



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-5487

**Type:** Real Property Lease

**In control:** City Council A Session

**On agenda:** 10/5/2017

**Title:** An Ordinance authorizing the Aviation Director and Chief Financial Officer or their designees to execute the template Leasehold Subordination Agreement that will allow a tenant located in the San Antonio Airport System to use their leasehold interest as a security for a loan agreement.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Deed of Trust - HH Aviation - Bank SNB loan, 2. Draft Ordinance A, 3. Landlord\_Subordination\_Agreement\_Template, 4. Draft Ordinance B, 5. Ordinance 2017-10-05-0752

Date	Ver.	Action By	Action	Result
10/5/2017	1	City Council A Session	adopted	Pass

**DEPARTMENT:** Aviation

**DEPARTMENT HEAD:** Russell J. Handy

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Subordination Agreements for the San Antonio Airport System

**SUMMARY:**

Consideration of two Ordinances related to Subordination Agreements for the San Antonio Airport System:

- A. This Ordinance approves the Deed of Trust Agreement between HH Aviation, LLC and Bank SNB. The lease agreement of HH Aviation allows the firm to use its leasehold interest at the San Antonio International Airport as a security for a loan agreement to finance their interest in the hangar, furniture, fixtures, equipment and fuel storage tanks located at the leasehold at 10226 John Cape Rd.
- B. This Ordinance authorizes the Aviation Director and Chief Financial Officer or their designees to execute Subordination Agreement that will allow a tenant of the San Antonio Airport System to use their leasehold interest as a security for a loan agreement.

## BACKGROUND INFORMATION:

HH Aviation is the corporate aviation division of HOLT CAT that operates out of the Holt Hangar at San Antonio International Airport. Holt is a San Antonio-based company and the largest Caterpillar heavy equipment and engine dealership in the United States with locations throughout Texas. HH Aviation has operated at San Antonio International Airport for almost 30 years. The tenant would like to use its leasehold interest as a security for a loan agreement with Bank SNB to finance their interest in the hangar, furniture, fixtures, equipment and fuel storage tanks located at 10226 John Cape Rd., San Antonio International Airport. While tenants have used personal property such as equipment and aircraft as collateral, they may request approval to use their leasehold interest.

### *Item A*

Their most current lease agreement was approved by City Council in June 2011 through Ordinance 2011-06-09-0476 and included language that referenced that *“any pledge or collateral assignment of Lessee's interest [HH Aviation] in the Lease Agreement shall be by instrument substantially in such form as shall have previously been approved by the City Council, the consent of Lessor [City of San Antonio] to such pledge or collateral assignment may be given by Lessor [City of San Antonio] acting by and through the Aviation Director.”* HH Aviation requested the Subordination Agreement that had been approved by City Council. After researching the request, it was determined that the City Council had not approved a Subordination Agreement. Holt and Bank SNB requested the approval of City Council of its Deed of Trust to meet the requirement of the lease agreement. The Holt leasehold was not City-financed.

### *Item B*

The Subordination Agreement is a template agreement that will allow tenants who wish to use their leasehold interest at San Antonio International Airport or Stinson Municipal Airport to request approval from the City of San Antonio. The agreements provide tenants with the option to ask the City to use their leasehold interest in the property as security on loan applications. The beneficiary of a subordination agreement, if the tenant defaults, will never have greater than a leasehold interest in the property and must abide by all terms of the lease agreement. With the approval of the template language, City Council will authorize the Aviation Director and Chief Financial Officer or their designees to approve Leasehold Subordination Agreements on behalf of the City.

Most leaseholds in the San Antonio Airport System are not financed by the City. At the request of the Bond Counsel, the agreement includes the following language:

*In the event that the City financed certain portions of the project (the “Tax-Exempt Facilities”) with the proceeds of tax-exempt debt (the “Tax-Exempt Bonds”), the City, in connection with the issuance of the Tax-Exempt Bonds, has made or will make covenants (the “Bond Covenants”) with the holders of the Tax-Exempt Bonds that the Tax-Exempt Facilities will be used in a manner that assures that the Tax-Exempt Bonds continue to qualify as obligations within the meaning of section 103 of the Internal Revenue Code (the “Code”). The Tenant agrees not to use or permit the use of the Tax-Exempt Facilities in a manner which it knows or should know would result in a violation of the Bond Covenants or which would otherwise adversely affect the federal income tax status of the Tax-Exempt Bonds under section 103 or 142(a)(1) of the Code. Moreover, in furtherance thereof, if the Tenant is notified by City or the trustee for the Tax-Exempt Bonds that the Tax-Exempt Bonds have been selected for audit by the Internal Revenue Service, then the Tenant agrees to provide to City or the trustee such information in its possession with respect to the Tax-Exempt Facilities in order that City or the trustee may timely respond to any questions posed to it by the Internal Revenue Service.”*

**ISSUE:**

This Ordinance will authorize the Aviation Director and Chief Financial Officer or their designees to approve Subordination Agreements for tenants of the San Antonio Airport System to use their leasehold interest as a security for a loan agreement. This Ordinance will also approve the Deed of Trust for HH Aviation to use their leasehold interest as a security for a loan agreement.

**ALTERNATIVES:**

City Council could elect to not approve the Deed of Trust between HH Aviation and Bank SNB leaving the tenant and financial institution without the necessary approval to use the leasehold interest from the lease agreement as a security for a loan agreement. City Council could also elect to not authorize the Aviation Director and Chief Financial Officer or their designees to execute the Subordination Agreement for tenants of the San Antonio Airport System. This lack of authorization would result in each request coming to the City Council for approval.

**FISCAL IMPACT:**

This item does not have a fiscal impact.

**RECOMMENDATION:**

Staff recommends approval of the Deed of Trust between HH Aviation and Bank SNB and the standard Subordination Agreement to be executed by the Aviation Director and Chief Financial Officer or their designees.