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DEC 13 2010  
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# Memorandum

**TO:** HONORABLE MAYOR AND  
COUNCIL

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

**SUBJECT:** Passage of SB 1192 and Per Day  
Customer Facility Charge Fees

**DATE:** December 7, 2010

Approved

Date

12/13/10

## INFORMATION

### Summary

The purpose of this memo is to advise Council that:

1. On September 30, 2010, the Governor signed into law legislation that authorizes airports to require rental car companies to either charge per day or per contract Customer Facility Charges (CFC) beginning January 1, 2011. Current law authorizes CFC charges on a per contract basis only. Current law also limits how much can be charged per contract (a maximum of \$10 per contract).
2. Rental car companies at the Airport are urging the Airport to implement the new per day CFC as soon as possible.
3. Staff is aware of the new law and the importance of per day CFC revenue to the financing of the Consolidated Rental Car Facility (ConRAC).
4. There are several factors that will influence the timeline for completing the implementation process.
5. Staff is committed to proceeding through the steps of the review process as quickly as circumstances permit.
6. Staff will undertake a thorough review and recommend the course of action it believes to be in the best interest of the Airport, the City, and our passengers and business partners.
7. Though the timeline has not yet been determined, staff believes the earliest the implementation process could be completed is mid-2011.

## **Background**

On September 30, 2010, Governor Schwarzenegger signed Senate Bill 1192 into law. SB 1192 revises and updates current state law governing all aspects of contracts between rental car companies and their customers (e.g. insurance requirements, theft, damage, repair costs, fees, financial responsibilities of the company and the customer, notifications, etc.). Existing law authorizes a company that rents passenger vehicles to the public to collect a Customer Facility Charge (CFC), which is a fee that is 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 common-use transportation systems to transport their customers between airport terminals and their rental car facilities. By current state law, rental car companies are authorized to charge a maximum CFC of \$10 per contract.

From the Airport's perspective, the most significant revision contained in SB 1192 is that it authorizes an alternative CFC following a publicly noticed hearing and finding by the airport that the current CFC does not generate sufficient revenue to finance and operate the consolidated rental car facility and common-use transportation system. The bill provides for the collection of an alternative CFC on a per-day basis.

Collection of the per-day fee is authorized to begin January 1, 2011. The set amount that can be collected is \$6 per day. Between 2011 and 2017 the daily fee amount will be allowed to gradually rise to a maximum of \$9 a day. The maximum length the per-day fee can be charged is five days.

SB 1192 also contains a significant amount of state oversight for those airports that seek to collect the daily CFC, including a review by the State Controller, who must "substantiate" the need for the CFC fee sought by an airport before it can be collected. Airports will also be required to provide annual reports to the Senate and Assembly Committees on Judiciary detailing the total amount of CFC revenues collected, how the funds are being spent, the amount of and reason for any changes in the airport's budget or financial needs, etc.

Airports are *not required* to collect the daily CFC fee but are authorized to do so if they so chose *and* can substantiate the need for the additional revenue.

Declining passenger activity over the past two years has resulted in a corresponding decline in rental car customers at Mineta San José International Airport. With a decline in rental car passengers, there has been a parallel decline in the collection of the CFCs that are the primary source of revenue for paying for the new Consolidated Rental Car Facility. Under the terms of their contract with the Airport (signed in 2008), the rental car companies are obligated to cover any difference between the CFCs collected and the debt service on the facility. Over the past two years the shortfall between CFCs and the debt service has become substantial. As a result, the rental car companies at the Airport are understandably very interested in implementing the per day CFC fee as soon as possible.

The revenue difference could be significant. For example, from January 2008 through June 2010, CFC revenues at \$10 per contract have amounted to \$16.9 million. If a \$6 per day/per contract had been in effect, with the average rental period per contract of three days, the CFC revenues collected from January 2008 through June 2010 would have been \$30.5 million.

Staff is now reviewing the steps needed to thoroughly review the advantages and disadvantages of implementing a daily CFC fee – and the amount of time and effort needed to achieve them. Staff fully understands the urgency of the rental car companies to see the per-day CFC fee implemented as soon as possible. Staff will need to integrate the per-day CFC implementation review into the larger effort to secure long-term bond financing for TAIP debt. As part of that larger effort, the best time for the Airport to enter the financial markets will be a key factor in determining when staff can proceed with holding the required public hearing. In addition, staff is not sure how long the State Controller will need to review the information submitted by staff and substantiate the need for the new fee. Finally, staff will need to balance the other significant work efforts that require the participation of the Airport Finance team (e.g., supporting elements of the Competitiveness Strategic Plan after Council review and action, providing Airport leadership in the annual City budgeting process, etc.) within the context of a significantly reduced Finance staff. While staff has yet to determine a specific timeline, preliminary estimates indicate mid-2011 as the earliest time frame for completing the implementation process for a per day CFC fee.

However, staff is committed to doing as much as possible as early as possible to put the Airport in a position to move as quickly as possible to conclude the implementation process once it is time to go into the financial markets, including: 1) consulting with other airports and consultants to gather information on their implementation processes to see where time can be saved; and 2) looking at how quickly the required initial audit can be started, completed and submitted to the State Controller. These two significant steps will allow staff to proceed with the public hearing without delay once the Airport enters the financial markets and determines the long-term financing terms for Consolidated Rental Car Garage.

As staff proceeds through the implementation process, every effort will be made to undertake a thorough analysis of a per day CFC fee. Upon completion of the required audit and reporting to the state, staff will bring the item to Council for review and decision. Ultimately, staff's recommendation will be based on the best interests of the Airport, the City, our passengers and business partners.

/s/

WILLIAM F. SHERRY, A.A.E.

Director of Aviation

Please direct questions to William Sherry, Director of Aviation, at (408) 501-7669.