



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sharon Erickson,
City Auditor

SUBJECT: PROPOSAL TO AMEND MACIAS,
GINI AND CO. LLP AGREEMENT
FOR ADDITIONAL SERVICES

DATE: May 27, 2008

RECOMMENDATION

Adoption of a resolution authorizing the City Auditor to negotiate and execute a Second Amendment to the Agreement for Audit Services with Macias Gini & Company to provide annual financial audits of the use of Libraries and Parks bond funds (Measures O and P) from FY 2001-02 through FY 2007-08, the use of the Library Parcel Tax (Measure S) from FY 2005-06 through FY 2007-08, and a compliance audit of the City's investment program for a total one time fee not to exceed \$149,600; and authorization to proceed with audits of these funds for FY 2008-09 for a fee not to exceed \$65,200, subject to annual appropriation of funds by the City Council.

BACKGROUND

In November 2000, San Jose voters approved Measures O and P, authorizing the City to issue over \$439 million in general obligation bonds totaling for library and park capital projects, with the requirement of guaranteed annual audits of the bond funds and no use of bond proceeds for administrators' salaries.¹ In June 2001, the City issued its first series of general obligation bonds for the library and park improvements.

¹ Measure O's language was as follows, "*To improve San Jose's neighborhood libraries and expand literacy and learning opportunities for children, families and seniors by: expanding and improving aging branch libraries to reduce noise, add parking, and add space for more books and computers; and building new libraries in neighborhoods throughout the City, shall the City issue \$211,790,000 in bonds, at the best rates possible, with guaranteed annual audits, a citizen's oversight committee, and no money for library administrators' salaries?*" (Emphasis added.)

Measure P's language was as follows, "*To improve San Jose's neighborhood parks' safety and expand recreation opportunities for children, families and seniors, by: installing lighting, reconstructing deteriorating playgrounds and restrooms; preserving open space; constructing trails; constructing new recreational sports facilities; improving Community and Senior Centers; and constructing improvements to regional parks, like Happy Hollow, shall the City issue \$228,030,000 in bonds, at the best rates possible, with guaranteed annual audits, a citizen's oversight committee, and no money for parks administrators' salaries?*" (Emphasis added.)

May 28, 2008

Subject: Resolution to amend Macias, Gini and Company, LLP Agreement

Page 2

Our recent *Audit of the Management of the City's Tax-Exempt Bond Program and Use of Interfund Loans to Provide Financing for Capital Bond Projects* (Audit Report # 07-06) found that although the library and park bond fund expenditures were disclosed in the City's Comprehensive Annual Financial Reports (CAFR) and in memoranda to the Bond Oversight Committees and the City Council, the City has not conducted the required annual audits of the bond funds from Measures O and P as specified in the bond measures. Accordingly, the Auditor's Office recommended that annual audits of Measures O and P be added to the external auditor's scope of work (recommendation #7 as modified on 4/17/08 and adopted by the City Council on 5/5/08). Subsequent to our review, we noted that the voter-approved language for the November 2004 Library Parcel Tax measure (Measure S) also referenced independent audits.²

The proposed amendment to the Macias Gini and Company, LLP contract will satisfy the City's obligation of fulfilling the Measures' requirements for guaranteed annual audits of the library and park bond funds. The estimated cost for the annual audits of the Libraries and Parks bond funds from inception through June 30, 2008 is an amount not to exceed \$117,500, and a fee not to exceed \$36,000 for the June 30, 2009 audit, subject to appropriation of funds by the City Council. The estimated cost for the annual audits of the Library Parcel Tax Special Revenue Fund from inception through June 30, 2008 is an amount not to exceed \$25,000, and a fee not to exceed \$15,000 for the June 30, 2009 audit, subject to appropriation of funds by the City Council.

The proposed amendment will also satisfy the obligation under the City's Investment Policy to conduct semi-annual compliance audits of the City's investment program to determine whether the City's investments within the City's pooled portfolio are in compliance with the City's Investment Policy, internal controls, and department procedures. The estimated cost for the audit as of June 30, 2008 is an amount not to exceed \$7,100; and for two semi-annual audits as of December 31, 2008 and June 30, 2009 is an amount not to exceed \$14,200 subject to appropriation of funds by the City Council.

COORDINATION

The City Auditor's Office has coordinated this memorandum with the City Attorney's Office, the City Manager's Budget Office, and the Finance Department.

² Measure S's language was as follows: *"To support neighborhood libraries, including: buying needed books and materials; preventing severe reductions in hours; preventing deep cuts in children's reading programs; shall the City of San Jose replace the expiring library assessment with an annual parcel tax in the same amount, \$25 for single-family residences and proportional for other properties, adjusted for inflation capped at 3% annually, limited to ten years and subject to independent audits and citizen oversight?"* (Emphasis added.)

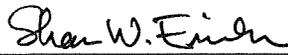
May 28, 2008

Subject: Resolution to amend Macias, Gini and Company, LLP Agreement

Page 3

CITY'S FISCAL IMPACT

One-time FY 2007-08 savings from temporary vacancies within the City Auditor's Office can be made available to cover the \$142,500 cost for completing the backlog of audits from inception through FY 2007-08. The cost of future years' audit services are subject to the City Council's annual appropriation of funds to the Macias Gini and Company, LLP contract. The Macias Gini and Company, LLP contract terminates upon completion of the June 30, 2009 audit assuming that all options to extend are exercised.



Sharon W. Erickson
City Auditor

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