

AN ORDINANCE **2010-01-21-0053**

**AUTHORIZING THE ASSIGNMENT OF THE FIXED BASE OPERATIONS
PREMISES OF SKY SAFETY, INC. TO SAN ANTONIO PIPER, INC. AT
STINSON MUNICIPAL AIRPORT**

* * * * * *

WHEREAS, on July 1, 2004, the City of San Antonio and Check-Six Aviation, Inc. (“Check-Six”) entered into a Lease Agreement (the “Original Lease”), pursuant to Ordinance No. 99269 dated June 3, 2004, for Buildings 601 & 659, ground space with 99,415 square feet, and a parking lot with 9,337 square feet at Stinson Municipal Airport (collectively the “FBO premises”); and

WHEREAS, on July 7, 2007, Check-Six assigned the Original Lease to Sky Safety, Inc. (“Sky Safety”) as approved by the City through Ordinance No. 2007-06-28-0782 dated June 28, 2007; and

WHEREAS, also on July 7, 2007 and pursuant to Ordinance No. 2007-06-28-0782, the City and Sky Safety entered into an Amendment of Lease to add the following premises at Stinson Municipal Airport, previously under lease to Check-Six: Buildings 614 & 616, ground space with 135,866 square feet, and a parking lot with 9,051 square feet (collectively the “Flight School Premises”); and

WHEREAS, Sky Safety, Inc. (“Assignor”) and San Antonio Piper, Inc. (“Assignee”) have requested that the City approve the assignment of the FBO Premises and of Sky Safety’s rights and obligations under the Original Lease, as amended, to San Antonio Piper, Inc.; and

WHEREAS, the City is willing to grant this request of Assignor to assign the FBO Premises and associated rights and obligations under the Original Lease, as amended, to Assignee; **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 lease interest of Sky Safety, Inc. in the FBO Premises to San Antonio Piper, Inc. A copy of the Assignment & Assumption Agreement in substantially final form is set out in **Attachment I** to this Ordinance.

SECTION 2. Sky Safety, Inc. shall retain all interest, rights and obligations under the Lease, as amended, with respect to the Flight School Premises.

SECTION 3. Funds generated by this Ordinance will be deposited into Fund 51001000, Internal Order 233000000014, General Ledger 4405410.

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.

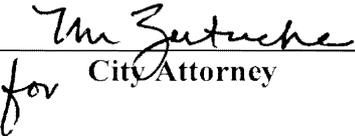
SECTION 5. This Ordinance shall take effect immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective ten (10) days after its passage.

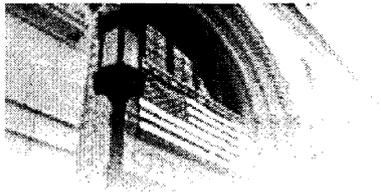
PASSED AND APPROVED this 21st day of January, 2010.



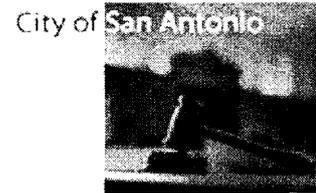
M A Y O R
JULIÁN CASTRO

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 18

Name:	18, 19, 20, 21, 34						
Date:	01/21/2010						
Time:	04:53:22 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the assignment of the Fixed Base Operations premises of Sky Safety to San Antonio Piper, Inc at Stinson Municipal Airport. [Erik Walsh, Assistant City Manager; Frank Miller, Director, Aviation]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x			x	
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				x

**Item No. 18 - Ordinance Attachment I
01/21/2010 Agenda**

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into by and between **Sky Safety, Inc.**, a Texas Corporation, and **San Antonio Piper, Inc.**, a Texas Corporation, with the approval of the **City of San Antonio (“City”)**, a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. _____ passed and approved on _____ with reference to the following facts:

WHEREAS, On July 1, 2004, the City of San Antonio and Check-Six Aviation, Inc. (“Check-Six”) entered into a Lease Agreement (the “Original Lease”), pursuant to Ordinance No. 99269 of June 3, 2004, for the following premises at Stinson Municipal Airport:

The FBO Premises

Building 601:	21,222 square feet
Building 659:	689 square feet
Ground Area:	99,415 square feet
Parking Lot:	9,337 square feet

WHEREAS, on July 7, 2007, Check-Six assigned the Original Lease to Sky Safety, Inc. (“Sky Safety”) as approved by the City through Ordinance No. 2007-06-28-0782 of June 28, 2007;

WHEREAS, also on July 7, 2007 and pursuant to Ordinance No. 2007-06-28-0782, the City and Sky Safety entered into an Amendment of Lease to add the following premises at Stinson Municipal Airport, previously under lease to Check-Six:

The Flight School Premises

Building 614:	9,998 square feet
Building 616:	9,645 square feet
Ground Area:	135,866 square feet
Parking Lot:	9,051 square feet

WHEREAS, Sky Safety, Inc. (“Assignor”) has requested that the City approve the assignment of The FBO Premises and of Assignor’s rights and obligations under the Original Lease, as amended, to San Antonio Piper, Inc. (“Assignee”); and

WHEREAS, the City is willing to grant this request of Assignor to assign the FBO Premises and associated rights and obligations under the Original Lease, as amended, 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, the parties agree as follows:

1. The Assignor hereby transfers, assigns, and sets over to the Assignee all right, title and interest of the Assignor in and to the FBO Premises which consist of the following which

consisting of Building 601, Building 659, Ground Area of 99,415 square feet, and Parking Lot Area of 9,337, all further identified in the attached Exhibit 1A. Per the provisions of the Original Lease, as amended, the lease term for the FBO Premises is scheduled to expire on January 31, 2024.

2. In consideration therefor, the Assignee hereby accepts, assumes, takes over and succeeds to all of the Assignor's rights, duties, interests, liabilities and obligations from Assignor with respect to the FBO Premises under the Original Lease, as amended. 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.**

3. Sky Safety, Inc. retains responsibility for the Flight School Premises which consist of Building 614, Building 616, Ground Area of 135,866 square feet, and Parking Lot Area of 9,051, all further identified in the attached Exhibit 1B, remain under lease by Sky Safety, Inc. and are subject to the terms of the Original Lease, as amended. Per the provisions of such lease, the term for the Flight School Premises is scheduled to expire on March 1, 2019.

4. Sky Safety, Inc. and San Antonio Piper, Inc. acknowledge that the Original Lease, as amended, includes an **INDEMNITY CLAUSE FOR THE BENEFIT OF THE CITY**. Sky Safety, Inc. and San Antonio Piper, Inc. expressly agree to be bound by said indemnity clause, excerpted below in its entirety.

“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 or 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 Lease, 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 or performance of the rights or duties under this Lease, all without, however, waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF CITY, UNDER THIS LEASE. 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 promptly advise the City in writing of any claim or demand against the City or Lessee known to Lessee related to or arising out of Lessee's activities under this Lease and shall see to the investigation and defense of such claim or demand at Lessee's sole 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 his obligations under this section."

"It is the EXPRESS INTENT of the parties to this LEASE, that the INDEMNITY provided for in this section (Section 5), is an INDEMNITY extended by Lessee to INDEMNIFY, PROTECT and HOLD HARMLESS, the City from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. LESSEE further AGREES TO DEFEND, AT ITS OWN EXPENSE, and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the City and its elected officials, employees, officers, directors, and representatives, in connection with any such injury, death or damage for which this INDEMNITY shall apply, as set forth above."

"It is expressly understood and agreed that Lessee is and shall be deemed to be an independent contractor, responsible for its respective acts and omissions, and that Lessor shall in no way be responsible therefore, and that neither party hereto has authority to bind the other or to hold out to third parties that it has the authority to bind the other. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party, as creating the relationship of employer-employee, principal-agent, partner, joint venture, or any other similar such relationship, between the parties hereto."

4. The effective date of this Agreement shall be ten (10) days after passage of an Ordinance by the City Council of San Antonio consenting to or approving this Agreement.

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

ASSIGNOR:
SKY SAFETY, INC.

ASSIGNEE:
SAN ANTONIO PIPER, INC.

By: _____
Greg Runnels, President

By: _____
J.R. Bean, President

Date: _____

Date: _____

CONSENT GRANTED:

CITY OF SAN ANTONIO

ATTEST:

By: _____
Sheryl Sculley, City Manager

City Clerk

APPROVED:

City Attorney