



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sharon Erickson,
City Auditor

**SUBJECT: APPROVAL OF FIRST AMEND-
MENT TO THE AGREEMENT WITH
MACIAS, GINI, & O'CONNELL LLP**

DATE: March 7, 2011

RECOMMENDATION

Approval of a First Amendment to the Agreement for audit services with Macias, Gini, & O'Connell LLP to provide audit services to the Airport for CONRAC Facility Project Expenditures, CFC Program Expenditures, and CFC Projected Revenue and Costs for a total one-time fee not to exceed \$69,230, and authorization to proceed with future years' audits for an annual fee not to exceed \$7,500, subject to annual appropriation of funds by the City Council for a total contract amount not to exceed \$2,725,511.

BACKGROUND

In June 2010, the City entered into an agreement with Macias, Gini, & O'Connell LLP for audit services. Since that time, the Airport Department now needs additional audit services that are not covered by the current contract.

California Civil Code Section 1936 contains a provision requiring airports that charge a Customer Facility Charge (CFC) to provide for an independent audit to ensure that the aggregate amount of CFCs to be collected does not exceed the reasonable costs to finance, design and construct rental car facilities and the reasonable costs of providing a common-use transportation system to transport rental car customers between airport terminals and rental car facilities.

New legislation passed by the State Legislature in 2010 allows airports the option to increase how much may be collected in CFCs to cover allowed costs associated with rental car garages and common use transportation systems. The new law also adds additional state oversight requirements to collect the additional CFC amount. For airports that wish to collect the additional CFCs, the new state oversight requirements will require additional audits by airports and therefore additional auditing services. Because the Airport plans to pursue this new revenue option, the purpose of this report is to request Council approval of an amendment to the City's current contract with the firm of Macias Gini & O'Connell LLP to accommodate the additional auditing requirements.

ANALYSIS

The Passage of SB 1192 and the Rental Car Customer Facility Charge

On September 30, 2010, Senate Bill (SB) 1192 became law and amended California Civil Code Section 1936. SB 1192 revises and updates current state law governing all aspects of contracts between rental car companies and their customers. Existing law authorizes a company that rents vehicles to the public to collect a CFC. CFCs are a fee required by an airport to be collected to assist in paying for the cost of building rental car facilities (e.g. consolidated rental car garages) and operating a common use transportation system to transport rental car customers between airport terminals and rental car facilities. The rental car companies are currently authorized to charge a maximum CFC of \$10 *per contract*. Beginning January 1, 2011, SB1192 authorizes an alternative CFC of \$6 *per day*. The new law also allows for increases in the per day fee to \$7.50 in 2014 and to \$9.00 in 2017. The per day fee may be charged for a maximum of five days.

Additional Auditing Service Needed to Pursue New Revenue Option

In passing SB 1192, the State Legislature required a significant amount of state government oversight to implement and maintain the per day charge, including an audit of CFC revenues and eligible costs by an independent auditor. The State Controller's Office will review the independent audit and must "substantiate" the need for the per day CFC fee sought by an airport before it can implement collection.

Airport staff plans to pursue the implementation of the daily CFC fee, and, if substantiated by the State Controller's Office, will need to integrate the projected revenues generated by the per-day CFC fee implementation into the larger effort to secure long-term bond financing for the Terminal Area Improvement Program (TAIP) debt. Completing the independent audit of the capital costs of the rental car garage and associated common use transportation system is the first step required by SB 1192 to establish the need for a per day CFC.

The proposed amendment to Macias Gini & O'Connell LLP contract is to satisfy the independent audit requirements of California Civil Code 1936 and SB 1192 and would provide the basis for determining whether the Airport can establish a need for a per day CFC.

In addition to the independent audit, a publicly noticed hearing must be held prior to collecting the per day CFC. The entire implementation process will take several months to complete.

PUBLIC OUTREACH/INTEREST

This memo is posted on the City's website for the March 15, 2011 Council Agenda.

March 7, 2011

Subject: Approval to Amend Macias, Gini, O'Connell LLP Agreement

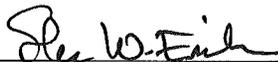
Page 3

COORDINATION

The City Auditor's Office has coordinated this memorandum with the City Attorney's Office, the Budget Office, and the Airport. The Macias Gini and O'Connell LLP contract terminates upon completion of the June 30, 2012 audit, with options to extend for two additional years.

COST SUMMARY

The one-time cost of this independent audit is not to exceed \$69,230 and will cover ConRAC facility project expenditures, CFC program expenditures, and CFC projected revenue and costs. In addition, staff seeks authorization to proceed with future years' audits for an annual fee not to exceed \$7,500, subject to the City Council's annual appropriation of funds to the annual audit contract. These additional auditing services will be funded by the Airport Customer Facility and Fee Fund. With this amendment, the total contract cost for Macias, Gini & O'Connell LLP will total and amount not to exceed \$2,725,511.



Sharon Erickson
City Auditor

For questions please contact Sharon Erickson, City Auditor at (408) 535-1250

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