



FORMAL AGENDA ITEM

COUNCIL MEETING DATE: October 27, 2009

TO: Honorable Mayor and Members of City Council

VIA: Penelope Culbreth-Graft, DPA - City Manager

FROM: Mark Earle, Director of Aviation

Subject: RESOLUTION AUTHORIZING SUBMISSION OF A FIRST AMENDMENT TO PASSENGER FACILITY CHARGE (PFC) APPLICATION #10 TO THE FEDERAL AVIATION ADMINISTRATION INCREASING THE TOTAL PFC FUNDS TO BE COLLECTED FOR CAPITAL IMPROVEMENTS AT THE COLORADO SPRINGS AIRPORT

Strategic Goal:



SUMMARY:

Attached is a resolution authorizing submission of a first amendment to Passenger Facility Charge (PFC) Application #10 to the Federal Aviation Administration (FAA). This amendment will allow the Colorado Springs Airport to increase PFC funding associated with the Rental Car/Parking/Roadway Improvements and Terminal Building Canopies project.

PREVIOUS COUNCIL ACTION:

In 2003, City Council approved the initial phase of a multi-year program to enhance the rental car facilities and construct terminal building canopies at the Colorado Springs Airport. Since that time, City Council has approved several additional design/construction phases. In addition, City Council approved submission of PFC #10 to the FAA to fund a portion of this project.

BACKGROUND:

Title 49, United States Code, Section 40117 authorizes the Secretary of Transportation, through the FAA, to approve local imposition of PFCs up to \$4.50 per segment. Public airports, such as the Colorado Springs Airport, can apply to the FAA for authority to impose and use PFCs to fund eligible airport projects. To reduce administrative burden, each PFC application includes multiple projects. If additional funding is needed as the project progresses, the original application is amended and submitted to the FAA for approval. Since the inception of the program, the Colorado Springs Airport has submitted sixteen such applications and several amendments. Throughout the program, the Airport has limited its PFC charges to \$3.00 per segment.

In 2006, the Colorado Springs Airport received approval for PFC Application #10, which included funds for the PFC-eligible portion of the Rental Car/Parking/Roadway Improvements and Terminal Building Canopies project. The Airport is now requesting authority to submit a first amendment to PFC Application #10 to fund a portion of a legal judgment that arose from a dispute with the contractor on that project, and make final allocation adjustments between funding sources now that the project has been completed.

The dispute arose as the project was nearing completion in 2006, when Torix (one of the contractors on the project) presented a legal claim to the Airport. The Torix claim had two components. The first component was that more excavation was performed on the parking lot than was identified in the bid estimate and the contractor was not paid for this work. Torix' excavation subcontractor presented the Airport with excavation truck counts and an estimate of excavation quantities which was prepared by an independent surveyor using a three-dimensional computer model. Based on the information, the Airport agreed that some quantity of additional excavation may have taken place and the parties agreed to a \$40,000 settlement amount. This amount was added to the project budget with an appropriations ordinance in January, 2008.

The second component of the claim was that the Airport's actions resulted in a delay to the project which caused the contractor to pay for winter protection and other unbudgeted additional costs. The Airport disagreed with this claim, and the matter went to court. The Airport did not prevail in court and was required to pay a legal judgment in the amount of \$243,563, resulting in a 2 percent increase in the overall cost of the project. A separate agenda item has been submitted requesting an adjustment to appropriations for the project. This agenda item requests authority to amend PFC Application #10 to cover the PFC-eligible portion of the additional appropriation.

FINANCIAL IMPLICATIONS:

This project is funded with a combination of Customer Facility Charges (CFC), Passenger Facility Charges (PFC), and Airport Capital Improvement Funds. Additional costs added to the project as a result of the legal settlement and judgment have been allocated to the different funding sources based on the same methodology and eligibility requirements that were used for the overall project. Legal fees and interest are allocated solely to the Airport Capital Improvement Fund. The table below shows the change in total project expenditures as a result of the settlement and reflects final allocation adjustments to the project. The adjustments resulted in a decrease in CFC funds and an increase in PFC and Airport Capital Improvement funds required for the project.

	CFC Revenue	PFC Revenue	CIP Funds	Total
Previous appropriations	\$5,563,443	\$2,959,825	\$2,726,516	\$11,249,784
Additional appropriations required	(57,103)	41,064	237,730	221,691
Final appropriations	\$5,506,340	\$3,000,889	\$2,964,246	\$11,471,475

BOARD/COMMISSION RECOMMENDATION:

Capital improvement projects are presented to the Airport Advisory Commission and ongoing status reports are provided.

STAKEHOLDER PROCESS:

The Airport is an enterprise fund that obtains capital funding from FAA grants, State grants, Passenger Facility Charges, Customer Facility Charges, and the Airport's Capital Fund. While no stakeholder process is required for the approval of capital projects under these programs, the Airport seeks public input through the Airport Advisory Commission process. In addition, the Airport coordinates PFC-funded projects with the airlines that provide service to Colorado Springs.

ALTERNATIVES:

Without a resolution authorizing the submission of this first amendment to PFC #10, the Airport will not be able to reimburse its Operations and Maintenance Fund for the full PFC-funded portion of this project.

RECOMMENDATION:

Airport staff recommends approval of the attached resolution.

PROPOSED MOTION:

Move to approve the resolution authorizing submission of a first amendment to PFC Application #10 to the FAA. This amendment will allow the Colorado Springs Airport to increase PFC funding associated with the Rental Car/Parking/Roadway Improvements and Terminal Building Canopies project.

c: Michael L. Anderson, Assistant City Manager
Terri Velasquez, Chief Financial Officer
Gisela Shanahan, Assistant Director of Aviation
Public Communications

RESOLUTION NO. _____

RESOLUTION AUTHORIZING SUBMISSION OF A FIRST AMENDMENT TO PASSENGER FACILITY CHARGE APPLICATION #10 TO THE FEDERAL AVIATION ADMINISTRATION INCREASING THE TOTAL PFC FUNDS TO BE COLLECTED FOR CAPITAL IMPROVEMENTS AT THE COLORADO SPRINGS AIRPORT

WHEREAS, there exists a need to undertake and continue capital improvement projects at the Colorado Springs Airport; and

WHEREAS, it is necessary that funding for these projects be obtained by the assessment of Passenger Facility Charges.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. That the Director of Aviation is hereby authorized to submit to the Federal Aviation Administration a first amendment to application number 10 for authority to assess Passenger Facility Charges for capital improvement projects, including the assurances contained therein, and any other documents necessary for implementation of the Passenger Facility Charge program on behalf of the City of Colorado Springs.

Dated at Colorado Springs, Colorado, this 27th day of October, 2009.

Mayor

ATTEST:

City Clerk