

RESOLUTION NO. 74875

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ ESTABLISHING FEES, RATES AND CHARGES AT THE NORMAN Y. MINETA SAN JOSÉ INTERNATIONAL AIRPORT, AND REPEALING RESOLUTION NO. 74655

The following fees, rates and charges are established for use of land, paved areas and structures at the Norman Y. Mineta San José International Airport (Airport), Airport parking rates, permit fees and charges for ground transportation providers, permit fees and charges for off-Airport rental car companies, fees and charges for technology services provided by the City of San José (City) to tenants at the Airport, and rates and fares for the operation of taxicabs at the Airport.

SCHEDULE OF FEES AND CHARGES

SECTION 1. DEFINITIONS

- a. **Air Transportation Company.**
A legal entity certificated by the Secretary of Transportation and engaged in the business of scheduled or non-scheduled commercial transportation by air of persons, property, mail, parcels and/or cargo.
- b. **All-Cargo Air Transportation Company.**
Any Air Transportation Company, which is engaged principally in the conduct of air cargo and air freight operations on a regularly-scheduled or itinerant basis to and from the Airport.
- c. **FAA.**
The Federal Aviation Administration, an organization within the United States Department of Transportation.
- d. **Fiscal Year.**
The annual accounting period of City for its general accounting purposes which is the period of twelve consecutive months ending with the last day of June of any year.
- e. **Fixed Base Operator or FBO.**
Any City tenant at the Airport providing General Aviation aircraft services or commodities to aircraft owners, operators, pilots, or members of the public.
- f. **Gate.**
Those portions of the Terminal individually comprised of a passenger loading bridge, if any, a passenger holdroom and a Gate Ramp.

- g. General Aviation.**
That portion of civil aviation involving private use aircraft used by any person for recreational, personal travel, or business or commercial purposes, but excluding: (i) all regularly scheduled passenger air carrier operations, (ii) all commercial passenger charter operations, and (iii) all air cargo operations.
- h. MGLW (Maximum Gross Landing Weight).**
The maximum gross certificated landing weight in one thousand pound units for each aircraft operated at the Airport as certificated by the FAA.
- i. Ramp.**
The asphalt ramp space or concrete ramp space, for use in parking, loading and unloading, refueling, minor routine aircraft maintenance and ground transportation to or from the aircraft, subject to the approval of the Director.
- j. Terminal.**
The passenger terminal buildings.
- k. Terminal Aircraft Apron.**
Those areas of the Airport that are primarily designated for the parking of passenger aircraft and support vehicles and the loading and unloading of passenger aircraft.

SECTION 2. OPERATIONS

A. AIRSIDE OPERATIONS.

1. Air Transportation Company Fees

- a. Aircraft Parking Fees.**
Any Air Transportation Company parking on the ramp in an area other than an area designated in a lease or other agreement with the City shall be charged an Aircraft Parking Fee as set forth below:

Aircraft Wingspan	Daily Rate	Partial Day Rates
Under 124 feet	\$50 – 200	Less than 4 hours = 25% of daily rate 4 – 8 hours = 50% of daily rate Over 8 hours or overnight parking = daily rate

Over 124 feet	\$100 – 300	Less than 4 hours = 25% of daily rate 4 – 8 hours = 50% of daily rate Over 8 hours or overnight parking = daily rate
---------------	-------------	--

The daily rates for fiscal year 2007-2008 shall be the lowest daily rates specified above. The Director of Aviation (Director) is authorized to increase or decrease the daily rates within the ranges specified above for any subsequent fiscal year if the Director determines that: (i) such an adjustment in the daily rates will facilitate the optimum use of available aircraft parking spaces at the Airport; or (ii) an adjustment in the daily rates is necessary to remain competitive with other comparable airports.

b. Ramp Fees – All-Cargo Air Transportation Companies.

Fees for use of the Ramp by All-Cargo Air Transportation Companies for aircraft parking, loading and unloading, refueling, minor aircraft maintenance and ground transportation to or from aircraft will be charged as follows:

Ramp Fee	\$.20 per one thousand pounds (1,000 lbs.) of certified MGLW.
----------	---

2. General Aviation (GA) Fees.

a. Tie-Down and Hangar Fees.

Aircraft Tie-Down Parking (GA West) Tail-in Monthly Rental (MGLW Pounds)	Per Month Fee
3,500 or less	\$153.00
3,501 to 5,200	\$175.00

Taxi-in Monthly Rental	Per Month Fee
3,500 or less	\$191.00
3,501 to 5,200	\$238.00
5,201 to 10,200	\$328.00
10,201 to 20,000	\$384.00
20,001 to 30,000	\$433.00
30,001 to 45,000	\$552.00

Hangar Monthly Fees	Per Month Fee
Building Nos. 8, 9, 10, 11	\$381.00

(i) Daily Fees

Daily Fees shall be charged for all General Aviation aircraft parked in the common use aircraft ramp areas (as such areas are designated from time to time by Director of Aviation) in excess of eight (8) consecutive hours in any twenty-four (24) hour period. Daily Fees shall be calculated by dividing the applicable monthly fee by thirty (30), and multiplying that sum by two and one-half (2 ½), which total amount shall be the applicable Daily Fee for each category of Tie-Down space.

The Daily Fee for transient General Aviation aircraft weighing 45,001 or more shall be calculated as follows:

- a) Dividing the highest monthly parking fee by 45,000 pounds to arrive at a monthly per pound sum;
- b) Multiplying the per pound sum by the MGLW of the specific aircraft to arrive at a total monthly sum for the specific aircraft; and
- c) Dividing the total monthly sum by thirty (30), and multiplying that sum by two and one-half (2 ½), to equal the Daily Fee for itinerant aircraft weighing 45,001 pounds or more MGLW.

(ii) Exemptions to General Aviation Aircraft Parking Fees

The aircraft parking fees specified above are applicable to General Aviation users and licensees of City-owned and operated General Aviation tie-down and hangar parking spaces only, and are not applicable to: (a) Airport tenant aircraft parked on land leased to a Fixed Base Operator; (b) Air Transportation Companies, duly authorized by City to park at designated ramp areas in commercial operations areas; and (c) aircraft owned and operated by the Federal Government.

(iii) Payment

- a) Payment for monthly reserved Tie-Down and Hangar parking spaces is due and payable on or before the first of each calendar month. Payment of the daily aircraft parking charges shall be made prior to departure of aircraft unless credit arrangements have been approved by the Director. The Director is authorized to assess late payment fees by: (1)

charging the Daily Fee as specified above; (2) charging one percent (1%) per month for any overdue fees until paid in full; and/or (3) charging a flat amount of ten dollars (\$10.00) as a late payment fee, whichever method of late payment fees is readily available for implementation and billing and provides the highest fee.

- b) Upon issuance of a new or renewed License for City-owned aircraft parking spaces, the Director is authorized to collect the first month's parking fee in advance, and all such fees shall be due and payable in advance on a monthly basis. In addition, the Director is authorized to collect, as a security deposit, an amount equal to one to four months fee, to be applied to the last month's fee payment or to any unpaid fees or charges, including late fees, in the event the License is terminated or canceled for any reason. The deposit will be held without interest.

b. Fueling Fees – General Aviation and Itinerant Aircraft Users.

(i) Fuel Flowage Fees

- a) Any person engaging in the activity of retailing or sales of aviation fuel petroleum products to owners or operators of General Aviation aircraft or to itinerant commercial passenger or cargo charter operators shall be required to pay to City, for the privilege of conducting such fueling activity at the Airport, a fuel flowage fee calculated to equal ten cents (\$0.10) per gallon of fuel sold.
- b) Any itinerant commercial passenger or cargo charter operator, or any federally-owned and operated aircraft, shall be required to pay to City a fuel flowage fee calculated to equal ten cents (\$0.10) per gallon of fuel delivered to the aircraft.
- c) An operator of an aircraft who contracts directly with a fuel wholesaler and has the fuel delivered by an into-plane agent, shall be required to directly pay the City a fuel flowage fee as specified above, but the into-plane agent shall not be required to pay the fuel flowage fee.

The fuel flowage fee shall be paid to City whether or not the fuel was sold or delivered on a discounted

basis by an into-plane agent or on a contract basis, or sold or delivered free of charge.

(ii) Self-Fueling Activity Fees

Any person who owns or operates a General Aviation aircraft at the Airport and who is authorized by the Director to self-fuel such aircraft in accordance with applicable laws (and without purchase or delivery from a duly-authorized retailer at the Airport), shall be required to pay to City, for the privilege of conducting such fueling activity at the Airport, a self-fueling fee equal to ten cents (\$0.10) per gallon of fuel delivered into such aircraft.

(iii) Payment and Reports

Any person engaging in fueling activities at the Airport for which a fee is assessed shall be required to submit monthly activity reports to the Airport regarding such activity in such form and detail, and at such time or times, as the Director may prescribe. Where applicable, such reports shall contain, at a minimum, the total amount of gallons purchased at wholesale, date of purchase and the retail price of fuel at time of retail sale or delivery. The Director is authorized to assess late payment fees by: (a) charging one percent (1%) per month for any overdue fees until paid in full; or (b) charging a flat amount of ten dollars (\$10.00) as a late payment fee, whichever method is readily available for implementation and billing and provides the highest fee.

c. Noise and Safety Program Fees.

(i) Noise and Safety Program

The City has established a Noise and Safety Program for all General Aviation tenants and licensees at the Airport. The costs of this program are to be calculated on a per-aircraft basis.

(ii) City-Owned Aircraft Spaces – Recovery of Program Costs

The Noise and Safety Program costs allocable to occupants of City-owned aircraft spaces shall be included in the monthly fees and charges specified under **Tie-Down and Hangar Fees** above.

(iii) General Aviation Tenants – Recovery of Program Costs

a) The Noise and Safety Program costs allocable to aircraft users of the Airport which are based on Airport land which the City leases to General Aviation tenants (fixed based operators and corporate facilities) shall

be allocated on a per aircraft basis for all aircraft based on the tenant's premises.

- b) Where the leases between the City and the tenant appropriately provide for the payment of General Aviation fees and charges by the tenant to City, tenant shall be obligated to pay to City, for each aircraft based on its premises, the following fee for the Noise and Safety Program:

Twenty-Two Dollars and Seventy Cents (\$22.70) per year (\$1.90 per month).

- c) All Fixed Based Operator tenants will provide a monthly report in form and content acceptable to the Director no later than the fifth (5th) day of each month listing based aircraft owned by the FBO operator and those which are owned by FBO subtenants and invitees. A delinquent report fee of Twenty-Five Dollars (\$25.00) will be assessed for each day that the report is not received by City after the fifth (5th) of the month.
- d) Payment of fees for the Program shall be due and payable upon invoice from City.

B. LANDSIDE OPERATIONS.

1. Ground Transportation Definitions.

a. Automated Vehicle Identification (AVI) System.

A system for automatic tracking of vehicle movement on the Airport roadways and in or on parking facilities which may include without limitation the placement of a transponder or other device upon a vehicle.

b. Bus and Shuttle Operator.

Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to transport passengers and passenger baggage for hire, other than: Limousines, Hotel Motel Courtesy Van Operators, Parking Lot Courtesy Van Operators, Taxicab Operators and off-airport car rental agencies. Bus and Shuttle Operators include, but are not limited to, Ground Transportation Providers exercising privileges granted by the California Public Utilities Corporation as a Passenger Stage Corporation or as a Charter-Party Carrier. Bus and Shuttle Operators do not include Vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity.

- c. **Clean Fuel Vehicle.**
Any vehicle rated SULEV (Super Ultra Low Emission Vehicle) by the California Air Resources Board; any hybrid vehicle pre-approved by the Airport between September 23, 2005 and November 7, 2005; and, any dedicated alternative fuel (non-gasoline, non-diesel) vehicle rated ULEV (Ultra Low Emission Vehicle) - Level II by the California Air Resources Board.
- d. **Commercial Courier Operators.**
Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to transport property, baggage, or parcels not for use or consumption on Airport property. Commercial Courier Operators do not include vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity, or Bus and Shuttle Operators.
- e. **Dwell.**
Time spent at the Airport waiting for a passenger pick up.
- f. **Ground Transportation Provider.**
Any person or entity, including but not limited to Bus and Shuttle Operators, authorized to engage in the business of picking up passengers and passenger baggage to or from the Airport and transporting them by ground transportation.
- g. **Hotel/Motel Courtesy Van Operators.**
Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to transport passengers and passenger baggage between the Airport and any hotel/motel located on or off Airport property, at no charge to the passenger. Hotel/Motel Courtesy Van Operators do not include Vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity.
- h. **Limousines Operator.**
Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to transport passengers and their baggage for hire as a Charter-Party Carrier operating limousine, as defined by Section 5371.4 of the California Public Utilities Code. This category does not include Vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity.

- i. **Minimum Rate of Fare.**
A minimum fare for Taxicab Trips of three (3) miles or less departing from the Airport. The Minimum Rate of Fare includes the Trip Fee and Waiting Time Rate.
- j. **On-Demand Passengers.**
Passengers who have not pre-arranged ground transportation services prior to being picked up by a Ground Transportation Provider or Bus and Shuttle Operator at the Airport.
- k. **Parking Lot Courtesy Van Operators.**
Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to transport passengers and their baggage between the Airport and any commercial parking lot located on or off Airport property. This category does not include vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity.
- l. **Taxicab Operators.**
Any person or entity, including its drivers, employees and representatives, that uses the Airport roadways and infrastructure to operate vehicles to transport passengers for hire where charges are determined by the use of a taxi meter pursuant to a valid ground transportation permit issued by the Director. This category does not include Vehicles owned or operated by the City of San José, Santa Clara County or any other governmental entity.
- m. **Taxicab Trip.**
Those movements of a taxicab picking up or dropping off passengers at the Airport.
- n. **Taxicab Waiting Time.**
When the taxicab is proceeding at a speed of thirteen (13 miles) per hour or less in traffic, or when the taxicab is stopped for a period of time at the request of the passenger.
- o. **Trip.**
A Vehicle shall be considered to have made one Trip each time the Vehicle uses the Airport for pick-up or drop-off activities.
- p. **Vehicle.**
Any automobile, truck, van, bus, limousine, motorcycle, bicycle, and other wheeled conveyances (except aircraft), operated by a Ground

Transportation Provider, in which any person or property can be transported upon land.

2. Fees.

a. Ground Transportation Operator Fees.

- (i) All Ground Transportation Operators
 - AVI System Tag Fee \$25.00 (non-refundable, for all new and replacement tags)
 - Missed Appointment Fee \$50 per appointment
 - Dwell Fees Up to a maximum of \$5 per every half-hour, to be determined by the Director of Aviation as set forth below
- (ii) Bus and Shuttle Operators (1-24 passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$1.00 per Trip
- (iii) Bus and Shuttle Operators (25+ passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$5.00 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$4.00 per Trip
- (iv) Limousine Operators (1-24 passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$1.00
- (v) Limousine Operators (25+ passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$5.00 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$4.00

- (vi) Hotel/Motel Courtesy Van Operators (1-24 passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$1.00

- (vii) Hotel/Motel Courtesy Van Operators (25+ passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$5.00 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$4.00

- (viii) Parking Lot Courtesy Van Operators (1-24 passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$1.00
 - Gross Revenues Fee 8% **Gross Revenues*** from Off-Airport Parking Lot Operations per month

- (ix) Parking Lot Courtesy Van Operators (25+ passengers)
 - Administrative Fee \$200 per annum
 - Trip Fee \$5.00 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$4.00
 - Gross Revenues Fee 8% **Gross Revenues*** from Off-Airport Parking Lot Operations per month

- (x) Taxicab Operators
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50
 - Trip Fee (Clean Fuel Vehicle) \$1.00

- (xi) Commercial Courier Operators
 - Administrative Fee \$200 per annum
 - Trip Fee \$1.50 per Trip
 - Trip Fee (Clean Fuel Vehicle) \$1.00

Administrative Fee

The \$200 Administrative Fee, as indicated above, shall be due in full and not be subject to proration for a partial year, provided that if a valid application for a new Ground Transportation Permit is received after April 1 of any year, such Administrative Fee shall cover the period from the date of issuance of the Ground Transportation Permit through April 30 of the next calendar year, even if the Ground Transportation Permit is issued prior to end of April.

Dwell Fee Set By Director of Aviation

The Dwell fee, as indicated above, shall be set by the Director of Aviation and shall be based on industry indicators, including: space capacity for the conducting of Ground Transportation activities; the quantity of vehicles in the Ground Transportation Program; the volume of Ground Transportation Operators accessing the Airport; and the volume of passengers using the Airport. Once the Dwell fee is established, the Director of Aviation shall thereafter review the Dwell fee on a biennial basis. Any amendments to the Dwell fee shall be based on the above industry indicators. The Director of Aviation may review and amend the Dwell fee on a more frequent basis so long as the Dwell fee is based on the industry indicators set forth above.

No less than 30-days prior to the effective date of the Dwell fees, the Director of Aviation shall provide written notice of the Dwell fees to all Ground Transportation Operators.

***Gross Revenues Defined – Parking Lot Courtesy Van Operators**

Includes, but is not limited to, all monies or other consideration generated or received by a Parking Lot Courtesy Van Operator (including all Gross Revenues generated or received by such Parking Lot Courtesy Van Operator's joint venture partner(s), and/or equity partner(s), if any, for the use of the Airport in connection with the conduct of its business, unless specifically excluded below). Such monies or other consideration shall include transactions made at the Airport, or at an off-Airport location if such transactions are made with Airport customers that are either picked-up or dropped-off by a Parking Lot Courtesy Van Operator or its agent at the Airport. Such monies or other consideration are

considered Gross Revenues even though payment occurs off-Airport. Gross Revenues shall include all such transactions, whether for cash or for credit, regardless of whether a final collection is made in credit transactions.

Such monies or other consideration specifically shall include:

- Fees paid for the use of parking spaces for motor vehicles, including but not limited to fees based upon a flat rate, monthly, daily or time charges;
- Fees generated from the Airport customers that are picked-up and/or dropped-off by a Parking Lot Courtesy Van Operator or its agent at the Airport;
- Fees generated from contracted services with other Airport tenants and users, or other third parties; and,
- Other revenues including, but not limited to, washing or cleaning motor vehicles, and valet parking services.

Such monies or other consideration specifically shall not include:

- The amount of any federal, state, or local sales tax separately stated and collected from customers;
- The sale of uniforms or clothing, at the Operator's cost, when such uniforms or clothing are required to be worn by Operator's employees;
- Corporate discounts and rebates so long as such discounts are based on pre-arranged or negotiated corporate contracts, and the parking contract shows that such a discount has been applied; and
- Employee discounts, and promotional discounts (including frequent flyer programs between Parking Lot Courtesy Van Operator and any airline operations) where the parking contract shows that such a discount has been applied.

b. Rates, Fares, and Tariffs for the Operation of Taxicabs at the Airport.

The following rates, fares, and tariffs for taxicabs are hereby fixed and determined pursuant to San José Municipal Code §6.64.250:

- (i) Minimum Rate of Fare
The Minimum Rate of Fare for taxicabs departing from the Airport is Fifteen Dollars (\$15.00) for the first three (3) miles or less. The Minimum Rate of Fare includes the Trip Fee specified in Section iv below (“Airport Taxi Fee”) and any Waiting Time Rate.
- (ii) Mileage Rate
Beginning after the mileage included in the Minimum Rate of Fare, Thirty Cents (\$.30) per one-tenth (1/10) mile or travel of portion thereof.
- (iii) Waiting Time Rate
Fifty Cents (\$0.50) per minute, beginning after the Minimum Rate of Fare, for a maximum of Thirty Dollars (\$30.00) per hour.
- (iv) Airport Taxi Fee
 - a) For each Taxicab Trip made at the Airport by a Taxicab Operator, One Dollar and Fifty Cents (\$1.50). Of that amount, One Dollar and Fifty Cents (\$1.50) shall be paid by passenger.
 - b) Taxicab Trip Fees will not be charged for Taxicab Trips to the Airport until Trip Fees to the Airport are implemented for other forms of commercial ground transportation to the Airport.
 - c) The conditions under which the Director is authorized to allow on-demand passenger pickups by taxicab companies under a short-term agreement with the City, is established by Title 25, Part 7, Section 25.08.760 of the San José Municipal Code.
- (v) Surcharge
Mileage rate after ten (10) miles past the Santa Clara County line, twenty-five percent (25%) surcharge each additional mile or portion thereof.
- (vi) Gasoline Fuel Surcharge
 - a) Should the average price per gallon of gasoline fuel within the City of San José (as shown in the AAA Daily Fuel Gauge Report at www.fuelgaugereport.com/CAmetro.asp or as shown in a similarly acceptable report) reach Four Dollars

and Fifty Cents (\$4.50), a Gasoline Fuel Surcharge may be added to the total fare due as shown in the following table.

Average Price of Gasoline Fuel	Permissible Gasoline Fuel Surcharge
\$4.50	\$0.50
\$5.00	\$1.00
\$5.50	\$1.50
\$6.00	\$2.00

All of that amount shall be paid by the passenger.

- b) Should the average price of gasoline fuel drop below Four Dollars and Fifty Cents (\$4.50), no Gasoline Fuel Surcharge shall be added to the total fare due.

c. Monthly On-Demand Ground Transportation Dispatch Services Program Fees.

The monthly fees for the On-Demand Dispatch Services Program at the Norman Y. Mineta San José International Airport are established as follows:

Program Fee per Airport On-Demand Taxicab Permit	\$220 to \$330 per month
Program Fee per On-Demand Door-to-Door Shuttle Vehicle Operating at the Airport pursuant to On-Demand Ground Transportation Concession Agreement	\$100 to \$110 per month
Administrative Fee per On-Demand Taxicab Permit and Door-to-Door Shuttle Vehicle Operating at the Airport pursuant to On-Demand Ground Transportation Concession Agreement	Up to \$25.00 per month

The Director shall establish initial fees within the ranges herein no less than 30-days prior to the effective date of the fees, provide written notice of the fees to all taxicab permit holders and on-demand door-to-door shuttle vehicle concessionaires.

The Director shall conduct an annual review of the then current fees to ensure that the fees cover the expenses of the On-Demand Dispatch Services Program at the Airport. Fees are subject to change, within the ranges set out herein by the Director of Aviation upon completion of any annual review, with a minimum 30 days written notice to all taxicab permit holders and on-demand door-to-door concessionaires.

d. Rates and Charges for Off-Airport Rental Car Firms Coming onto Airport.

Administrative Permit Fee	\$200 monthly
Gross Revenues Fee	10% of the off-Airport rental car firm's Gross Revenue (as defined below) per month subject to a minimum threshold of \$20,000

- (i) Gross Revenues (solely for Off-Airport Rental Car Firms purposes) means, and shall include, but not be limited to, all monies or other consideration generated or received by the operator (including all gross revenues generated or received by operator's sub-tenant(s), joint venture partner(s), and/or equity partner(s), if any) for the conduct of its business, unless specifically excluded below. Such monies or other consideration shall include transactions made at the Airport, or at an off-Airport location if such transactions are made with Airport Customers that are either picked-up or dropped-off by the operator or its agent at the Airport. Such monies or other consideration are considered Gross Revenues even though payment and/or delivery of the motor vehicle occurs off-Airport. Gross Revenues shall include all such transactions, whether for cash or for credit, regardless of whether a final collection is made in credit transactions, and shall also include orders taken by mail, telephone, fax, or other methods of communication, regardless of whether actual delivery of the motor vehicle or other product or service is made at the Airport.

Such monies or other consideration specifically shall include:

- Fees paid for the rental or leasing of motor vehicles pursuant to daily or time charges and/or mileage;

- Fees generated from Airport customers who are picked-up and/or dropped-off by the operator or its agent at the Airport;
- Fees paid for acceptance of personal accident insurance or coverage, or paid for other types of insurance or coverage (except collision damage waiver coverage (CDW) or loss damage waiver (LDW));
- Net fees generated from the rental or sale of mobile telephone service, such net fees to be determined as the difference between the actual selling price to Airport Customers and the actual cost to the operator for the purchase of mobile telephone service from a provider of such services, plus any surcharges imposed by the operator;
- Fees generated from contracted services with other Airport tenants and users, or other third parties; and
- Other rental fees including, but not limited to, rental of infant car seats, or other rentals.

Such monies or other consideration specifically shall not include:

- The amount of any federal, state, or local sales tax separately stated and collected from customers;
- Fees paid for acceptance of CDW coverage or LDW only (or such other type of coverage by which fees are intended to provide coverage protection only for damage to rental vehicles);
- The sale of uniforms or clothing, at the operator's cost, when such uniforms or clothing are required to be worn by the operator's employees;
- The resale of petroleum products, including fuel and oil, provided that such resale fees are stated as a part of the operator's standard Agreement with its customer;
- Corporate discounts and rebates, so long as such discounts are based on pre-arranged or negotiated

corporate contracts, and the car rental contract on its face shows that such a discount has been applied;

- Employee discounts, and promotional discounts (including frequent flyer programs between the operator and any airline operations) where the car rental contract shows that such a discount has been applied;
 - Revenues derived from the sale of used, fleet, motor vehicles.
- (ii) The rate for off-Airport rental car operations with passenger pick-ups and drop-offs at the Airport shall be ten percent (10%) of the off-Airport operator's Gross Revenues.
- (iii) A minimum threshold of \$20,000 is established whereby an off-Airport rental car operator will not pay a ten percent (10%) privilege fee for monthly Gross Revenues which fall below \$20,000.

e. Fees, Rates and Charges for Airport Parking Rates.

- (i) Hourly Parking Lot and Parking Garage. In the Hourly Parking Lot and Parking Garage, as designated by Director, the rate charged for each vehicle parking space, except a parking space designated for use by disabled persons and disabled veterans, shall be:

The first twenty minutes or fraction thereof \$1.00

Each additional successive twenty minutes
or any fraction thereof \$1.00

Subject to the following adjustments: (a) a maximum charge of \$10.00 to \$40.00 for parking for a period not exceeding 24 consecutive hours, as such maximum charge may be established by the Director in accordance with the provisions of Section (xv), and (b) a charge of \$0 to an amount not exceeding \$3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xv).

Except as otherwise provided in Section (xv), additional time parked in excess of any 24 consecutive-hour period shall be

charged for by applying the same rates and charges to all time parked after the respective 24-hour period.

- (ii) Long Term Parking Lots: In the Long Term Parking Lot, as designated by Director, for each vehicle parking space, the rate charged for parking shall be:

The first twenty minutes or fraction thereof	\$1.00
Each additional successive twenty minutes or any fraction thereof	\$1.00

Subject to the following adjustments: (a) a maximum charge of \$5.00 to an amount not exceeding \$20.00 for parking for a period not exceeding 24 consecutive hours and (b) a charge of \$0 to an amount not exceeding \$3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xv).

Except as otherwise provided in Section (xv), additional time parked in excess of any 24 consecutive-hour period shall be charged for by applying the same rates and charges to all time parked after that 24-hour period.

- (iii) Employee Parking. In the portion of the Airport Parking Facilities designated by the Director for use by employees of Airport tenants, contractors, permittees, or licensees, the following rates, fees and charges shall apply:

Initial distribution of card/permit	\$10.00 - \$20.00 (nonrefundable)
Failure to return card/permit @ cancellation/card replacement	\$25.00 - \$75.00 (nonrefundable)
Monthly Employee Parking Usage Charge All Employee Parking Facilities	\$10.00 - \$120.00

- (iv) Intermediate Rate Parking. The Director may designate a portion of the Airport Parking Facilities as an "Intermediate Rate Parking Lot". The rate charged for each vehicle parking space in an Intermediate Rate Parking Lot, except a parking space designated for use by disabled persons and disabled veterans, shall be:

The first twenty minutes or fraction thereof	\$1.00
Each additional successive twenty minutes	

or any fraction thereof \$1.00

Subject to the following adjustments: (a) a maximum charge of \$6.00 to an amount not exceeding \$20.00 for parking for a period not exceeding 24 consecutive hours and (b) a charge of \$0 to an amount not exceeding \$3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xiii).

Except as otherwise provided in Section (xiii), additional time parked in excess of any 24 consecutive-hour period shall be charged for by applying the same rates and charges to all time parked after the respective 24-hour period.

- (v) Disabled Parking. The rate charged for parking in a parking space for a disabled person or a disabled veteran displaying a distinguishing placard or license plate shall be the daily rate charged for the Long Term Parking Lot.
- (vi) Oversized Vehicle. All oversized vehicles occupying more than one space in the various parking facilities will be assessed a fee equivalent to the number of spaces occupied by that vehicle.
- (vii) Urgency Long – Term Rate. The Director is hereby authorized to approve the use of the Hourly Parking Lot and Parking Garage for Long-Term Parking patrons on an urgency basis when Long-Term lots are filled to capacity, and to charge Long-Term parking rates in connection with such use. The Director shall approve such use through issuance of a parking ticket and shall take adequate steps to insure appropriate use of such tickets.
- (viii) Lost Ticket. If the time of parking cannot be ascertained by reason solely of the patron's loss of or inability to produce a parking ticket to determine when parking commenced, the parking charge shall be computed by multiplying the applicable maximum rate times the number of days the vehicle license number or other vehicle identification number has been recorded as being within the lot. If the vehicle license number or other vehicle identification number has not been recorded, the maximum per-day rate charge shall be the maximum 24-hour rate for the facility in which the vehicle was parked.

- (ix) Suspension of Charges. Notwithstanding the foregoing provisions, the Director or his or her designated representative may permit vehicles to exit Airport Parking Facilities without charge as follows:
- If the Director or his or her designated representative determines that the normal waiting time under acceptable levels of service has been exceeded.
 - If the Director or his or her designated representative determines that Airport traffic congestion will be relieved by the diversion of traffic to any of the parking lots; any vehicle which is diverted to any such parking lot may be permitted to exit without charge as to the first twenty minutes of parking.
 - If the Director or his or her designated representative determines and substantiates that a hardship involving an Airport patron's person or damage to property while on the Airport has occurred, or emergency circumstances exist.
- (x) Adjustment of Charges. Notwithstanding the foregoing provisions, the Director or his or her designated representative may evaluate the circumstances surrounding a dispute over the calculation of a parking charge and adjust such fee if he or she believes that the circumstances warrant the adjustment.
- (xi) Fee Adjustment. The Director may grant authorization to the parking contractor for processing parking fee adjustments of \$3.00 or less without the prior approval of Director, only if the parking contractor determines that the normal waiting time under acceptable levels of service has been exceeded. The parking contractor must submit documentation in form and substance satisfactory to Director, within the time period determined by Director, substantiating each authorized adjustment. Prior to implementing any fee adjustment pursuant to this Section, the parking contractor must obtain the Director's approval of a procedure to be followed for each adjustment, which must include adequate security precautions.
- (xii) Computation of Parking Time. The Director may authorize a designated period ranging from 0 to 30 minutes from any Airport Parking Facility which shall not be included in the computation of parking time for the purposes of fixing the

fees, rates and charges under this Resolution to accommodate customer delays in exiting the specific parking facility due to traffic congestion, equipment malfunction, or other operational issues as approved by Director.

(xiii) Validation of Parking Tickets Pursuant to Validation Agreement.

(a) Validated Parking Tickets. Parking tickets issued for the Hourly or Long Term Parking Lots or Parking Garage may be validated as provided in this Section (xiii). A validated parking ticket shall entitle the holder to the amount of time validated without charge, and the rates, charges and fees stated in subsections (i), (ii), and (iv), shall apply to parking for any time exceeding the amount of time validated.

(b) Validation Agreement. The Director may permit any of the City's tenants, licensees, concessionaires or permittees at the Airport to validate parking tickets issued to the patrons of such tenants, licensees, concessionaires or permittees at their premises at the Airport for use of parking spaces in the Airport Parking Facilities. Permission may be granted pursuant to a written validation agreement substantially in the same form as Exhibit A, attached hereto and entered into between the Director or his or her designated representative, on behalf of the City, and such tenant, licensee, concessionaire or permittee. The validation agreement shall be approved as to form by the City Attorney and filed with the City Clerk.

(c) Obligation of Validator. Any tenant, licensee, concessionaire or permittee who has entered into a validation agreement with the City shall be referred to as a "validator." A validator is permitted to issue a ticket validation for a specific period of time as set forth in the form of validation agreement in Exhibit A, which period of time shall not exceed twenty-four (24) hours. A parking ticket may be validated only once. The maximum amount of time for which a parking ticket may be validated shall be twenty-four (24) hours. Unless exempted by City, a validator shall be required to pay the City for each validated ticket and the amount of payment shall be as stated in the validation agreement. Validators shall validate

parking tickets only for their customers at their place of business at the Airport.

(xiv) Validation of Parking Tickets by the Director of Aviation.

Upon request of any person designated in this Section (xiii), the Director or his or her designated representative is authorized to validate a ticket issued to such person for parking in the Airport Parking Facilities at the Airport, provided that such validation is subject to and in accordance with the following conditions, restrictions and limitations:

(a) Parking tickets shall be issued and validated only for the following designated persons:

- Any person who, with the permission of the Director or his or her designated representative, attends any regular or special meeting of a governmental or quasi-governmental body, association, agency, board, bureau, commission, committee, or subcommittee at the Airport;
- Any person who attends a meeting or function at the Airport called by the Director or his or her designated representative to conduct or discuss official City business;
- Contractors, while working at the Airport on behalf of the City, on Airport construction projects;
- Volunteer staff or non-profit organizations which provide information and assistance at the Airport to members of the traveling public pursuant to agreements with the City, while on the Airport in order to provide such assistance.

(b) The Director or his or her designated representative shall, whenever validation is otherwise provided for in this Section:

- Validate each parking ticket which is issued for parking in any Airport Parking Facility at the Airport.

- Validate each parking ticket only once, and each validation shall be for a time no longer than is reasonably necessary to allow a designated person to be in attendance at the meetings or projects described in (xiv) (a).
- (c) A parking ticket which is validated by the Director or his or her designated representative shall entitle the ticket holder to park without charge for the time for which the Director or his or her designated representative has validated such ticket.
- (xv) Adjustment of Parking Rates and Computation of Parking Time by Director.
- (a) The Director is authorized to increase or decrease the parking fees, rates and charges from time to time in accordance with the amounts specified in this Resolution if the Director determines that such an adjustment in the parking fees, rates and charges will facilitate the optimum use of spaces in the Airport Parking Facilities in a cost and revenue efficient manner considering both volume of traffic and convenience to the general public. The Director shall only increase or decrease the parking fees, rates and charges upon providing reasonable notice to the public by posting of appropriate signs at the entrance to the various public lots, or by notifying tenants and employees for employee lots.
- (b) The increases or decreases in parking fees, rates and charges which the Director is hereby authorized to make are as follows:
- Increase or decrease the time periods of assessing charges in the Airport Parking Facilities within a range of fifteen to thirty minutes.
 - Increase or decrease the maximum daily charge for parking in the Hourly Parking Lots and Parking Garage as set forth in Section e (i) within a range of ten dollars (\$10.00) to an amount not exceeding forty dollars (\$40.00).
 - Increase or decrease the maximum daily charge for parking in the Long Term Parking

Lots as set forth in Section e. (ii) within a range of five dollars (\$5.00) to an amount not exceeding twenty dollars (\$20.00) for any period not exceeding twenty-four (24) consecutive hours.

- Increase or decrease the charge for each fifteen, twenty or thirty minute period or any fraction thereof of parking in the Hourly Parking Lots, the Long-Term Parking Lots, and the Parking Garage within a range of \$0.00 to an amount not exceeding \$3.00.
- Adjust the parking charge for the Valet Parking Rate up to seventy percent (70%) above the posted Short Term or Long Term Rate as set forth in Section e.(xix) of this Resolution.
- Adjust the parking charge for Parking Promotions up to seventy percent (70%) below the non-discounted rate as set forth in Section e. (xviii) of this Resolution.
- Increase or decrease the complimentary time for each lot from 0 to 30 minutes.
- Adjust the parking charge for Reserved Parking Rates up to seventy percent (70%) above the posted Short Term or Long Term Parking Rate as set forth in Section e. (xx) of this Resolution.
- Increase or decrease the amount issued for Customer Service Parking Rate Vouchers as set forth in Section e (xxi) by up to seventy percent (70%) of the posted Short Term or Long Term parking rate.
- Increase or decrease the charge for monthly employee parking as set forth in Section e. iii (Employee Lot) within a range of \$10.00 to an amount not exceeding \$120.00 per employee per month.
- Increase or decrease the parking charge for the Frequent Parker Program within the range described in Section e.(xxi) of this Resolution.

- Increase or decrease the charge for failure to return a permit as set forth in Section e. iii (Employee Lot) within a range of \$25.00 to an amount not exceeding \$75.00 per employee per month.
 - Increase of decrease the initial distribution charge for a permit as set forth in Section e. iii (Employee Lot) within a range of \$10.00 to an amount not exceeding \$20.00 per employee per month.
- (xvi) Decreases– Airport Parking Facilities. In increasing or decreasing the maximum daily rates for the Airport Parking Facilities pursuant to this Resolution, the Director may authorize the collection of parking charges for vehicles which entered the Airport Parking Facilities prior to the effective date of this Resolution, but exit after the effective date of this Resolution, at the lower maximum daily rate.
- (xvii) Frequent Parker Program. “Frequent Parker Program” refers to a program which would allow the Director to establish a parking program available to the public, whereby the customer prepays for parking services over a specified period of time. The Director may establish a discounted parking rate for the Frequent Parker Program which shall not be less than seventy percent (70%) of the prevailing daily parking rate for the facility. The Director shall provide notice of the Frequent Parker Program and applicable rate in conformance with Section xv above.
- (xviii) Parking Promotions. The Director is authorized to establish promotional parking programs that would allow a maximum discount of up to seventy percent (70%) of the revenue that would have been generated from the posted rate structure. These programs shall occur in accordance with Section xv of this Resolution and only if the Director determines that such programs will enhance customer service and increase revenue generation. These promotions may be based on coupon, advertised promotions, dollars off promotions, specific promotional time periods, or other means.
- (xix) Valet Parking. The Director is authorized to approve valet parking rates up to seventy percent (70%) above the posted Short-Term or Long-Term daily rate. This rate may be structured upon full analysis of the expenses, revenues and

potential activity of the proposed service, as determined by the Director.

- (xx) Reserved Parking. The Director is authorized to approve reserved parking rates up to seventy percent (70%) above the posted Short-Term or Long-Term daily rate. This rate may be structured upon full analysis of the expenses, revenues and potential activity of the proposed service, as determined by the Director.
- (xxi) Customer Service. The Director is authorized to increase or decrease the amount of time not included in the computation of parking time as set forth in Section e (xii) of this Resolution. This adjustment shall occur only if the Director determines that such adjustment will facilitate customer service and is necessary or prudent to enable the Airport to maintain its competitiveness with other Bay Area Airports.

The Director or his or her designated representative is also authorized to issue reduced parking rate vouchers of up to seventy percent (70%) of the posted Short-Term or Long-Term parking rate. These vouchers would be issued for qualifying customers filing valid written complaints of poor customer service and would be used on a future visit. The Director or his or her designated representative would investigate each complaint and determine if it qualifies for a voucher.

C. BADGING FEES

1. Fees.

The fees, rates and charges for the issuance of Airport Badges and processing Fingerprints are established as follows:

Fingerprint Fees	\$0.00 to \$45.00 non-refundable fee
Fingerprint Administrative Fees	\$0.00 to \$10.00 non-refundable fee
First Badge	\$10.00 to \$25.00 non-refundable fee
Badge Renewals	\$0.00 to \$15.00 non-refundable fee
Badge Accessories	\$0.00 to \$25.00 (actual cost rounded to nearest dollar)
Replacement Fees for Lost, Stolen and Suspended Badges	\$25.00 to \$75.00 non-refundable fee
Ramp Validation Stickers	\$0.00 to \$5.00 non-refundable fee
Penalty for Lost, Stolen and Suspended Badges	\$50.00 to \$75.00 non-refundable fee
Failure to Return a Badge (other than a SIDA Badge)	\$0.00 to \$75.00 non-refundable fee

2. Adjustment of Badge and Fingerprint Fees by Director.

The Director is hereby authorized to increase or decrease the Badge and Fingerprint Fees from time to time within the ranges specified above if the Director determines that such an adjustment in the Badge and Fingerprint Fees will move closer to achieving cost recovery for the Airport Badging Office or shall encourage additional tenant responsibility of access media which is critical for compliance with Transportation Security Administration (“TSA”) requirements.

SECTION 3. ASSET MANAGEMENT

A. AIRPORT LAND AND STRUCTURES

1. Definitions.

a. High Load Bearing Pavement.

That portion of the Airport apron or ramp which is paved with reinforced concrete and made available for the parking of aircraft, vehicles, or ground support equipment.

b. Low Load Bearing Pavement.

Those portions of improved land on the Airport which are paved with asphalt and are permitted to be used in support of business operations other than operations which are conducted on the Airport apron or ramp or at the municipal off-street parking areas of the Airport.

c. Passenger Air Transportation Company.

Any Air Transportation Company, including, but not limited to, charter operations and air taxi flight operators, which is engaged principally in the conduct of passenger air carrier operations on a regularly-scheduled or itinerant basis to and from the Airport.

- d. **Structure.**
Any building or structure on the Airport which is owned by the City of San José, except hangar and tie-down facilities (for which fees and charges are established pursuant to Section 2.A.2.a. of this resolution and except passenger air carrier facilities.
- e. **Unimproved Land.**
Any vacant, unimproved and unpaved real property on the Airport.

2. Fees

a. Fees and Charges Formula for Unimproved Land.

- (i) The Annual Rental Fee for the use of unimproved land by any person for fiscal year 2007-2008 is set at:

Unimproved Land	\$1.62 per square foot per year (or \$0.135 per square foot per month)
-----------------	---

- (ii) Prior to the start of each subsequent fiscal year, the Annual Rental Fee shall be recalculated based upon the percentage increase in the Consumer Price Index (CPI) for All Urban Consumers, All Items, for the San Francisco-Oakland-San José Metropolitan Area (1982-84 = 100), published by the Bureau of Labor Statistics of the U.S. Department of Labor ("CPI") over the period described below. The CPI shall be the one reported in the U.S. Department of Labor's most comprehensive official index then in use and most nearly answering the foregoing description of the index to be used. If it is calculated from a base different from the base period (1982-84 = 100) used above, the base figure shall be converted under a formula supplied by the Bureau. If the above-described CPI is no longer published, the Director shall substitute another index generally recognized as authoritative.
- (iii) The Base Figure for each recalculation shall be the latest CPI published prior to the start of the then current fiscal year. For example, the Base Figure for the recalculation for fiscal year 2007-2008 shall be the CPI published for April 2006 (the latest CPI published prior to July 1, 2006).
- (iv) The Index Figure for each recalculation shall be the latest CPI published prior to the start of the next fiscal year. For example, the Index Figure for the recalculation for fiscal year 2007-2008 shall be the CPI published for April 2007 (the latest CPI published prior to July 1, 2007).

- (v) For each fiscal year, if the Index Figure has increased over the Base Figure, the Annual Rental Fee for unimproved land payable for that fiscal year shall be determined by calculating the percentage increase of the Index Figure over the Base Figure. For example, assuming the Base Figure is 110 and the Index Figure is 121, the percentage to be applied is $121/110 = 1.10 = 110\%$. That percentage shall be applied to the Annual Rental Fee then in effect to calculate the Annual Rental Fee for the next fiscal year.
- (vi) If the CPI decreases over any period for recalculation, the Annual Rental Fee for unimproved land shall remain unchanged until the next period for recalculation in which there is an increase in the CPI.
- (vii) If local real estate market conditions indicate that land values are increasing at a greater rate than the CPI, the Director is authorized to cause a reappraisal of the value of unimproved land at the Airport by a qualified appraiser. The new Annual Rental Fee for use of unimproved land at the Airport effective as of the start of the next fiscal year shall be ten percent (10%) of the appraised value of unimproved land at the Airport. Subject to the Director's authority to cause a reappraisal of the value of unimproved land at the Airport for the subsequent fiscal year, subsequent fiscal year adjustments to the Annual Rental Fee shall be made pursuant to the CPI recalculation procedure described above.
- (viii) The Director shall file notice of the revised Annual Rental Fee for unimproved land with the first quarterly report of each succeeding Fiscal Year pursuant to San José Municipal Code § 25.08.030.

b. Fees and Charges Formula for Pavement.

- (i) The Annual Rental Fee for the use of high load bearing pavement by any person for fiscal year 2007-2008 is set at:

High Load Bearing Pavement	\$4.13292 per square foot per year
----------------------------	------------------------------------

- (ii) The Annual Rental Fee for the use of low load bearing pavement by any person for fiscal year 2007-2008 is set at:

Low Load Bearing Pavement	\$2.47975 per square foot per year
---------------------------	------------------------------------

- (iii) Prior to the start of each subsequent fiscal year, the Annual Rental Fee shall be recalculated based upon the percentage increase in the CPI using the methodology as described in Section 2.a. above.
- (iv) The Director shall file notice of the revised Annual Rental Fee for unimproved land with the first quarterly report of each succeeding Fiscal Year pursuant to San José Municipal Code §25.08.030.

c. Fees and Charges Formula for Structures.

- (i) The fees and charges for use of any structure shall be determined by an initial appraisal of the structure together with the land (if applicable). The appraisal shall establish the Fair Market Value of the structure or portion thereof on a per square foot per year basis. A Rate of Return of Ten Percent (10%) shall be applied to the Fair Market Value to arrive at the Fair Market Value Fee, as follows:

$$\begin{array}{rcl} \text{Per Square Foot} & \times & 10\% \text{ Rate} \\ \text{Fair Market Value} & & \text{of Return} \end{array} = \text{Annual Fair Market Value Fee}$$

- (ii) The Annual Fair Market Fee may be adjusted each Fiscal Year in accordance with either the Consumer Price Index for a relevant Metropolitan Area, or a reappraisal of the structure. The Director shall have the authority to determine, in each lease, permit or license issued for use of a structure, whether the fee therefore should be revised in accordance with the CPI or a reappraisal.
- (iii) The amounts of Fair Market Value Fees for any structure shall be filed in the quarterly reports filed by the Director pursuant to San José Municipal Code §25.08.030.

d. Federal Inspection Facility Use Fee.

- (i) General. Any Passenger Air Transportation Company providing international carriage of persons at the Airport and which uses the Interim FIS Facility on the Airport for the conduct of its operations, shall be required to pay the fees specified in this Resolution, in addition to any other fees, charges, or rentals required in this Resolution or under any operating agreements, leases, licenses or permits.

(ii) Federal Inspection Service Facility Fee.

a. A Federal Inspection Service Facility Fee (FIS Fee) shall be charged to each Passenger Air Transportation Company using the Interim FIS Facility. The fee shall be assessed on a per passenger basis, and shall be established by the Director by estimating the following costs and expenses (the "FIS Requirement"):

(1) Total estimated maintenance, operating and administrative expenses and certain capital outlays associated with the Interim FIS Facility to be accumulated, along with estimated Terminal A operating and maintenance costs, as calculated in the Terminal A rate-setting cost manner.

(2) A portion of the total estimated costs established in Section 3.A.2.d.ii.a.(1) will be allocated to the FIS requirement based on proportionate share of international passenger activity costs to total passenger activity costs in Terminal A; plus

(3) Total estimated planning costs and expenses for a permanent FIS Facility, including, but not limited to the costs of retaining any consultants; plus

(4) Any reasonable cost, expense, judgment, assessment, or charge allocable to the development, construction or operation of the Interim FIS Facility.

All as estimated by the Director.

b. The FIS Fee shall be calculated each fiscal year by dividing the FIS Requirement (as specified in Section 3.A.2.d.ii.a.(1)) by the total projected number of international passengers arriving during the fiscal year.

c. The FIS Fee shall be collected monthly in arrears. Passenger Air Transportation Companies using the

Interim FIS Facility shall be required to submit monthly reports to the Director, in such form and detail as may be required by the Director, specifying the number of international arriving passengers during the preceding month.

- d. Itinerant or charter air carriers conducting non-regularly scheduled operations at the Airport shall make payment of the FIS Fee immediately upon arrival of the aircraft at the Airport, unless credit arrangements have been approved by the Director.
- e. The Director is authorized to adjust the FIS Fee at any time during any fiscal year upon notice and consultation with the airlines, as necessary to cover the costs to operate and maintain the Interim FIS Facility.

e. Use of Land Displacing Public Parking.

- (i) General. The following fees and charges are established for the use of any land at the Airport which results in the displacement of paid parking within those areas designated by Council Resolution as municipal off-street parking facilities at the Airport.
- (ii) Fee Formula for Displaced Parking Areas. The fees and charges for any use of a paid parking area which displaces paid public parking shall be determined according to the following formula:
 - a) The total net revenues from the prior Fiscal Year for the applicable parking area shall be divided by the total number of parking stalls in the area (Daily or Hourly Lot) to arrive at a dollar amount for the Annual Parking Stall Value in the appropriate Daily or Hourly Lot, as follows:

$\frac{\text{Total Net Revenues}}{\text{Total of Parking Stalls in Applicable Lot}}$	$\text{Annual Parking} = \text{Stall Value } (\$) \text{ (Daily/Hourly Lot)}$
--	---

- b) A Rate of Return of ten percent (10%) shall be added to the Annual Parking Stall Value for administration and profit.

- c) Fees and charges for the use of Airport property which displaces paid public parking shall be equal to the Annual Parking Stall Value (plus 10%) multiplied by the number of stalls displaced, to arrive at a total dollar amount for the area to be leased, licensed, or permitted pursuant to the Municipal Code. This total dollar amount may then be divided by the total number of square feet to be utilized by the tenant, licensee, or permittee to arrive at the per square foot value for the particular agreement.
- (iii) Until recalculated in accordance with Section 3.A.2.e.(iv) below, the Annual Parking Stall Value is Six Hundred Seventy Dollars (\$670.00) per stall (Daily Lot) and Two Thousand Nine Hundred Thirty Dollars (\$2,930.00) per stall (Hourly Lot).
- (iv) The Director shall, within thirty (30) days of the close of each Fiscal Year, recalculate the Parking Stall Fee and shall file notice of the revised Fee with the first quarterly report of each succeeding Fiscal Year, in accordance with Municipal Code § 25.08.030.

f. Non-Airline Terminal Space.

- (i) Effective each July 1, the annual rental rate for non-airline tenant use of terminal space will be set using a Commercial Compensatory Rate Structure, calculated as follows:

Sum of:

- Debt Service allocable to Terminal capital projects funded from Bonds or Subordinated Indebtedness, *plus*
- The Coverage Amount applicable to the Debt Service amount calculated pursuant to the terms of the Airline-Airport Lease and Operating Agreement, *plus*
- The annual Operating Expenses allocable to the Terminal, *plus*
- An amount equal to a) the total deposits needed to replenish the Bond Reserve Fund to required levels times b) a fraction, the numerator of which is the total amount of Net Bond Proceeds allocable to the Terminal and the denominator of which is the total amount of Net Bond Proceeds, *plus*
- The shared of annual costs for renewal and replacement allocable to the Terminal, *less*

- The Coverage Amount for the immediately preceding Fiscal Year calculated pursuant to the terms of the Airline-Airport Lease and Operating Agreement;

Divided by:

- The total Rental Terminal Square Footage.

- (ii) The Director shall have the discretion to include an Airport return on investment of up to 25% on the above computed cost for rental of non-airline terminal space. This return on investment will be determined during the annual development of rental rates for airline tenants and will facilitate the optimum use of the terminal space in a cost and revenue efficient manner. The determination of the return on investment will consider and maximize the highest and best use of limited Airport property.

B. CONCESSIONS.

1. Rental Cars – Common Use Busing Fee.

- a. **Amount of Fee for Common Use Busing.** A fee of \$5.00 per rental car contract is required to be paid by any customer of a rental car agency who rents a vehicle from an on-Airport or off-Airport Rental Car Agency, and who arrives at or departs from the Airport, or uses the interim Common Use Transportation System.

Common Use Busing Fee	\$5.00 per rental car contract
-----------------------	--------------------------------

- b. **Remittance of Fee.** Every on-Airport and off-Airport rental car agency which picks up or delivers customers to the Airport shall be required to collect this Busing Fee for each contract in which the customer is picked up or delivered to the Airport. Remittance of the fees on a monthly basis shall be a condition of continued operation at the Airport, in accordance with Part 6 of Chapter 25.08 of the San José Municipal Code.

C. AIRLINE SUPPORT SERVICES.

The following fees and charges are established for the airline support services described below and conducted at the Airport pursuant to permits, licenses or leases issued by the Director pursuant to the Municipal Code provisions specified.

- 1. Maintenance – Ground Support Equipment.**
(S.J.M.C. § 25.08.350)

Effective July 1, 2007 through December 31, 2007, for the performance of maintenance or repair work on ground support equipment owned or operated by Airport tenants, permittees, or licensees, a fee equal to the greater of \$100.00 per month or ten percent (10%) of all monthly gross revenues derived from such activity.

2. Commercial Air Carrier Interior Cleaning.
(S.J.M.C. § 25.08.350)

Effective July 1, 2007 through December 31, 2007, for the performance of aircraft cleaning services for commercial air carriers, a fee equal to the greater of \$100.00 per month or ten percent (10%) of all monthly gross revenues derived from such activity.

3. Exterior Washing – Air Carriers & Ground Support Equipment.
(S.J.M.C. § 25.08.350)

Effective July 1, 2007 through December 31, 2007, for the washing and cleaning of aircraft or ground support equipment, a fee equal to the greater of \$100.00 per month or ten percent (10%) of all monthly gross revenues derived from such activity.

4. Multiple Ground Handling Services – Air Carriers.
(S.J.M.C. § 25.08.350)

Effective July 1, 2007 through December 31, 2007, for an array of ground handling services to commercial air carriers, including but not limited to interior cleaning, aircraft tow-in and push-back, baggage and cargo handling, engine oil servicing, water and lavatory servicing, electrical and air power boost servicing, and ground equipment repair and maintenance, a fee of ten percent (10%) of all monthly gross revenues derived from such activities, plus \$200.00 per month.

5. Ground Handling Services/Support Services –Air Transportation Companies.
(S.J.M.C. § 25.08.350)

Effective January 1, 2008, for performance of one or more ground handling/support services to Air Transportation Companies, including but not limited to interior or exterior washing/cleaning, aircraft tow-in and push-back, baggage and cargo handling, passenger courtesy services (including but not limited to wheelchair service, “Skycap” services, etc.) aircraft engine oil servicing, contracted or on-call aircraft maintenance,

security related services, holdroom/gate area(s) and/or operational area(s) custodial services, aircraft water and lavatory servicing, aircraft electrical and air power boost servicing, ground support equipment repair, maintenance, and washing/cleaning, and any other commercial operating services, the following fee shall apply:

Ground Handling Services/Support – Air Transportation Companies	\$200.00/month AND 10% of monthly gross revenues
---	--

The Ground Handling Services/Support – Air Transportation Companies Fee is calculated on Gross Revenues exclusive of monthly permit fees (\$200 and 10%) paid to the Airport.

6. Air Transportation Company Fueling.
(S.J.M.C. § 25.08.350)

For the provision of fueling services to all Air Transportation Companies, a fee of:

Air Transportation Company Fueling	\$200.00/month
------------------------------------	----------------

7. Fueling Permit Fees (Air Carrier, FBO, Corporate and Other).

For the processing of any type of fueling permits, an administrative fee of \$200.00 for each issuance and for each renewal of the permit shall be charged in addition to the fueling fees authorized in subdivision 2.C.6 above, the following administrative fee shall be charged:

Fueling Permit Fees	\$200.00 per issuance or renewal
---------------------	----------------------------------

D. AIRPORT TECHNOLOGY SERVICES.

The Director shall be authorized to determine cost recovery fees for providing Airport Technology Services such as those identified below. The Director shall have the discretion to include an Airport return on investment of up to 25% on the computed cost for these services. This return on investment will be determined during the annual development of rental rates for airline tenants and will facilitate the optimum use of services and infrastructure. The determination of the return on investment will consider and maximize the highest and best use of Airport technology.

Examples of New ATS optional services:

1. Shared Tenant Services (STS) – Telecommunications
STS is where two (2) or more separate entities utilize and/or share the same technology for the purpose of increasing productivity and lowering costs. This service provides optional telephony services to Airport tenants including circuit extensions, voice services, telephone instruments, wiring and on-site maintenance.
 - STS – Telephony Services
For both analog and digital port/phone options, expansion modules, as well as specific standard telephone handsets, the price charged will vary depending on options selected.

2. Off-Airport Services
These are business offerings related to services for Airport passengers:
 - Remote Check-In Kiosks
Remote Check-In Kiosks are kiosks owned by the Airport and are provisioned at remote locations to facilitate passenger check-in. These kiosks allow passengers to check-in to a flight from 2 – 24 hours prior to departure time.
 - Remote Flight Information Displays (FIDS)
Remote Flight Information Display (FIDS) are LCD displays provisioned at remote locations to provide real-time information regarding airline arrivals and departures at the Airport.

SECTION 4. MISCELLANEOUS FEES

A. ACCOUNTING FEES.

1. **Security Deposits.**
The Director is authorized to provide, in permits, licenses, and leases, for permittees, licensees, and tenants to establish a reasonable security deposit with the City to be held without the accrual of interest. No such security deposit shall be less than an amount equal to fees and charges for at least two months of each such agreement.

2. **Delinquent Report Fee.**
For those permits, licenses, or leases in which the permittee, licensee, or tenant is required to submit monthly reports in order for the City to ascertain the amount of fees and charges, the following delinquent report fee is hereby established for each calendar day that such report is not timely received by City. The Director is hereby authorized to assess and collect said fee.

Late Report Fee	\$25.00 per calendar day after due date
-----------------	---

3. Late Payment Fee.

For any fee or charge that is not timely received by City and which is required to be paid pursuant to the provisions of a permit, license, or lease, the Director is authorized to assess and collect an amount up to one percent (1%) per month of the amount that is late, calculated from the date that payment is deemed to be delinquent until the date payment is received by City.

Late Payment Fee	1% per month of delinquent amount
------------------	-----------------------------------

B. COST RECOVERY FEES

From time to time the Airport incurs costs for services from certain circumstances and/or incidents requiring cleaning, maintenance or repairs on behalf of the Airport's tenants. The Airport and its tenants may find it expedient and/or economical for the Airport to perform such services to remedy the circumstance. The Director is authorized to charge an administrative fee equal to ten percent (10%) of the costs of any such services provided by the Airport to a tenant.

C. GROUND VEHICLE FUEL.

1. The City, the owner and operator of the Airport has determined that it will authorize the purchase of unleaded, diesel and propane fuel ("Fuel") and the resale of Fuel to Airport ground support vehicles. City has constructed a facility at the Airport to be utilized for the storage and dispensing of Fuel to desired Airport users through the use of a self-service monitoring and dispensing system at the facility.
2. Any person, firm or organization purchasing Fuel from City at the Airport shall be required to pay to City a price per gallon which shall be established by the Director of Aviation in accordance with the following formula:
 - a. City's average cost per gallon for Fuel purchased by City for the time period covered by the invoice; plus
 - b. a facility replacement cost equal to Six Cents (\$.06) per gallon; plus
 - c. all taxes, charges and assessments relating to Fuel covered by the invoice (including, without limitation, penalties and interest) for the delivery, storage, sale, use, dispensing, handling and transportation of Fuel which City may be required to or does pay or collect under federal, state, county or municipal law.
3. The Director of Aviation is authorized to provide in the agreement for the purchase of Fuel that the purchasers pay to City a reasonable security

deposit to be held by City without the payment or accrual of interest. No such security deposit shall be less than an amount equal to the average amount which purchaser is invoiced by City for any two consecutive month period.

4. Fuel Card Key Six Dollar (\$6.00) deposit per Card Key.

D. COMPRESSED NATURAL GAS FUEL.

1. Definitions.

- a. **CNG** – Compressed Natural Gas.
- b. **GGE** – Gasoline Gallon Equivalent.
- c. **POVs** – Privately Owned Vehicles.

2. The Director of Aviation shall set a price per GGE for the sale of CNG Fuel at the City owned CNG fueling facility at the Airport (Airport's CNG fueling station), taking into account the following factors:

- a. All costs (including applicable taxes) incurred by the City to provide CNG fuel at the Airport's CNG fueling station, including but not limited to the City's amortized costs to design and build the Airport's CNG fueling station, any fees payable by the City to operate and maintain the Airport's CNG fueling station, and the City's costs for natural gas and electricity to the Airport's CNG fueling station.
- b. The local CNG Fuel price per GGE charged to POVs that are operated on CNG, as determined by a monthly survey of any three (3) CNG fueling stations located in Santa Clara, San Mateo, San Francisco, or Alameda Counties.

3. The Director shall have the discretion to set the price per GGE, expressed as \$/GGE, for the sale of CNG Fuel at Airport's CNG fueling station at a level that best serves the interests of the Airport and the community. The Director is authorized to increase or decrease fueling rates to facilitate the optimum use of the Airport's CNG fueling station in a cost and revenue efficient manner, considering both volume demand and benefits to the City, Airport and the general public.

SECTION 5. EFFECTIVE DATE.

This Resolution shall become effective on May 1, 2009, and Resolution No.74655 is hereby deemed repealed, effective May 1, 2009.

ADOPTED this 14th day of April, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

EXHIBIT A

**AGREEMENT AUTHORIZING VALIDATION OF
PARKING TICKETS BY**

**AT THE NORMAN Y. MINETA SAN JOSÉ INTERNATIONAL
AIRPORT PARKING FACILITIES**

This Validation Agreement, dated for convenience, _____, 200_, is entered into by and between City of San José, a municipal corporation of the State of California ("City"), and _____, a corporation duly organized and existing under the laws of the State of _____ ("Validator").

For and in consideration of their mutual promises and subject to the following terms, provisions and conditions, City and Validator agree:

1. Validator shall validate parking tickets issued by City to airport patrons of Validator for the use of City's municipal off-street parking facilities ("Airport Parking Facilities") at the Norman Y. Mineta San José International Airport ("Airport"). The forms of validation may include, without limitation, validation stamps, validations by machine imprint or perforation, validation vouchers or tickets, or other forms as approved by the Director of Aviation.
2. Pursuant to this Validation Agreement, Validator may validate parking tickets for use of Airport Parking Facilities for periods not exceeding _____ [Specify hours, not to exceed twenty-four (24)]. Validator shall be required to pay City for the amount of any validated ticket approved by Validator which exceeds the specified number of hours allowed in this Validation Agreement.
3. Validator shall validate parking tickets only for patrons of the _____ [specify Lot(s)] occupied by Validator at the Airport, and Validator shall not accept, charge, or receive any money, thing of value, or other consideration for any parking ticket validation. Validator shall pay to City an amount of money equal to the Parking Garage Lot rate which City would otherwise have been entitled to charge and receive for the validated time of parking under such parking ticket.
4. This Validation Agreement shall have a term commencing _____ [Date] and ending _____ [Date]. [The term must be limited to three years or less.] This Agreement shall terminate upon the expiration or termination of the Agreement as referenced herein, whichever is earlier, or by City with or without cause, at any time, and without any advance notice; provided, however, that after such termination, Validator shall return promptly to City any stamps, vouchers, tickets or other excess validation supplies furnished by the City.

- 5. Any and all communications, including written notices of all types, may be delivered to the addresses indicated below or to any other address as may be noticed by a party:

City of San José: Director of Aviation
Norman Y. Mineta San José International Airport
1732 No. First St., Suite 600
San José, CA 95112-4538

Validator: _____

WITNESS THE EXECUTION of this Agreement by the parties on the date first written above.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSÉ, a municipal corporation

Sr. Deputy City Attorney

By _____
Name: _____
Title: Director of Aviation

“VALIDATOR”

a corporation

By _____
Name: _____
Title: _____