



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: MASTER PARKING RATE
SCHEDULE**

DATE: 03-25-10

Approved

Date

3/26/10

COUNCIL DISTRICT: 3

RECOMMENDATION

City Council adoption of a resolution to repeal Resolution No. 75132 and set forth the Master Parking Rate Schedule to expand the Parking Incentive Programs to:

1. Provide up to two years of free parking for new businesses that enter into a written lease agreement for a downtown office or commercial retail building on or after January 1, 2010, up to a maximum of 50 parking permits for each business.
2. Provide up to two years of free parking for existing downtown businesses that extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building on or after January 1, 2010, and relocate their parking from a private parking facility to a City parking facility, up to a maximum of 50 parking permits for each business.
3. Provide up to two years of 50% discounted parking to existing downtown businesses currently purchasing parking permits to park in a City parking facility who extend their current written building lease agreement or sign a lease in a new downtown office or commercial retail building on or after January 1, 2010, up to a maximum of 50 parking permits for each business.
4. Authorize the Director of Transportation, or his/her designee, to negotiate and execute parking lease agreements, including amendments thereto, with new and existing businesses based on the parameters outlined in this memorandum.

OUTCOME

The proposed resolution will establish new parking incentive programs to spur the growth and retention of businesses in the Downtown.

BACKGROUND

The City currently offers a variety of parking incentives to support the growth and retention of businesses Downtown. Specific incentives have been aimed at the business incubator program, software and environmental business clusters and new business relocations to the Downtown.

On March 16, 2010, City Council directed staff to implement additional parking incentives to attract new businesses to the Downtown and to encourage existing businesses to remain. Specifically, Council approved new parking incentives with the following parameters:

- New businesses are eligible for up to 2 years of free parking, with the term of the free parking being equal to one-half the length of the building lease. Maximum of 50 employees per business.
- Existing businesses are eligible for up to 2 years of reduced rate parking (50% discount), with the term of the discounted parking being equal to one-half the length of the renewed building lease. Maximum of 50 employees per business, and a system-wide cap of 500 parking spaces.

The March 5, 2010 memorandum provided to the City Council by the Chief Development Officer identified financial impacts to the Parking Fund with respect to providing free or discounted parking to existing businesses. It should be noted that lost revenues would occur only with existing businesses that are currently parking in a City facility. The free parking incentives could be extended to existing Downtown businesses that are not currently parking in a City facility without a negative fiscal impact to the Parking Fund.

ANALYSIS

The proposed changes to the Master Parking Rate Schedule incorporate the parking incentives as directed by Council outlined above, and include additional parameters and guidelines to clarify business eligibility and various terms of the free and discounted parking leases as set forth in detail in the attached matrix (Attachment 1). The proposed changes are aggressive and intended to attract new businesses and retain existing businesses Downtown, with the goal of achieving ancillary benefits anticipated with increased employment in the Downtown.

To formalize the provision of free or discounted parking, a parking lease agreement will be executed with the new or existing business/tenant to establish the length of term, the number of months of free/discounted parking, the number of months of paid parking at the regularly established rate, and the penalties for early termination of the parking lease. Additionally, as the free or discounted parking is for the benefit of the business/tenant, the parking permits should not be sub-leased or transferrable.

A summary of the changes to the Master Parking Rate Schedule and parameters of the parking lease agreements include:

- All garages and lots in the City's Downtown parking portfolio will be eligible for the parking incentives leases, with the exception of the Fourth and San Fernando Garage as it was financed with tax exempt debt and there are IRS restrictions limiting the amount of private use that may take place at this facility. In determining whether a specific garage or lot can be used for any specific lease, consideration will be given to any legal or other constraints on the facility, including existing and projected visitor and monthly activity as determined by the Department of Transportation (DOT).
- The maximum period for the free or discounted parking will be one-half the length of the new building lease or extended lease, up to a maximum of two years. It is recommended that DOT have the authority to approve a parking lease that is less than the term of the business/tenant building lease. This may be necessary for example if a business/tenant begins parking in a City facility after they have relocated to Downtown, or extended their existing building lease in advance of requesting a parking incentive lease agreement. In this case, the maximum period for the free or discounted parking will be one-half the length of the parking lease. Similar flexibility is recommended for approving longer term parking leases, up to six years, while maintaining the maximum two years free or discounted parking term. There may be occasions when a business/tenant is signing a five or six year building lease and desires a parking lease with similar terms.
- Businesses will be able to incrementally add employees/parking permits during the term of the parking lease, up to the maximum of 50 employees/parking permits per business. Any changes will require a brief written amendment to the parking lease agreement.
- The premise of the new parking incentives is for the business to receive free/discounted parking for half the term of their building and parking lease. Should a business terminate their parking lease agreement early, or utilize on average more free/discounted parking permits during the first half of their agreement than the purchase of full priced permits during the second half, there will be a fee assessed, as described in Attachment 1.
- The parking lease agreement will include provisions for a deposit equivalent to the value of one month of parking payment at the regular monthly rate for all employees receiving free or discounted parking upon execution or amendment of the parking lease. The deposit will be applied to either the last month payment in the parking lease with the business/tenant, or used to offset any fee assessed.
- The rate resolution currently defines a New Business/Tenant with respect to Class B or C buildings in the Downtown for eligibility purposes with an existing parking incentive program that enables the new business/tenant to purchase discounted parking for up to 300 employees at \$75/month for a maximum 24 month period. The following definitions will be added to the resolution for the proposed parking incentives discussed in this memorandum:

- New Business/Tenant will mean an individual or entity that has entered into a fully executed written lease agreement for a downtown office or commercial retail building on or after January 1, 2010 and did not occupy a downtown office or commercial retail building for at least three (3) months prior to January 1, 2010.
- Relocating Existing Business/Tenant will mean an individual or entity with an existing fully executed written lease agreement for a downtown office or commercial retail building entered into before January 1, 2010 and has not been purchasing monthly parking in a City facility at any time during the twelve months prior to application; and that 1) relocates and enters into another written lease agreement for a different downtown office or commercial retail building on or after January 1, 2010; or 2) executes a lease extension in their current downtown office or commercial retail building on or after January 1, 2010.
- Existing Business/Tenant will mean an individual or entity with an existing fully executed written lease agreement for a downtown office or commercial retail building entered into before January 1, 2010 and has been purchasing at least one monthly parking permit in a City facility at the time of application; and that 1) relocates and enters into another written lease agreement for a different downtown office or commercial retail building on or after January 1, 2010; or 2) executes a lease extension in their current downtown office or commercial retail building on or after January 1, 2010.

It is recommended that the new parking incentive programs be open to any business that entered into a new building lease or extended their current building lease in the Downtown on or after January 1, 2010. The proposed parking incentives have been discussed for some time and certain businesses may have entered into new building lease agreements or renewed existing building lease agreements in anticipation that Council would adopt such incentive programs.

As with the existing parking incentive programs in the Master Parking Rate Schedule, the proposed incentives will be available for any business that enters into a fully executed written lease agreement with the City on or before June 30, 2011. The Director of DOT will have authorization to extend the incentive programs beyond June 30, 2011, on a year-to-year or month-to-month basis, if sufficient parking supply remains available to meet demand at the time of extension. Factors that will be considered by the Director of DOT in determining whether to extend the new incentive programs include the fiscal status of the Parking Fund and the economic need for the parking programs in the Downtown. Additionally, if occupancy reaches 80%, either system wide or by facility, at any time during these programs, DOT will evaluate conditions including parking occupancy, office occupancy, and other related indicators to determine if the programs can continue. The Director of DOT will have authority to discontinue the proposed incentive program if parking occupancy reaches 80%, either system wide in the Downtown or by facility in the Downtown. If the Director of DOT discontinues the proposed parking incentive program, the City will no longer accept any application for the program, but will continue to honor existing fully executed parking lease agreements.

EVALUATION AND FOLLOW-UP

DOT will provide an update to Council within 120 days, or the closest scheduled Council meeting, regarding activity with the new parking incentives, and associated impacts to and status of the General Purpose Parking Fund.

POLICY ALTERNATIVES

The Master Parking Rate Schedule is a dynamic document that requires periodic updates for clarification and enhancements and provides the structure for various parking programs that support the vitality of the Downtown, and generate revenues for operation of the Parking Program, and funding for the General Fund.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Depending on the level of businesses that enroll in the new incentive programs, the cumulative amount of foregone and discounted monthly parking payments may exceed \$1 million. This memorandum will be posted on the City's website for the April 6, 2010 City Council meeting.

COORDINATION

This report has been coordinated with the City Attorney's Office, the Office of Economic Development, and the Planning, Building and Code Enforcement Department.

FISCAL/POLICY ALIGNMENT

Establishing the parking incentive rates for new and existing businesses supports direction provided by Council.

COST SUMMARY/IMPLICATIONS

The amount of lost and new revenue is dependent on the level of businesses enrolling in the new parking incentive programs. The table below highlights the revenue impacts associated with 100 parkers in both programs, assuming the businesses enter into a maximum four year parking lease.

| | Year 1 & 2 | Year 3 & 4 |
|---------------------------|-----------------------|-----------------------|
| New Businesses – Free | \$0 | \$240,000 |
| Existing Businesses – 50% | (\$120,000) | \$0 |

With the cap of 500 permits on the incentives for existing businesses, the total potential lost revenue over a 2 year period if this level of permit activity occurs is \$600,000.

As previously discussed with Council, the City's Parking Fund is being impacted by a variety of factors that are reducing both revenues and reserves. The additional strain placed on the Parking Fund with the provision of discounted parking to businesses currently in the City's parking facilities will be closely monitored.

BUDGET REFERENCE

Not applicable.

CEQA

Not a Project.

/s/

HANS F. LARSEN
Acting Director of Transportation

For questions please contact Laura Wells, Deputy Director of Transportation at 975-3725.

Attachment

ATTACHMENT 1

Parking Incentive Programs

| New and Relocating Existing Businesses/Tenants | |
|--|---|
| Program | Free parking to new businesses/tenants or existing businesses/tenants that relocate their parking from a private parking facility to a City facility. |
| Qualified Businesses/Tenants | A business/tenant that is new to Downtown San José, or an existing business/tenant that signs a new building lease in a different commercial or retail building Downtown, or extends a current building lease, and has not purchased any monthly parking for a City Facility at any time during the past twelve (12) months. |
| Parking Lease Term | The term of the parking lease will be equivalent to or less than the new or extended building lease term. |
| Parking Lease Monthly Rate | Free period (first half) of parking lease is free (maximum of two years) Paid period (second half) is at the City's regular parking rate set forth in the Master Rate Parking Schedule (100% rate), e.g.: 4 year building lease: 2-years free; & 2-years @ 100% 3 year building lease: 18 months free; & 18 months @ 100% |
| Deposit | One month deposit is required per parking permit at the current regular rate for all free parking permits (e.g. 25 permits x 1 month x \$100 = \$2,500). The deposit will be applied to the last month payment of the parking lease, or used to offset any assessed fee. |
| Early termination of Parking Lease, or Reduction in Parking Permits | If a business terminates the parking lease early, or utilizes on average more free parking permits during the free period of the parking lease, than the purchase of full priced permits during the paid period, a fee will be assessed as follows: <ol style="list-style-type: none"> 1. 50% of the value of the free parking utilized if the lease is terminated during the free period. 2. 50% of the difference between the average number of free parking permits used during the free period and the number of permits purchased at the commencement of the paid period, at the then regular rate, for the remaining months of the lease. 3. 50% of the value of the remaining months on the parking lease or the remaining value of the parking spaces, at the then current rate, if the lease is terminated, or the number of parking spaces purchased is reduced, during the paid period. |
| Adding Parking Permits | Parking permits may be added during the term of the parking lease as follows: <ol style="list-style-type: none"> 1. Permits added during the free period of the parking lease will be free for up to a maximum of 50 permits through the end of the free period. 2. Permits added in excess of 50 permits during the free period of the parking lease, or added during the paid period, will be separate from the parking lease and paid at 100% of the then regular rate. |

| | |
|------------------------------|---|
| Maximum Free Monthly Permits | Each new business/tenant can receive up to a maximum of 50 free monthly permits. |
| Transfers | The parking lease is with the new business/tenant and parking permits cannot be sub-leased or transferred. |
| Eligible Parking Facilities | With the exception of the Fourth & San Fernando Garage, all City Downtown Parking garages and lots are eligible; however the Department of Transportation (DOT) will do an assessment once a garage or lot is requested by the business/tenant to determine if the selected garage or lot can accommodate the requested number of parking permits. The assessment will include: occupancy data, property lease status, legal constraints, transient parking demand, and monthly parking occupancy and demand. |
| Program Capacity | If occupancy reaches 80% either system wide or by facility at any time during the program, the Director of DOT shall evaluate conditions including parking occupancy, office occupancy and other related indicators to determine if the program can continue or should be discontinued. Any discontinuation of the program will be with regards to execution of new parking lease agreements. Fully executed lease agreements will remain valid through the end of their terms. |
| Approval | The Director of DOT, or his/her designee, shall approve all businesses eligible for the parking incentive program and administer the parking lease program as set forth in the Master Parking Rate Schedule adopted by Council. |

Existing Businesses/Tenants

| | |
|---|--|
| Program | 50% discounted parking for businesses/tenants that are currently parking in a City facility. |
| Qualified Businesses/Tenants | An existing Downtown business/tenant that signs a new building lease in a different commercial or retail building Downtown, or renews a current building lease, and is currently parking in a City facility. |
| Parking Lease Term | The term of the parking lease will be equivalent to or less than the new or extended building lease term. |
| Parking Lease Monthly Rate | <p>Discounted period (first half) of parking lease is 50% of the regular parking rate set forth in the Master Parking Rate Schedule (maximum of two years) Paid period (second half) is at the City's regular parking rate set forth in the Master Rate Parking Schedule (100% rate), e.g.:</p> <p>4 year building lease: 2-years free @50% discount; & 2-years at 100% 3 year building lease: 18 months @ 50% discount; & 18 months at 100%</p> |
| Deposit | One month deposit is required per parking permit at the current regular rate for all discounted parking permits (e.g. 25 permits x 1 month x \$100 = \$2,500). The deposit will be applied to the last month payment of the parking lease, or used to offset any assessed fee. |
| Early termination of Parking Lease, or Reduction in Parking Permits | <p>If a business terminates the parking lease early, or utilizes on average more discounted parking permits during the discounted period of the parking lease, than the purchase of full priced permits during the paid period, a fee will be assessed as follows:</p> <ol style="list-style-type: none"> 1. 50% of the value of the discounted parking utilized if the lease is terminated during the discounted period. 2. 50% of the difference between the average number of discounted parking permits used during the discounted period and the number of permits purchased at the commencement of the paid period, at the then regular rate, for the remaining months of the lease. 3. 50% of the value of the remaining months on the parking lease or the remaining value of the parking spaces, at the then current rate, if the lease is terminated, or the number of parking spaces purchased is reduced, during the paid period. |
| Adding Parking Permits | <p>Parking permits may be added during the term of the parking lease as follows:</p> <ol style="list-style-type: none"> 1. Permits added during the discounted period of the parking lease will be at a 50% discount for up to a maximum of 50 permits through the end of the discounted period. 2. Permits added in excess of 50 permits during the discounted period of the parking lease, or added during the regular rate paid period, will be separate from the parking lease and paid at 100% of the then regular rate. |

| | |
|--|---|
| Maximum Discounted (50%) Monthly Permits | Each new business/tenant can receive up to a maximum of 50 discounted monthly permits. |
| Transfers | The parking lease is with the new business/tenant and parking permits cannot be sub-leased or transferred. |
| Eligible Parking Facilities | With the exception of the Fourth & San Fernando Garage, all City Downtown Parking garages and lots are eligible; however the Department of Transportation (DOT) will do an assessment once a garage or lot is requested by the business/tenant to determine if the selected garage or lot can accommodate the requested number of parking permits. The assessment will include: occupancy data, property lease status, legal constraints, transient parking demand, and monthly parking occupancy and demand. |
| Program Capacity | If occupancy reaches 80% either system wide or by facility at any time during the program, the Director of DOT shall evaluate conditions including parking occupancy, office occupancy and other related indicators to determine if the program can continue or should be discontinued. Any discontinuation of the program will be with regards to execution of new parking lease agreements. Fully executed lease agreements will remain valid through the end of their terms. |
| Approval | The Director of DOT, or his/her designee, shall approve all businesses eligible for the parking incentive program and administer the parking lease program as set forth in the Master Parking Rate Schedule adopted by Council. |