



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: LONG-TERM PARKING
AGREEMENT WITH SUPERIOR
COURT**

DATE: 08-08-11

Approved

Date

8/16/11

COUNCIL DISTRICT: 3

RECOMMENDATION

Approval of a long-term parking agreement for up to 50 years with the Superior Court of the State of California, County of Santa Clara, for the issuance of up to 450 parking permits to the Superior Court for use of the Market/San Pedro Square Garage at no cost for three years and a monthly charge thereafter for the remaining 47 years.

BACKGROUND

The State of California plans to build a Santa Clara County Superior Courthouse in Downtown San Jose to serve as a Family Justice Center. The new facility will have about 20 courtrooms and will consolidate judicial operations that are currently being provided in five leased facilities, of which all but one are located Downtown. The new facility is intended to consolidate all family-related services, including family court, juvenile dependency court, drug court, probate investigations and other services into a single facility. Other project objectives are to provide space for new services, such as a separate child waiting area, improved internal security and access for both judicial staff and the public, and increased efficiency of court operations.

The Family Justice Center will be constructed on an approximate 1.8 acre site in the block bounded by Market Street, West St. James Street, First Street and Devine Street. A portion of the site currently serves as a parking lot used by Superior Court employees. As the new facility will only include a very limited number of on-site surface parking spaces and secured parking for judicial officers, the Superior Court of Santa Clara County (Superior Court) has requested assistance from the City in providing parking on a long-term basis for courthouse employees. Initially, during the construction phase (tentatively scheduled to occur between January 2013 and May 2015) parking will only be needed for those employees (up to 225) that have been displaced from the existing parking lot. When the facility is completed, up to an additional 225 parking permits will be needed.

ANALYSIS

The term of the proposed long-term parking agreement with the Superior Court would commence with execution of the agreement (Effective Date) and continue for 50 years after the issuance of the first parking permit to a courthouse employee. The other major provisions of the proposed agreement include the following:

Parking Facility

Parking would be provided for up to 450 courthouse employees at the Market/San Pedro Square Garage (Garage) weekdays, between 7 am – 6:30 pm. A maximum of 50 courthouse employees would be able to park beyond the weekday hours to accommodate peak workload demands at the Family Justice Center. The agreement also includes provisions to temporarily or permanently relocate courthouse employees to another facility based upon certain conditions. Specifically:

- After seven years from execution of the agreement, if the Garage reaches peak capacity of 95% at any time for 15 consecutive weekdays (non-holiday), up to 225 courthouse employees can be permanently relocated to another facility within 1,500 feet.
- If necessary to make programmed repairs, upgrades or improvements to the Garage, all courthouse employees can be temporarily relocated to another facility within 0.5 mile.
- If necessary to make emergency repairs, upgrades or improvements to the Garage, all courthouse employees can be temporarily relocated to another facility within 1.0 mile.
- If the Garage site is redeveloped, reconstructed, or otherwise improved, and replacement parking for courthouse employees is programmed to be included in the redevelopment, reconstruction or improvement project, all courthouse employees can be temporarily relocated to another facility within 0.5 mile.

Monthly Parking Rate

For the initial three year period commencing with the construction of the Family Justice Center, parking will be provided free for up to 225 Superior Court employees. Similarly, during the three year period that commences with occupancy of the new facility, parking will be provided free for up to an additional 225 Superior Court employees. At the end of each three year free period, the monthly rate for each parking permit issued during the preceding free period will be determined annually based upon:

- Base Rate of \$100 plus the annual cumulative change in the Consumer Price Index (CPI) since the commencement of the initial three year free period.

The above methodology will be used through the tenth anniversary of the commencement of the initial three year free period. Subsequent to this initial annual determination of the monthly rate, the agreement includes provisions to adjust the methodology of determining the monthly rate on

a ten-year cycle. Specifically, prior to years 11-20, 21-30, 31-40, and 41-50 of the agreement, the monthly rate will be established by the City to be the lesser of the following rates:

- Base Rate of \$100 plus the annual cumulative change in CPI since the commencement of the initial three year free period; or
- Regular monthly rate established in the City's Master Parking Rate resolution as it may be adjusted over time during the upcoming ten year period.

Security Deposit

A security deposit of \$45,000 from the Superior Court is required within ninety days of the Effective Date. The value of the security deposit is equivalent to the current \$100 monthly rate for each of the 450 parking permits. The security deposit will be applied to offset any early termination fee or other penalties, or to offset the last payment due on the agreement. The full security deposit will be forfeited to the City if Superior terminates the agreement prior to the issuance of any parking permit under the proposed agreement and a pro rata amount will be forfeited if the City does not issue all 450 parking permits prior to the six year anniversary of the Effective Date.

Termination of Agreement

The agreement includes various termination provisions. For example, if the Garage site is partially or wholly taken by eminent domain, or if the Garage is damaged by a force majeure event that renders the Garage wholly or substantially unusable, the City may terminate the agreement. Additionally, either the Superior Court or the City may opt to terminate the agreement early with six months prior notice with the following early termination fees:

Termination by Superior Court

The Superior Court may terminate the agreement at any time. Depending on when the agreement is terminated, the early termination fee paid to the City may include one, or a combination, of:

- Forfeiture of all or a portion of the security deposit as described above.
- Payment for 50% of the total value of the free parking provided to each Superior Court employee to enable the City to recover a portion of its costs in providing free parking.
- Payment for 100% of the value of the monthly rate in effect at that time for a six month period for all issued parking permits.

Termination by City

The City may terminate the agreement after 32 years from the Effective Date. The early termination fee paid to the Superior Court will be 100% of the value of the monthly rate in effect at that time for a six month period for all issued parking permits.

EVALUATION AND FOLLOW UP

There is no further follow-up with Council anticipated at this time.

POLICY ALTERNATIVES

Council could elect not to approve the long-term parking agreement. The Superior Court of Santa Clara has indicated that without the long-term agreement for parking, the development of the Family Justice Center would likely be delayed or jeopardized.

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)**

This memorandum will be posted on the City's website for the Council agenda.

COORDINATION

The terms of the parking agreement with the Superior Court were coordinated with the Office of Economic Development and the Attorney's Office.

FISCAL/POLICY ALIGNMENT

On June 24, 2008, the City Council adopted a position of support for SB1407 (subsequently chaptered) related to statewide courthouse construction projects, including a potential Santa Clara County consolidated Family Justice Center.

COST SUMMARY/IMPLICATIONS

The Market/San Pedro Square Garage has approximately 1,400 parking spaces, with the majority of these spaces utilized for downtown employee parking during the weekday. For the past several years, the average weekday peak occupancy in this garage has been under 40%. There is

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adequate capacity in the garage to accommodate the Superior Court employees. During the three year free parking period, it is not anticipated that there will be a negative fiscal impact to the Parking Fund. After the free period, the proposed parking lease will subsequently provide a positive revenue source for the Parking Fund. After the free parking period, estimated annual revenues are \$270,000; increasing to over \$540,000 annually when the full monthly rate is paid for all monthly permits (estimates have not been adjusted for CPI).

CEQA

Not a Project, File No. PP10-066 (f), CEQA Guidelines Section No.15273 – Agreement for lease of existing space.

/s/

HANS F. LARSEN
Director of Transportation

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