

**AMENDMENT NO. 1
TO
SAN ANTONIO INTERNATIONAL AIRPORT LEASE**

This Amendment of Lease ("Amendment") is entered into by and between Atherton Properties, Inc. d/b/a HH Aviation ("Lessee"), a Texas limited liability company, acting by and through its managing member; and 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, City and Lessee entered into that certain San Antonio International Airport Lease on November 6, 2008, pursuant to Ordinance No. 2008-11-06-0972 (hereinafter the "Lease"); and

WHEREAS, Lessee pursuant to the terms of the Lease made \$460,000.00 in improvements, and thus the parties desire to extend the term of the lease for five years through November 30, 2018; and

WHEREAS, the City is willing to grant this request but requires that various provisions of the Lease Agreement to be modified;

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 Lease is hereby amended as follows:

1. The Lease term is hereby extended through November 30, 2018. Lessor, acting through the Aviation Director, shall have the option to extend this Lease for one additional five (5) year period.
2. Effective December 1, 2013, the amount of the performance guarantee required in Section 7.1 is increased to \$45,000.00. The amount remains subject to adjustment as provided in the Lease.
3. Provision 1.1 Economic Adjustment of the Standard Provisions to the Lease is hereby deleted in its entirety and replaced with the following:

Provisions 1.1 Rental Adjustment

On August 1, 2014 and every five years thereafter as applicable, the rent shall be increased for the ensuing five (5) year period by fifteen percent (15%).

3. Provision 1.3 Abatement Adjustment of the Standard Provisions to the Lease is hereby deleted in its entirety.
4. Article VI. Insurance of the Lease is hereby deleted in its entirety and replaced with the following Article VI. Insurance:

VI. Insurance

6.1 Prior to occupancy of the Leased Premises and the conduct of any business thereupon, Lessee shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Aviation Department, which shall be clearly labeled "San Antonio International Airport Lease" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature 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 pay or 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 whereby 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, unless otherwise indicated, by companies authorized 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 below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/ \$1,000,000
3. Broad form Commercial General Liability Aviation Insurance 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 and Legal Liability g. Damage to property rented by you	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage g. \$100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$5,000,000 per occurrence

c. Hired Vehicles	
5. Property Insurance for the leased structure and for physical damage to the lessee's improvements and betterments to the leased property	One Hundred Percent (100%) replacement value for Structure, and replacement cost coverage of eighty percent (80%) of actual cash value for improvements and betterments
6. Plate Glass Coverage for leased premises*	Replacement Cost Insurance Coverage
7. Above Ground and/or Underground Storage Tank Storage Tank Liability*	\$10,000,000.00 per claim
8. Aircraft Liability*	\$10,000,000.00 per occurrence, combined single limit, written on an occurrence form
* if applicable	
** In the event third party aircraft are stored/maintained on the Leased Premises, a Hangar Keeper's Liability Endorsement will be required	

6.4 Lessee agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Lessee herein, and provide a certificate of insurance and endorsement that names the Lessee and the CITY as additional insureds. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

6.5 Lessee shall maintain, at its sole cost and expense, commercial property insurance covering the building, fixtures, equipment, tenant improvements and betterments. Commercial property insurance shall, at minimum, cover the perils insured under the ISO broad causes of loss form (CP 10 20). Commercial property insurance shall cover the replacement cost of the property insured. The amount insured shall equal the full estimated cost of the property insured. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as is otherwise appropriate under the particular policy form. The City shall be included as an insured and loss payee under the commercial property insurance. Lessee may, at its option, purchase business income, business interruption, extra expense or similar coverage as part of this commercial property insurance, and in no event shall the City be liable for any business interruption or other consequential loss sustained by Lessee, whether or not it is insured, even if such loss is caused by the negligence of the City, its employees, officers, directors, or agents.

6.6 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto 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
Attn: Aviation Director
8900 Airport Boulevard
San Antonio, Texas 78216-9990

6.7 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, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide 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.

6.8 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.

6.9 In addition to any other remedies the City may have upon Lessee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Lessee to stop work hereunder, and/or withhold any payment(s) which become due to Lessee hereunder until Lessee demonstrates compliance with the requirements hereof.

6.10 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.

6.11 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.

6.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

6.13 Lessee and any Subcontractors are responsible for all damage to their own equipment and/or property.

5. Provision 20 Fire and Other Damage of the Standard Provisions to the Lease is hereby deleted in its entirety and replaced with the following Provision 20 Damage or Destruction of Leased Premises:

Provision 20 Damage or Destruction of Leased Premises

20.1 In the event any structure, Improvements, and/or betterments on the Leased Premises are destroyed or damaged to the extent that they are unusable, Lessee shall have the election of repairing or reconstructing structure, Improvements, and/or betterments substantially as they were immediately prior to such casualty, or in a new or modified design, or not to construct the Improvements. Lessee shall give the Director written notice of its election within sixty (60) days after the occurrence of such casualty. If the entirety or substantially all of the structure, Improvements, and/or betterments are damaged or destroyed and Lessee elects not to repair or reconstruct the damaged or destroyed structure, Improvements, and/or betterments within the sixty (60) day election period, the Director may terminate this Lease by written notice to Lessee given within sixty (60) days following expiration of Lessee's election period, whereupon (i) this Lease shall terminate and Lessee shall abandon the Leased Premises and (ii) the insurance proceeds covering the Improvements shall be paid to the owner of the structure, Improvements, and/or betterments as of the date of such damage or destruction (provided, however, Lessee shall have the right to retain therefrom its actual costs paid in making improvements to the damaged or destroyed Improvement). If such damage or destruction is to less than substantially all of the structure, Improvements, and/or betterments and Lessee elects not to repair or reconstruct the damaged or destroyed structure, Improvements, and/or betterments within the said 60-day period following such damage or destruction, then (i) this Lease shall be deemed modified (and the rentals hereunder adjusted) so as to terminate the Lease as to such structure, Improvements, and/or betterments, and (ii) the insurance proceeds covering the structure, Improvements, and/or betterments shall be paid to the owner of the structure, Improvements, and/or betterments as of the date of such damage or destruction (provided, however, Lessee shall have the right to retain therefrom its actual costs paid in making improvements to the damaged or destroyed structure, Improvements, and/or betterments). In the event of damage or destruction to any of the structure, Improvements, and/or betterments upon the Leased Premises, the City shall have no obligation to repair or rebuild the structure, Improvements, and/or betterments or any fixtures, equipment or other personal property installed by Lessee

on the Leased Premises.

20.2 If Lessee elects to repair or reconstruct the structure, improvements, and/or betterments, Lessee shall use its insurance proceeds from the policy covering the destroyed structure, improvements, and/or betterments. If the insurance proceeds are not sufficient, Lessee agrees to pay the deficiency. If Lessee elects to repair or reconstruct, Lessee shall, at its expense, replace and repair any and all fixtures, equipment and other personal property necessary to properly and adequately continue its authorized activities on the Leased Premises. In no event shall Lessee be obligated to provide equipment and fixtures in excess of those existing prior to the damage or destruction. Lessee agrees that such work will be commenced and completed with due diligence.

20.3 Prior to any repair or reconstruction described above, Lessee shall submit plans and specifications to the Director for his written approval. Such repair or reconstruction shall be in accordance therewith. Any changes must be approved in writing by the Director.

20.4 With respect to this Article 20 all approvals and rulings by the Director shall be final.

Except as amended hereby, all other provisions of the Lease are hereby retained in their entirety and remain unchanged.

The Amendment shall be effective upon the later of December 1, 2013 or execution by City.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the dates set forth below.

CITY OF SAN ANTONIO

ATHERTON PROPERTIES, INC. D/B/A HH AVIATION

By: _____
Sheryl Sculley, City Manager

By: Charles C. Strickland
Charles C. Strickland

Date: _____

Date: 10/28/13

Approved as to form:

City Attorney