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Memorandum

**TO: HONORABLE MAYOR &
CITY COUNCIL**

**FROM: Councilmember
Sam T. Liccardo**

SUBJECT: Amendment to Airport Lease Agreement DATE: 3-27-07

Approved

J. Marcia Kohl for S.L.

Date

3/27/07

RECOMMENDATION

Return the leases to the generic language which simply requires the airlines to abide by all governing city ordinances and regulations.

BACKGROUND

In recent weeks, I've spent several hours with community leaders, attorneys, and airport officials, discussing and debating the language of the proposed airline leases governing curfew compliance. I commend Bill Sherry and his team, who along with Assistant City Attorney Kevin Fisher and City Attorney Rick Doyle, successfully negotiated a lease with language that took unprecedented steps to protect our neighborhoods from airlines that violate the curfew. I also commend my colleague, Councilmember Pierluigi Oliverio, in encouraging community feedback, and for joining me in two of our community meetings, in an effort to resolve the controversy that developed around this issue.

Prompted by prior direction from council, the City's team negotiated specific language in the proposed leases that—for the first time—explicitly acknowledges the curfew and the expectation of compliance. The proposed lease language would also ensure that the City continues to have at its disposal two means to enforce the curfew ordinance: fines and the threat of civil injunction.

Some members of the community have raised concerns about whether the new language actually weakens the City's ability to enforce the curfew, however, because under the proposed leases, the City would explicitly forego the remedy of eviction of a non-compliant airline. I share the opinion of our City Attorney and our airport officials that

the proposed leases will not weaken the City's position, because the City never had the ability to terminate leases or evict carriers for curfew noncompliance. That is, a 1990 federal statute effectively precludes the City's ability to enforce the curfew in a more restrictive manner, such as by excluding airlines from using the Airport.

Nonetheless, after repeated meetings and conversations on the subject, I've concluded that no legal difference exists in the City's enforcement capabilities under either lease. I've also learned that the airlines will sign an agreement with or without the language proposed under the new lease agreements, and that striking the proposed language should not delay the execution of these leases.

Given the community's level of concern regarding the perceived potential impacts of the new language, I'll move to amend the motion to strike the curfew-specific language of the new contract. I am doing so to address the perception that Council's adoption of the new lease language will not adequately protect the interests of our neighborhoods.

My amendment will have the effect of overriding the prior council's direction, and will return the leases to the generic language which simply requires the airlines to abide by all governing city ordinances and regulations. I have discussed this amendment with airport officials and members of the City Attorney's office, who, I believe, will neither oppose nor recommend it. I invite any discussion, questions, or opinions from my colleagues during the Council hearing.

Cc: Mayor & City Councilmembers
City Manager's Office
Bill Sherry
Clerk's Office