



COUNCIL AGENDA: 5-02-06
ITEM: 2.4

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: AMENDMENT TO CARGO
OPERATING AGREEMENT &
CONTINUATION AGREEMENT
WITH ABX AIR, INC.

DATE: April 12, 2006

Approved

Date

4/18/06

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Approval of a Second Amendment and Continuation Agreement to the Commercial Air Cargo Operating Agreement and Permit with ABX Air, Inc. to extend the term of the agreement through November 30, 2007, with continuing estimated annual revenue to the City of \$163,000.

OUTCOMES

If the Second Amendment and Continuation Agreement is approved, ABX Air, Inc. ("ABX") will continue to offer scheduled cargo service at the Airport. In addition, ABX agrees to operate in accordance with the Curfew Ordinance, as well as other curfew restrictions that may be subsequently adopted by the City in accordance with applicable laws.

BACKGROUND

ABX conducts air freight/cargo activities at the Mineta San Jose International Airport pursuant to an air cargo agreement approved by Council on October 21, 1997 and subsequently extended through March 31, 2006. In August 2005, DHL Express acquired Airborne Express; however, ABX continues to operate as a separate entity under contract to DHL. ABX has requested an extension of the existing air cargo agreement.

ANALYSIS

Under the current air cargo operating agreement, ABX utilizes a portion of ramp space on the southeast end of the Airport on a non-exclusive basis for aircraft parking, loading and unloading, refueling, and aircraft maintenance. ABX has relocated to a new parking position and has vacated 940 square feet of trailer space. The proposed amendment addresses these changes and will extend the term of the air cargo operating agreement through November 30, 2007.

The Second Amendment incorporates the specifics of the City's Curfew Ordinance as adopted by Council on October 21, 2003. In addition to ABX's agreement to comply with the Curfew Ordinance and any subsequent amendments to the Curfew Ordinance, the Second Amendment also provides that ABX will not schedule or conduct takeoffs or landings during the Curfew Hours between 11:30 pm and 6:30 am, unless any such takeoff or landing is conducted by a jet aircraft that is listed on the Schedule of Authorized Aircraft issued by the Director of Aviation. In addition, the Second Amendment provides that if a jet aircraft is not listed on the Schedule of Authorized Aircraft, ABX will operate the aircraft during Curfew Hours only if ABX demonstrates in writing to the Director that the FAA part 36 manufacturer certificated noise level of such aircraft (using the arithmetic average of the takeoff, sideline, and approach noise levels) is equal to or less than 89.0 EPNdB (Effective Perceived Noise Decibel Level). Finally, the Second Amendment provides that ABX shall restrict static jet engine testing during the Curfew Hours.

ABX executed a Mutual Agreement Regarding Curfew Compliance with the City on March 31, 2006, reaffirming its acknowledgement and acceptance of the curfew regulations in effect at the Airport, and voluntarily agreeing to schedule changes to distance the arrival times of certain flights from the effective hours of the curfew.

The following summarizes all ABX curfew intrusions from October 21, 2003 to January 31, 2006:

	Compliant Intrusions	Non-Compliant Intrusions	Total Intrusions	Total of All Operations
Number of Operations	0	1	1	1428
Percentage of All Operations	0	0.0007	0.0007	

Less than 0.0007 percent of all ABX operations involved a non-compliant curfew intrusion. Staff continues to work with local management on elimination of all non-compliant curfew intrusions.

Although processing of the Second Amendment was delayed in anticipation of ABX executing the Mutual Agreement, the effective date of the amendment is April 1, 2006.

HONORABLE MAYOR AND CITY COUNCIL

April 12, 2006

Subject: Amendments to Cargo Operating Agreement and Lease with ABX Air, Inc.

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PUBLIC OUTREACH

Not applicable.

COORDINATION

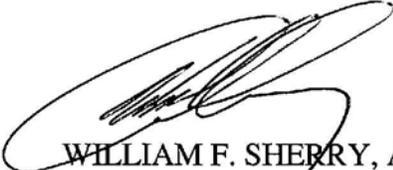
This agreement was coordinated with the City Attorney's Office and the Finance Department/
Risk Management Division.

COST IMPLICATIONS

The approval of the proposed amendment would provide continuing revenue estimated at \$163,00 per year, and is therefore consistent with the general principles of the February 4, 2003 budget strategy memo approved by Council.

CEQA

Resolution Nos. 67380 and 71451, PP 06-014



WILLIAM F. SHERRY, A.A.E.
Director of Aviation
Airport Department

For questions, please contact Bill Sherry at (408) 501-7669.

