


Date: December 16, 2022

To: Thomas B. Modica, City Manager 

From: Bo Martinez, Director of Economic Development 

For: Mayor and Members of the City Council

Subject: \$5 Fund Review at Long Beach Convention and Entertainment Center

ASM Global (Contractor) manages the Long Beach Convention and Entertainment Center (Center) for the City of Long Beach (City). The contractor's management of the Center includes managing the collection of parking revenue and expenditures associated with the \$5 Parking Fund (\$5 Fund). The \$5 Fund is set aside from revenue generated from a portion of the parking fees paid by visitors utilizing parking at the Center. These funds may be used to make purchases related to furnishings, improvements, construction, and maintenance of the Center and are intended as a mechanism to meet the joint needs of the City, the Center, and the Convention and Visitors Bureau as they partner to attract conventions to the City. The contractor may only apply expenditures to the \$5 Fund after projects or programs are approved by the City.

In late 2021, the City was contacted by staff from the Contractor regarding concerns related to approvals and expenditures of the \$5 Fund at the Center. These concerns were shared with the City Auditor's Office immediately. In discussion with the City Auditor's Office and the Department of Financial Management, staff from the Department of Economic Development engaged Macias Gini & O'Connell LLP (MGO) to assess the procurement and accounting practices at the Center related to the use of the \$5 Fund.

MGO interviewed Contractor staff who manage the Center and the \$5 Fund expenditure, and reviewed documentation available from the Contractor and the City. It is important to note that due to record-keeping related to the \$5 Fund deviating from Generally Accepted Accounting Principles (GAAP) and other industry norms, the review performed by MGO was limited. The \$5 Fund was not originally contemplated in the original Management Agreement (Agreement), and thus controls for the fund were not explicitly defined in the Agreement. MGO made several observations as a result of their review. These observations are noted in an executive summary provided by MGO (Attachment A).

City staff then developed corrective actions in consultation with MGO (Attachment B). The observations and corrective actions were shared with City Auditor's Office and Financial Management for review. Below is a summary of the primary findings and proposed corrective actions:

Formal up-to-date contract: At the time of the review, the Center was operating under the 1991 Management Agreement with Spectator Management Group. The MGO team noted the

agreement was not with the current entity managing the Center and that services and expectations related to the \$5 Fund were not contained in the agreement.

Proposed Corrective Action: The current Management Agreement entered into on February 12, 1991, has been replaced with a new agreement effective October 1, 2022.

The new contract strengthens Records, Audits, and Reporting requirements for all covered activities, including the use of the \$5 Fund.

Related to all funds managed by the contractor, ASM Global is required to maintain complete and accurate accounting records relating to its assets, liabilities, and activities at the Convention Center facility in accordance with Generally Accepted Accounting Principles (GAAP). The Contractor shall maintain a system of bookkeeping adequate for its operations under the contract.

Formal written policies and procedures: MGO found that in regard to the \$5 Fund, ASM Global was not able to provide written documented policies and procedures related to asset management, inventory, capitalization, and surplus/disposal of capital assets.

Proposed Corrective Action: To make certain that it encourages a strong internal controls framework that will reduce the risk of errors in financial reporting, fraud, waste, and abuse, AMS Global shall review and formally document in detail all accounting policies and procedures within ninety (90) days of the issuance of this report. Where no such policies and procedures currently exist, the Contractor shall develop and implement them.

Tracking \$5 Fund activity: ASM Global was unable to provide detailed reporting for expenditure transactions for the \$5 Fund from their internal accounting systems. Instead, the \$5 Fund was tracked using Excel spreadsheets, which could lead to carryover and reconciliation errors.

Proposed Corrective Action: As soon as possible, but no later than thirty (30) days upon the issuance of this report, the Contractor shall establish in its accounting system distinct coding structures for the \$5 Fund. These new coding structures must be sufficient to segregate, record, and report financial transactions in the \$5 Fund directly from the accounting system.

Formal asset management system: ASM Global does not track assets of the City using a formal asset management system that includes at a minimum the description of an asset, the date placed in service, the date asset was retired and the selling price if applicable, location, cost, and useful life.

Proposed Corrective Action: Within ninety (90) days, ASM Global shall establish capitalization and depreciation policies in accordance with GAAP for capital assets with a useful life greater than one year and implement a formal asset management system. The system shall include a mechanism for tracking and tagging capital assets and

include at a minimum the description of the asset, the date placed in service, the date the asset was retired and the selling price if applicable, asset location, cost, and useful life.

Once the new policies are implemented, the Contractor shall conduct an inventory of all assets or groups of assets to determine their useful life and whether these meet the criteria for capitalization. Tags must be issued for any assets meeting these criteria. Once assets are recorded, the Contractor will be required to maintain a capital assets schedule, conduct inventory counts, and record depreciation expenses periodically.

Purchase authorizations: MGO found that various purchases for the \$5 Fund were made by a related party to the City and not by the Contractor. These purchases were not subject to 1) a budget or strategic plan; or 2) approval by the Contractor prior to purchase. This allows for unauthorized purchases to occur and not otherwise be detected by the Contractor until the invoice is submitted for payment or delivery of the asset.

Proposed Corrective Action: Planned expenditures for the \$5 Fund should be included as a distinct subsection of the Operating Budget as defined in the updated Management Agreement. Expenditures should be approved as a part of the Operating Budget prior to being made.

Once approved, expenditures utilizing these funds are the purview of the Contractor. The Contractor should follow its own documented procurement policies and procedures when procuring goods or services, including furniture, fixtures, and equipment.

Minimally, the procurement policies should include a process to identify and document the need for goods and services, creating a purchase request, sourcing, negotiating prices and obtaining competitive bids where appropriate, receiving and inspecting the goods as necessary, and maintaining records of all the steps in the process. Further, the Contractor should ensure that any expenditures made under the fund conform to the Records, Audits, and Reporting requirements of the new agreement.

It should be noted that all Center purchases applied to any Center funding must ultimately be approved by the Contractor. Further, Contractor should only apply expenditures to the \$5 Fund once projects/programs are approved by the City. While MGO highlighted the vulnerability created by the lack of a formal asset management system, Contractor did maintain less formal tracking of assets purchased with the fund, including invoices, photo documentation, and location info for the items purchased with the \$5 Fund.

Purchases from the \$5 Fund were consistent with the City's broader long-term vision for the Center to reposition itself as a unique venue in the Southern California marketplace. The growth and success of the Center, and its repeated recognition as an industry leader, is the result of the strong working relationship between the Contractor, City, and community partners like the Long Beach Convention and Visitors Bureau (CVB). The Center has developed into an industry leader and a key economic engine for the City, contributing to the CVB's \$1.8 billion in economic impact.

ASM Global has been a cooperative partner through this effort and has committed to instituting all the proposed actions under the new Management Agreement and will apply these improved policies and procedures to all funds managed under the new agreement. ASM Global will adopt a formal asset management system, establish revised GAAP-compliant accounting controls for the \$5 Fund, integrate the fund into the Center's general accounting system, and develop a formal budget and expenditure approval process for use of the \$5 Fund consistent with the Records, Audits, and Reporting requirements of the new agreement.

ASM Global provided the following statement in response to the \$5 Fund review:

“ASM Global is proud of the accomplishments that the Convention Center has achieved over the past 10 years. This success is a direct result of the City's investment in the venue and the strategic plan to reposition the Center into a competitive meeting destination by creating a unique look and feel providing organizers with unmatched turnkey event spaces. The City of Long Beach can be proud of its reputation worldwide for the proven returns that, under the leadership of the CVB, the development of these one-of-a-kind event spaces has brought to the community and to the hospitality industry.

ASM Global fully supports the City's adoption of certain steps to improve the transparency and documentation of funds used to achieve these and other key strategic initiatives. ASM Global has already taken steps to implement the suggested improvements and commits to fully implementing the City's plan in a timely manner.

I am available to discuss at your convenience.

*Thank you,
Bob McClintock
Executive Vice President Convention Centers
ASM Global”*

While the City paused all expenditures from the \$5 Fund during this review and analysis, we will resume the use of the \$5 Fund given the development of these corrective actions under the new agreement with ASM Global.

If you have any questions, please contact me at (562) 570-5282.

ATTACHMENTS:

- A. MGO \$5 FUND EXECUTIVE SUMMARY
- B. PROPOSED CORRECTIVE ACTIONS

CC:

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Johnny Vallejo
Acting Director of Economic Development Department
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Macias Gini & O'Connell LLP (MGO) was engaged by the City of Long Beach (City) to assess the procurement and accounting practices of the Long Beach Convention & Entertainment Center (LBC&EC) during fiscal year (FY) 2016 through FY 2020 using the \$5 parking fund (\$5 Fund). The LBC&EC is managed and operated for the City by ASM Global (Contractor), a third-party independent contractor. The Contractor, as an agent of the City, performs various administrative duties, including managing the collection of restricted parking revenue and is authorized to use the \$5 Fund revenue to make purchases related to furnishings, improvements, construction, and maintenance of the LBC&EC.

We interviewed the Contractor's personnel involved in the administrative duties of the \$5 Fund, including the former controller, a former employee of the Contractor. In addition, we reviewed key contracts, memos, policies and procedures, spreadsheets, and other supporting documentation related to the procurement and accounting practices for the \$5 Fund.

In performing the procedures above, it came to our attention that various procurement and accounting key internal controls surrounding proper recordkeeping, safeguarding and authorization of financial transactions deviated from industry professional standards, such as generally accepted accounting principles of the United States of America (GAAP) and the Committee of Sponsoring Organizations of the Treadway Commission, Internal Control – Integrated Framework (2013) (COSO Framework). We had the following observations as a result of inquiries, observations, and review of available documentation:

- **Formal up-to-date contract** – There is not a current contract between the City and the current Contractor. Per review of the contract provided by the City, it was noted that the contract was originally executed with a company that was later acquired by the existing Contractor. Per review of the contract, it appears to be missing the basic key elements of the contract with an agent defining the specific services of the agent and expectations of the agent as it relates to the terms and use of the \$5 Fund.
- **Formal written policies and procedures** - The Contractor was not able to produce written documented policies and procedures for several key processes related to asset management; inventory; and capitalization, surplus, and disposal of capital assets to help guide the operations and the procedures needed to fulfill their responsibility as an agent of the City.
- **Tracking \$5 Fund activity** - The Contractor was unable to provide a report of detailed expenditure transactions from the accounting system for the \$5 Fund. The Contractor stated that transactions are not segregated in the accounting system for the \$5 Fund. Contractor staff use Excel spreadsheets to manually identify and track the \$5 Fund transactions. We observed errors in the spreadsheets where the ending cash balance of certain years were not accurately carried forward as the beginning cash balance of the subsequent years. In addition, management stated that reconciliations are completed; however, these procedures are not documented.

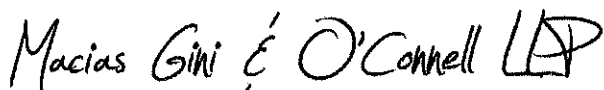
- **Formal asset management system** – At the present time the Contractor does not track assets of the City using a formal asset management system that includes at a minimum the description of asset, date placed in service, date asset was retired and selling price, if applicable, location, cost, and useful life.
- **Purchase authorizations** – The Contractor identified various purchases for the \$5 fund that were made by a related party of the City and not the Contractor. These purchases were not subject to 1) a budget or strategic plan; or 2) approval by the Contractor prior to purchase. This allows for unauthorized purchases to occur and not otherwise be detected by the Contractor until the invoice is submitted for payment or delivery of the asset. According to the Contractor, many of these purchased items are not currently in use, nor are they commercial grade items that can withstand the rigor of public use.

As a result of the scope limitations and control deficiencies identified above, we were unable to complete all the procedures as agreed with the City's management to meet the original objective of the engagement pertaining to the accuracy and completeness of the procurement and accounting for the \$5 Fund. Without the proper environment of key internal controls, it is difficult to evaluate the Contractor's fulfillment of its contractual obligations and duties to promote confidence and transparency in the operations of the \$5 fund. This also impacts the City's ability to exercise adequate oversight and stewardship of City \$5 fund and its assets.

Management of the Contractor provided accounting records and other such reports and MGO is not responsible for the accuracy of the accounting records or other reports. Management of the Contractor provided representations upon which MGO has relied on and MGO did not validate or confirm such representations. MGO makes no representations regarding the adequacy of the procedures performed for the requested purpose of these procedures or any other purpose. The City was responsible for selecting the procedures and the scope of the engagement. The procedures performed did not constitute an audit conducted in accordance with generally accepted auditing standards, an examination of or any other form of assurance with respect to internal controls, or other attestation or review services in accordance with standards or rules established by the AICPA, the Public Company Accounting Oversight Board (the "PCAOB"), or other regulatory body, in each case with respect to the City or any other entity.

This report is intended solely for the information and internal use of the City and is not intended to be and should not be used by any other person or entity. No other person or entity is entitled to rely, in any manner, or for any purpose, on this report. Copies should not be made, nor should this report be distributed without the express written consent of MGO.

Very truly yours,



Los Angeles, California

July 29, 2022

1. Formal up-to-date contract

Observation: There is not a current contract between the City and the current Contractor. Per review of the contract provided by the City, it was noted that the contract was originally executed with a company that was later acquired by the existing Contractor. Per review of the contract, it appears to be missing the basic key elements of the contract with an agent defining the specific services of the agent and expectations of the agent as it relates to the terms and use of the \$5 Fund.

Recommended Corrective Action:

The current Management Agreement entered into on February 12, 1991, will be replaced with a new agreement effective October 1, 2022. The new contract strengthens Records, Audits and Reporting requirements for all covered activities, including the use of the \$5 Fund.

Specifically, the Contractor is required to maintain complete and accurate accounting records relating to its assets, liabilities and activities at the Convention Center facility in accordance with Generally Accepted Accounting Principles (GAAP). The Contractor shall maintain a system of bookkeeping adequate for its operations under the contract. The Contractor shall give the City's authorized representatives access to such books and records maintained at the Convention Center facility during reasonable business hours and with reasonable advanced notice. The Contractor shall keep and preserve for at least (3) years following each Fiscal Year all sales slips, rental agreements, purchase order, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Operating Revenues and Operating Expenses for such period.

2. Formal written policies and procedures

Observation: The contractor was not able to produce written documented policies and procedures for several key processes related to asset management; inventory; and capitalization, surplus, and disposal of capital assets to help guide the operations and the procedures needed to fulfill their responsibility as an agent of the City.

Recommended Corrective Action:

Written policies and procedures help to create an internal controls framework within an organization and to ensure that management objectives are carried out. Internal controls ensure that the financial statements are free from major misstatements and reduce the risk of fraud, waste and abuse. Written policies and procedures reduce the risk of noncompliance with GAAP rules and the City's policy as well as decrease the likelihood of material errors in financial recording and reporting.

To make certain that it encourages a strong internal controls framework that will reduce the risk of errors in financial reporting errors, fraud, waste and abuse, the Contractor shall review and formally document in detail all accounting policies and procedures within ninety (90) days of the issuance of this report. Where no such policies and procedures currently exist, the Contractor shall develop and implement them.

The policies and procedures shall be documented, with a separate section for each process, such as procurement, cash disbursements, accounts payable, payroll, cash receipts, accounts receivable and capital assets. Within ninety (90) days of the issuance of this report, the Contractor will provide the City with a copy of its executed written policies and procedures.

3. Tracking \$5 Fund activity

Observation: The contractor was unable to provide a report of detailed expenditure transactions from the accounting system for the \$5 Fund. The Contractor stated that transactions are not segregated in the accounting system for \$5 Fund. Contractor staff use Excel spreadsheets to manually identify and track the \$5 Fund transactions. We observed errors in the spreadsheets where the ending cash balance of certain years were not accurately carried forward as the beginning cash balance of the subsequent years. In addition, management stated that reconciliations are completed; however, these procedures are not documented.

Recommended Corrective Action:

As soon as possible, but no later than thirty (30) days upon the issuance of this report, the Contractor shall establish in its accounting system distinct coding structures for the \$5 Fund. These new coding structures must be sufficient to segregate, record and report financial transactions in the \$5 Fund directly from the accounting system.

4. Formal asset management system

Observation: At the present time the Contractor does not track assets of the City using a formal asset management system that includes at a minimum the description of asset, date placed in service, date asset was retired and selling price, if applicable, location, cost, and useful life.

Recommended Corrective Action:

GAAP rules and Accounting Standard (AS) 6 and AS 10 require that capital assets such as equipment and furniture be recorded at historical cost and then depreciated periodically based on the asset's useful life. An asset management system helps an organization to monitor, manage and safeguard its assets.

Within ninety (90) days, the Contractor shall establish capitalization and depreciation policies in accordance with GAAP for capital assets with a useful life greater than one-year and implement a formal asset management system. The system shall include a mechanism for tracking and tagging capital assets, and include at a minimum the description of asset, date placed in service, date asset was retired and selling price, if applicable, location, cost, and useful life.

Once the new policies are implemented, the Contractor shall conduct an inventory of all assets or groups of assets to determine their useful life and whether these meet the criteria for capitalization. Tags must be issued for any assets meeting these criteria. Once assets are recorded, the Contractor is required to maintain a capital assets schedule, conduct inventory count and record depreciation expense periodically.

5. Purchase authorizations

Observation: The Contractor identified various purchases for the \$5 fund that were made by a related party of the City and not the Contractor. These purchases were not subject to 1) a budget or strategic plan: or 2) approval by the Contractor prior to purchase. This allows for unauthorized purchases to occur and not otherwise be detected by the Contractor until the invoice is submitted for payment or delivery of the asset. According to the Contractor, many of these purchased items are not currently in use, nor are they commercial grade items that can withstand the rigor of public use.

Recommended Corrective Action:

Planned expenditures for the \$5 Fund should be included as a distinct subsection of the Operating Budget (Budget) as defined in the updated Management Agreement, effective October 1, 2022. Expenditures should be approved as a part of the Budget prior to being made.

Once approved, expenditures utilizing these funds is the purview of the Contractor. The Contractor should follow its own documented procurement policies and procedures when procuring goods or services, including furniture, fixtures and equipment. Minimally, the procurement policies should include a process to identify and document the need for goods and services, creating a purchase request, sourcing, negotiating prices and obtaining competitive bids where appropriate, receiving and inspecting the goods as necessary, and maintaining records of all the steps in the process. Further, the Contractor should ensure that any expenditures made under the fund conform to the Records, Audits and Reporting requirements of the new agreement.