A. STARGAZER AVIATION FOR 9,298 SQUARE FEET OF HANGAR SPACE AND 10,198 SQUARE FEET OF GROUND SPACE AT SAN ANTONIO INTERNATIONAL AIRPORT FOR MONTHLY RENT TOTALING \$855.32.

* * * * *

WHEREAS, W. W. Tichenor & Co., Inc. ("Lessee") has operated at San Antonio International Airport (SAT) since 2001 through various subleases, and now wishes to lease space directly from the City; and

WHEREAS, the Aviation Department has negotiated a month-to-month agreement with Lessee for ground and building space at SAT; **NOW THEREFORE**:

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

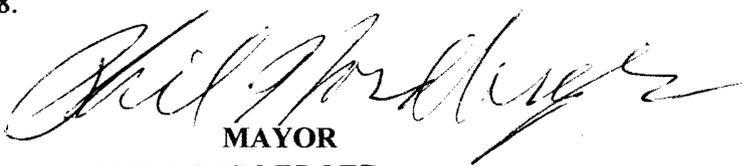
SECTION 1. The City Manager or her designee is authorized to execute a month-to-month lease agreement with W. W. Tichenor & Co., Inc. for approximately 9,298 square feet of hangar space and 10,198 square feet of ground space in substantially the same form as the agreement attached hereto.

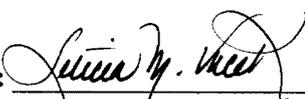
SECTION 2. Funds generated by this Ordinance will be deposited into Fund 51001000 Aviation Operations, Internal Order 233000000004 Aviation Service Area, General Ledgers 4409040 Aviation Ground Rental Non Aviation or 4409016 Aviation Building Rental.

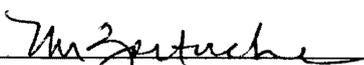
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

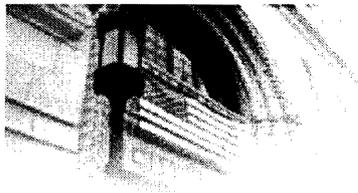
SECTION 4. This Ordinance shall take effect immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective ten (10) days after its passage.

PASSED AND APPROVED this 1st day of May, 2008.

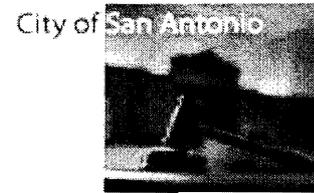

MAYOR
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 13

Name:	5, 6, 7, 8, 9, 10, 13, 14, 16, 17, 18, 19, 21, 23, 25, 26, 27, 28A, 28B, 28C, 28D, 28E, 28F, 28G						
Date:	05/01/2008						
Time:	09:48:03 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a lease agreement with W. W. Tichenor & Co., Inc., d.b.a. Stargazer Aviation for 9,298 square feet of hangar space and 10,198 square feet of ground space at San Antonio International Airport for monthly rent totaling \$855.32. [Penny Post oak Ferguson, Assistant City Manager; Mark Webb, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				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				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x			x	
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

SAN ANTONIO INTERNATIONAL AIRPORT LEASE

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

THIS LEASE AGREEMENT is entered into by and between the **CITY OF SAN ANTONIO** ("City" or "Lessor"), a Texas Municipal Corporation, acting by and through its City Manager, pursuant to Ordinance No. _____, adopted on _____, and **W. W. TICHENOR & CO., INCORPORATED. d.b.a Stargazer Aviation** ("Lessee"), a Texas Corporation, acting by its authorized officer through a resolution of its Board of Directors, **WITNESSETH:**

WHEREAS, Lessee is a former subtenant of Landmark Aviation, Inc.; and

WHEREAS, Lessee has requested that it be allowed to enter into a Lease Agreement; and

WHEREAS, it is in the best interests of the City to enter into a new Lease Agreement for the Leased Premises with Lessee, and

WHEREAS, in order to effectuate the agreement of the parties as to these matters, it is necessary that this Lease Agreement be approved by Lessor; **NOW THEREFORE:**

Lessor and Lessee for and in consideration of the mutual covenants and promises herein expressed do hereby agree as follows:

I. DESCRIPTION OF LEASED PREMISES

1.1 Lessor, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Lessee, does hereby lease unto Lessee, and Lessee does hereby accept from Lessor, the following described property (collectively referred to as "Leased Premises"):

1.1.1 Ground Space: 10,198 Square Feet of land at the San Antonio International Airport, San Antonio, Bexar County, Texas, more particularly illustrated in the attached "Exhibit 1" which is attached hereto and made a part hereof.

1.1.2 Building Space: 9,298 Square Feet in Hangar 6, formerly part of the Landmark leasehold, in San Antonio, Texas, the location of which is more specifically shown on Exhibit 1.

II. RENTAL

2.1 Lessee agrees to pay Lessor as rental as indicated on the table below, monthly in advance (without notice or demand, both of which are expressly waived) for the use and occupancy of the Leased Premises, at the times and in the manner hereinafter provided. All rentals shall be calculated on an annual basis and shall be paid by Lessee to Lessor in advance without invoicing, notice or demand, in equal monthly installments on or before the first day of each calendar

month beginning on the Commencement Date and continuing throughout the remainder of the term of this Lease Agreement and any extension(s) hereof. In the event that the term of this Lease Agreement shall commence on the day other than the first day of any calendar month or expire on a day other than the last day of a calendar month, then, and in such event, rental installments will be prorated for the first or last month as the case may be.

<u>Leased Premises</u>	<u>Total Sq. Footage</u>	<u>Annual Rate Per Sq. Ft.</u>	<u>Annual Rental</u>	<u>Monthly Rental</u>
<u>Ground Space:</u>	10,198	\$0.35	\$3,569.30	\$297.44
<u>Building Space:</u>	9,298	\$0.72	\$6,694.56	\$557.88

2.2 UTILITIES. The City will provide water and electricity and will bill Lessee.

2.3 All rentals and payments that become due and payable by the Lessee shall be made to the City of San Antonio, Office of the Aviation Director, San Antonio International Airport, 9800 Airport Blvd., San Antonio, Bexar County, Texas, 78216 unless otherwise notified in writing. All rentals and payments unpaid for ten (10) days after the date due shall bear interest at the rate of ten (10) percent per annum from that date.

2.4 The parties hereto agree that if a survey of the Leased Premises is performed, at Lessor's expense, at any time during the term of this Lease; and if such survey should identify any discrepancies in the square footage of either the ground or building space, then the corrected square footage shall be automatically substituted herein, subject to applicable rental rates and to all other terms and conditions herein contained. In such event, notice shall be provided to Lessee by Lessor, acting through its Aviation Director, reflecting the corrected square footage and any revisions to this Lease necessitated thereby. Such writing shall be filed of record with the City Clerk and shall automatically become a part of this Lease on such date as shall be specified in said notice.

2.5 Such rentals shall be subject to the adjustments in rental rates contained in Standard Provision I hereof.

III. USE OF LEASED PREMISES

3.1 Lessee shall use the Leased Premises for the housing of corporate and/or private aircraft and flight operations and other activities incidental thereto and for no other use unless approved in writing by the Aviation Director.

IV. LEASE TERM

4.1 The term of this Lease Agreement shall be commence on January 1, 2008 and continue on a month-to-month basis unless earlier terminated in accordance with this agreement.

4.2 The primary Lease Term and any subsequent renewals shall at all times be subject to the provisions for recapture and/or earlier termination herein contained.

V. INDEMNIFICATION

5.1 LESSEE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to LESSEE'S activities under this Agreement, including any acts or omissions of LESSEE, any agent, officer, director, representative, employee, consultant or subcontractor of LESSEE, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT LESSEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

5.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. LESSEE shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or LESSEE known to LESSEE related to or arising out of LESSEE'S activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at LESSEE'S cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving LESSEE of any of its obligations under this paragraph.

VI. INSURANCE

6.1 Prior to occupancy of the Leased Premises and the conduct of any business thereupon, Lessee shall furnish original Certificates of Insurance to City, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. Lessor will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City's Aviation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

6.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based

upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.

6.3 A LESSEE's financial integrity is of interest to the City; therefore, subject to LESSEE's right to maintain reasonable deductibles in such amounts as are approved by the City, LESSEE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at LESSEE's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Aviation Policy Insurance with Hanger-keeper's Liability Endorsements to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability f. Broad form property damage, to include fire legal liability	Combined Single Limit for <u>Bodily Injury</u> and <u>Property Damage</u> of \$5,000,000 per occurrence or its equivalent with an aggregate of \$5,000,000 or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$5,000,000 per occurrence
5. Plate Glass Coverage for Leased Premises*	Replacement Cost Coverage
6. Above Ground and/or Underground Storage Tank Storage Tank Liability*	\$10,000,000.00 per claim
7. Aircraft Liability*	\$10,000,000.00 per claim, combined single limit, written on an occurrence form
*If Applicable	

6.4 The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or

regulation binding upon either of the parties hereto or the underwriter of any such policies). LESSEE shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. LESSEE shall pay any costs incurred resulting from said changes.

City of San Antonio
Aviation Department
9800 Airport Blvd.
San Antonio, Texas 78216

6.5 LESSEE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

6.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, LESSEE shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend LESSEE's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

6.7 Nothing herein contained shall be construed as limiting in any way the extent to which LESSEE may be held responsible for payments of damages to persons or property resulting from LESSEE's or its subcontractors' performance of the work covered under this Agreement.

6.8 It is agreed that LESSEE's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

6.9 All personal property placed in the Leased Premises shall be at the sole risk of LESSEE. CITY shall not be liable, and LESSEE waives all claims for any damage either to the person or property of LESSEE or to other persons: (i) due to the Leased Premises or any part of appurtenances thereof becoming out of repair; (ii) arising from bursting or leaking of water, gas, waste pipes, or defective wiring or excessive or deficient electrical current (unless caused by the

sole negligence or willful misconduct of CITY or its elected officials, employees, officers, directors, volunteers and/or representatives); (iii) from any act or omission of employees, or other occupants of the Leased Premises, or any other persons; or (iv) due to the happening of any accident in or about the Leased Premises. LESSEE shall save and hold harmless CITY from any claims arising out of damage to LESSEE'S property or damage to LESSEE'S business, including subrogation claims by LESSEE'S insurers.

6.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

VII. PERFORMANCE GUARANTEE

7.1 Lessee shall deliver to the Aviation Director, on or before the execution of this Lease, and shall keep in force throughout the term hereof, either an irrevocable letter of credit in favor of Lessor, drawn upon a bank satisfactory to Lessor, or a surety bond, payable to Lessor. The foregoing shall be in a form and content satisfactory to Lessor, shall be conditioned upon satisfactory performance of all terms, conditions and covenants contained herein during the term hereof and shall stand as security for payment by Lessee of all valid claims by Lessor hereunder. If a bond shall be delivered, it shall be issued by a sound indemnity company, authorized to do business in Texas. The amount of the irrevocable letter of credit or surety bond shall be **Two Thousand Six Hundred U.S. Dollar (\$2,600.00)**. Said amount shall be adjusted, as necessary, so that it shall at all times equal at least three-months rental payable by Lessee to Lessor hereunder.

VIII. STANDARD PROVISIONS AND COVENANTS

8.1 Except as amended below, the Standard Provisions and Covenants, attached hereto as Exhibit 2, are incorporated herein and made a part hereof for all purposes.

IX. SPECIAL PROVISIONS

9.1 "As Is" Acceptance. Lessee understands, recognizes and agrees that Lessee takes the ground and building premises on an "As Is" basis. Further, Lessor is not responsible for any improvements of the ground and buildings area, and that Lessor does not warrant any of the ground, buildings, concrete, asphalt, or any other pavement thereupon.

9.2. Certificates of Occupancy. It is the express agreement of the parties that Lessee at Lessee's sole cost and expense will obtain and deliver to the Director any required Certificates of Occupancy within 180 days after the Commencement Date of this Lease Agreement and any required building permits prior to any construction unless otherwise agreed to in writing by the Aviation Director.

9.3 Recapture.

9.3.1 Should any recapture, relocation, adjustment, reconfiguration, enlargement or reduction of the premises occur as set forth above, then and in such event, a writing shall be executed by and between Lessee and Lessor, acting by and through the Aviation Director, to reflect the terms and conditions relating thereto. Such writing upon execution thereof by Lessee

and the Director, and approval by City Council, shall be filed of record with the City Clerk and shall automatically become a part of this Lease Agreement.

9.3.3 With regard to the recapture of any of the Buildings or Ground space recaptured during the term of the prior Lease between the Parties, Lessee agrees that such rights of recapture were properly exercised, and as such, releases and forever discharges Lessor of and from any and all future claims, demands, obligations, causes of action or damages, whether known or unknown, related to such recapture.

The parties understand that this Lease is granted by Lessor, at Lessee's request, and that the Leased Premises were formerly occupied by Lessee.

Executed by the parties as of the dates indicated below.

**W. W. TICHENOR & COMPANY, INCORPORATED,
LESSEE**

CITY OF SAN ANTONIO, LESSOR

By: 
Signature

By: _____
Sheryl L. Sculley, City Manager

Andrew B Smith, Auction Mgr
Printed Name/ Title

Date: _____

Date: 3/13/2008

ATTEST:

45 N.E. Loop 410 # 265
Mailing Address

City Clerk

San Antonio Tx 78216
City, State, Zip

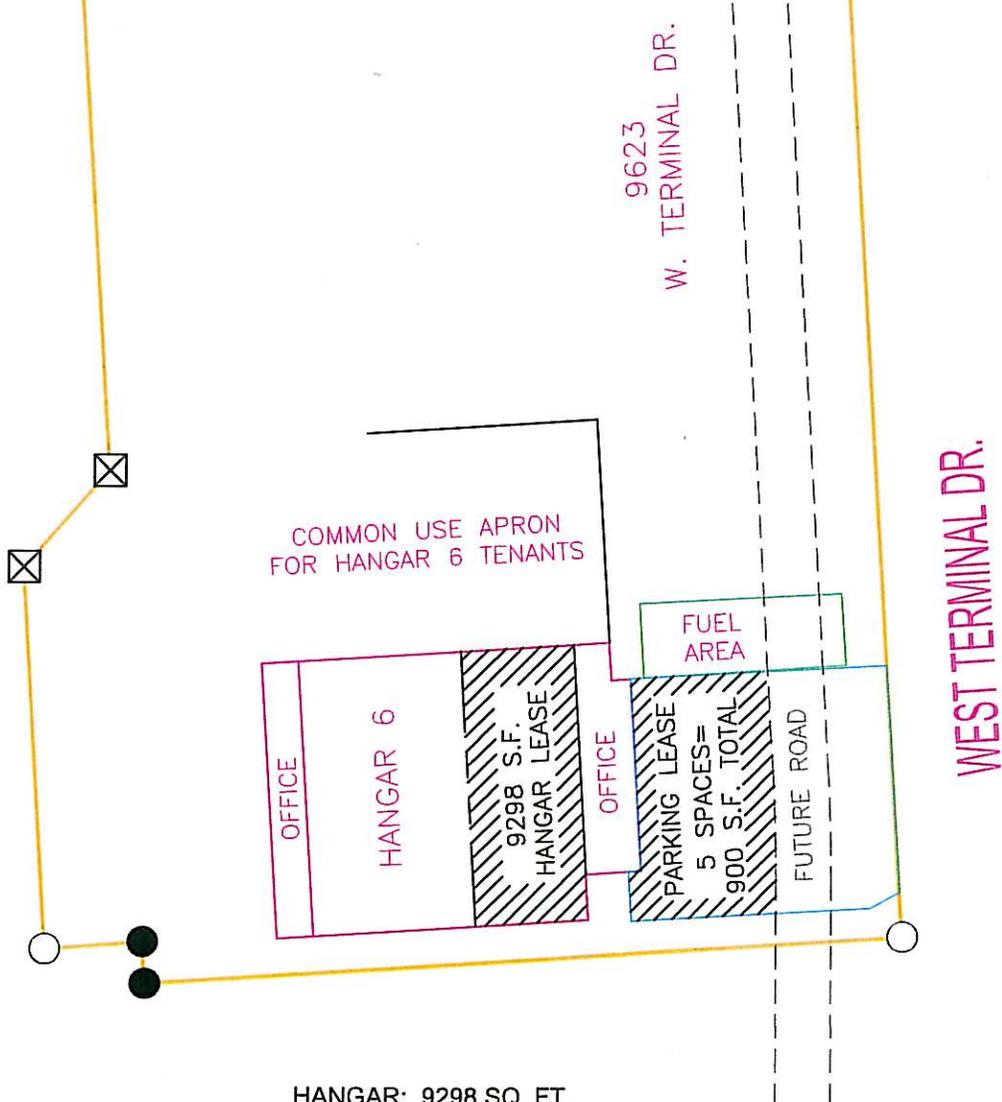
Federal Tax ID NO.

APPROVED AS TO FORM:

City Attorney



SCALE: 1"=100'



HANGAR: 9298 SQ. FT.
 PARKING: 900 SQ. FT.
 TOTAL : 10,198 SQ. FT.



SAN ANTONIO AIRPORT SYSTEM

SAN ANTONIO INTERNATIONAL AIRPORT
 9623 W. Terminal Dr., Hangar 6
 STARGAZER AVIATION

EXHIBIT 1
 FOR PREMISES LEASED

Stargazer Aviation

at SAN ANTONIO
 INTERNATIONAL AIRPORT

LEASE No. 000