CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Airport

AGENDA DATE: January 15, 2009

CONTACT PERSON/PHONE: Monica Lombrana – 780-4793

DISTRICT(S) AFFECTED: 3

SUBJECT:
That the City Manager be authorized to sign the new Lessor's Approval of Sublease by and between the City of El Paso (Lessor), Trajen Flight Support, LP a/k/a Atlantic Aviation (Lessee) and Southwest Medevac (Sublessee) for the purpose of renting office, hangar and ramp space for one year at the Fixed Base Operator facility located at 1751 Shuttle Columbia.

BACKGROUND / DISCUSSION:
Southwest Medevac is an urgent care transport service headquartered out of Las Cruces, New Mexico. Its emergency helicopter service has grown and now desires to sublease space at El Paso International Airport at Trajen/Atlantic to better service its growing customer base.

PRIOR COUNCIL ACTION:
Lessor's Approvals of Sublease are commonly executed documents at the Airport with the last one having been approved by Council for Trajen/Atlantic on May 13, 2008.

AMOUNT AND SOURCE OF FUNDING:
This is a revenue generating lease for the Lessee.

BOARD / COMMISSION ACTION:
This Lessor's Approval of Sublease was approved by the Airport Board on November 20, 2008

COUNCIL ACTION REQUIRED: City Council did not delegate the authority to sign airport leases, concession agreements or operating agreements.

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required) _____ **FINANCE:** (if required) _____
Cynthia Osborne, Asst. City Attorney

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager be authorized to sign a Lessor's Approval of Sublease between the City of El Paso ("Lessor"), Trajen Flight Support, LP a/k/a Atlantic Aviation ("Lessee") and Southwest Medevac ("Sublessee") regarding a portion of the premises located at 1751 Shuttle Columbia, El Paso, Texas.

APPROVED this _____ day of _____ 2009.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña
_____
Monica Lombraña
Acting Director of Aviation

CITY CLERK DEPT.
09 JAN -9 PM 4:06

Doc. No: 43769
Doc. Name: Sublease - Trajen/Atlantic to SW Medevac
Doc. Author: COSB

STATE OF TEXAS §
§ **LESSOR'S APPROVAL OF SUBLEASE**
COUNTY OF EL PASO §

This Lessor's Approval of Sublease is made and entered into by and between the City of El Paso ("Lessor"), Trajen Flight Support, LP a/k/a Atlantic Aviation ("Lessee") and Southwest Medevac ("Sublessee") on this _____ day of _____, 2009.

WHEREAS, Lessor entered into a Fixed Based Operators Lease with Superior Aviation Fuel Enterprises, L.L.C., with an effective date of September 1, 2003 ("Lease"); which was subsequently assigned to Lessee pursuant to a Lessor's Approval of Assignment dated April 12, 2005, covering the following described property:

> **A parcel of property known as Site 3, El Paso International Airport Tracts, Unit 11, El Paso, El Paso County, Texas containing 435,542.892 square feet of land and municipally known and numbered as 1751 Shuttle Columbia Drive, El Paso, Texas (the "Premises");**

WHEREAS, the Lessee desires to sublease a portion of the Premises to Sublessee;

WHEREAS, the Lease requires the prior written consent of the Lessor for a sublease of all or part of the Premises; and

WHEREAS, Lessor is willing to grant the authorization required for a sublease subject to the terms and conditions set forth in this Lessor's Approval of sublease as accepted and agreed to by Lessee and Sublessee;

NOW, THEREFORE, in consideration for the mutual covenants of the parties, Lessor, Lessee and Sublessee agree as follows:

1. **Acceptance of Lease Terms and Covenants.** Sublessee acknowledges that it has been provided with a copy of the Lease and agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

2. **Permitted Use of Premises.** Sublessee acknowledges that the subleased premises will not be used for any activity other than office, hanger, and ramp use.

3. **Proof of Insurance.** Sublessee has provided Lessor with a certificate of insurance to evidence compliance with the insurance requirements of the Lease and understands and agrees that Lessor's consent is expressly contingent upon Sublessee maintaining the required levels of insurance and providing proof to Lessor. Failure to comply with the insurance requirements may result in a revocation of the consent granted herein and termination of this Lessor's Approval of Sublease, as well as the sublease itself.

4. **Reporting Requirements.** As additional consideration for Lessor's approval, Sublessee agrees that it shall furnish to the Lessor's Director of Aviation, on or before the tenth (10th) day of each month, an accurate report of Sublessee's operations at the El Paso International Airport during the preceding month. The report shall include, but not be limited to, the type of aircraft and name of aircraft operator. Sublessee agrees to provide this information in such detail and on a form prescribed by the Director of Aviation. Failure to comply with the reporting requirements may result in a revocation of the Lessor's consent granted herein and termination of this Lessor's Approval of Sublease and the sublease itself.

5. **Lessee's Obligations.** This approval shall in no way release the Lessee or any person or entity claiming by, through or under Lessee, including Sublessee, from any of its covenants, agreements, liabilities and duties under the Lease, as same may be amended from time to time, without respect to any provision to the contrary in the Sublease. Lessee shall remain liable to Lessor for any defaults under the Lease, whether such default is caused by Lessee or Sublessee or anyone claiming by or through either Lessee or Sublessee. The foregoing shall not be deemed to restrict or diminish any right which Lessor may have against Sublessee, in law or in equity, for violation of the Lease.

6. **Purpose.** This approval does not constitute approval by Lessor of any of the provisions of the Sublease document or agreement; nor shall the same be construed to amend the Lease in any respect. The sole purpose of the Sublease shall be to set forth the rights and obligations between Lessee and Sublessee. In no event, however, shall Lessor be deemed to be in privity of contract with Sublessee or owe any obligations or duty to Sublessee under the Lease or otherwise, any duties of Lessor under the Lease being in favor of, for the benefit of and enforceable solely by Lessee.

7. **Non-Waiver.** Nothing herein shall be deemed a waiver of any of Lessor's rights under the Lease. This approval does not end the need for Lessor's approval of any future subleases or for any other matter for which Lessor's approval is required under the Lease.

8. **Subordinate Rights.** The proposed Sublease is, in all aspects, subject and subordinated to the Lease as the same may be amended. The terms of the Lease shall prevail in the case of any conflict between the provisions of the Lease and Sublease or this approval.

   If, at any time prior to the expiration of the term of the Sublease, the Lease shall terminate or be terminated for any reason (or Lessee's right to possession shall terminate without termination of the Lease), this Lessor's Approval of Sublease and the sublease shall each simultaneously terminate.

9. **Authorized Parties.** The persons signing this approval on behalf of the Lessee and Sublessee represent and warrant that they have the authority to legally bind the Lessee and Sublessee to the provisions of this approval. By execution of this approval, Lessee and Sublessee acknowledge and agree to be bound by all the terms and conditions of this approval as set forth herein.

IN WITNESS WHEREOF, this Lessor's Approval of Sublease has been approved on this _____ day of _____ 2009.

CITY OF EL PASO:

_____
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____
Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña
_____
Monica Lombraña
Acting Director of Aviation

LESSOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2009, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso** (Lessor).

_____
Notary Public, State of Texas

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

CITY CLERK DEPT.
09 JAN -9 PM 4:06

LESSEE: TRAJEN FLIGHT SUPPORT, LP
a/k/a Atlantic Aviation

Printed Name: Jeffrey P Miller
Title: General Manager

CITY CLERK DEPT.
09 JAN -5 AM 9:52

LESSEE'S ACKNOWLEDGMENT

THE STATE OF _____)
)
COUNTY OF _____)

This instrument was acknowledged before me on this 15th day of December, 2008, by Jeffrey P. Miller as General Manager of **Trajen Flight Support, LP a/k/a Atlantic Aviation** (Lessee).

Maria C. Almanzan
Notary Public, State of Texas

My Commission Expires:
July 24, 2012

MARIA C. ALMANZAN
Notary Public, State of Texas
My Commission Expires
July 24, 2012

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

Doc. No: 43769
Doc. Name: Sublease - Trajen/Atlantic to SW Medevac
Doc. Author: COSB

SUBLESSEE: SOUTHWEST MEDEVAC

Printed Name: Anthony DiNota
Title: President & COO

CITY CLERK DEPT.
09 JAN -5 AM 9:52

SUBLESSEE'S ACKNOWLEDGMENT

THE STATE OF Texas)
)
COUNTY OF Dallas)

This instrument was acknowledged before me on this 3RD day of Dec., 2008, by Anthony DiNota as, President & COO of **Southwest Medevac** (Sublessee).

Notary Public, State of Texas

My Commission Expires:
11-20-10

HEIDI M POPE
My Commission Expires
November 20, 2010

Doc. No: 43769
Doc. Name: Sublease - Trajen/Atlantic to SW Medevac
Doc. Author: COSB