

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-3

Urgent

Routine

AGENDA DATE December 22, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Authorization for the Chief Executive Officer to Negotiate and Enter into Parking License Agreements for the Use of County-Owned Parking Facilities to the extent that Parking Resources are not required for County Purposes

STAFF RECOMMENDATIONS:

1. Authorize the Chief Executive Officer or his designee to negotiate and enter into agreement(s) for use of parking spaces in County-owned parking facilities to the extent that capacity exceeds County needs, as determined through monitoring and evaluation of County usage.
2. Authorize the Chief Executive Officer or his designee to modify the number of spaces within the terms of any Parking License Agreement upon a minimum of 30 days notice based on the needs of the County and the licensed user(s).

FISCAL IMPACT:

Stanislaus County owns parking facilities at several locations and has maintained a practice of developing parking resources in conjunction with County facilities to meet the needs of customers, staff, visitors and official (County) vehicles. Parking facilities are designed to accommodate current and future needs that are anticipated at each location and, in certain cases, have limited, temporary unused capacity. At the present time, the 12th Street Parking Garage has additional capacity for up to 100 vehicles, subject to daily parking demands of the currently authorized users. Board authorization to license the use of all 100 spaces at the proposed Parking Rate of \$66.00 per space per month (as of January 1, 2010) could enable
(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-861

On motion of Supervisor Chiesa, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Authorization for the Chief Executive Officer to Negotiate and Enter into Parking License Agreements for the Use of County-Owned Parking Facilities to the extent that Parking Resources are not required for County Purposes

Page 2

FISCAL IMPACT: (Continued)

the County to recoup a maximum of \$79,200 annually subject to capacity and the ability to license use of all of the available spaces. The County would most likely realize something less than the maximum amount depending on the actual number of spaces licensed.

Several non-County agencies and interests have already participated in use of parking at the 12th Street Garage:

- 43 spaces are provided to the Superior Court at no charge per the terms of the Courts Transfer Agreement to the State of California.
- 96 additional spaces are provided at the Court's request at a rate of \$64.00 per space per month.
- 27 spaces are licensed for use by StanCERA at no monthly charge in lieu of a one-time payment associated with the construction of the County garage.
- 57 spaces are licensed for use by Westland and the private tenants of the 12th Street Office building by an original agreement established at the development of the facility.
- Weekday nighttime (after 6:00 pm through 6:00 am), weekend and holiday use of the 12th Street Garage by and for patrons of the Gallo Center for the Arts by original agreement established at the development of the facility.
- 53 spaces for weekday parking by Gallo Center for the Arts staff.
- 68 Public, open parking spaces on a 2-hour limited time use basis.

Additional interest in use of the 12th Street Parking Garage has been expressed by the Stanislaus County Office of Education and various private businesses.

The proposed current parking rate is recommended to be set consistent with the monthly daytime parking rate presently in place by the City of Modesto for the 9th Street, 10th Street and 11th Street parking garages per Modesto City Council Resolution Number 2007-359 at \$64.00 per space per month in calendar year 2009, increasing annually by \$2.00 per space per month. Approval of this item would authorize the Chief Executive Officer to set or adjust the parking rate in the parking license agreement(s).

Approval of this item will authorize the Chief Executive Officer to license use of additional spaces at the 12th Street Parking Garage and potentially other County parking facilities where excess capacity may be identified. Staff anticipates development of parking license agreements on a month-to-month basis with automatic monthly renewal so that capacity and needs can be monitored and adjusted as availability and needs change.

Authorization for the Chief Executive Officer to Negotiate and Enter into Parking License Agreements for the Use of County-Owned Parking Facilities to the extent that Parking Resources are not required for County Purposes

Page 3

The additional usage of the parking capacity will increase maintenance, operational and exposure to liability claims; however, only to the extent already planned in the development of the facilities as no "new capacity" is being generated.

DISCUSSION:

Stanislaus County owns one parking structure, the 12th Street Parking Garage, and numerous surface parking lots located adjacent to County facilities. The lots were designed and planned to meet current and future needs of the County's staff, visitors, customers and County official vehicle parking. In most facilities, the demand for County parking fully utilizes or exceeds the capacity of the surface parking lots; however, the 12th Street Parking Garage has a limited amount of future capacity that is currently underutilized – roughly 100 spaces at present during County business hours.

Approval of this item would delegate the authority to license use of excess parking capacity at any County-owned facility to the Chief Executive Officer for non-County users (public or private.) Users requesting daily access to parking during County business hours would be charged at a rate set by the Chief Executive Officer at \$66.00 per space per month (as of January 1, 2010) and adjusted consistent with the rate charged by the City of Modesto for similar downtown monthly daytime parking. Delegation of this authority to the Chief Executive Officer would allow the County to capture additional revenues for use of available space and to adjust the number of spaces and parking rate licensed on a monthly basis. The most immediate potential for such a parking license agreement is with the Stanislaus County Office of Education which has requested use of 20 spaces on a daily basis.

If approved by the Board of Supervisors, staff could provide notice of available parking to surrounding public and private interests and could encourage licensing of excess parking capacity.

POLICY ISSUE:

Licensing the use of available parking resources for non-County uses during County business hours can provide additional revenue, partially offsetting maintenance and operational costs and improve service to the local community. This is an excellent example of *Effective partnerships* that provide *Efficient delivery of public services*.

STAFFING IMPACT:

County Chief Executive Office staff will be required to negotiate Parking License Agreements and to administer such agreements (with periodic changes in the number of spaces or terms). County General Services Agency (GSA) Facilities Maintenance staff will be required to monitor parking utilization from the control systems, and to issue or revoke parking access cards per the terms of the agreements. County Auditor-

Authorization for the Chief Executive Officer to Negotiate and Enter into Parking License Agreements for the Use of County-Owned Parking Facilities to the extent that Parking Resources are not required for County Purposes

Page 4

Controller staff will be required to process invoices and receivable payments for the Parking License Agreements and to confirm payment status to GSA Facilities Maintenance and CEO staff. Contract security personnel stationed at various County parking facilities may be required to occasionally assist motorists in entering or exiting the parking facilities should their parking access card fail, and to provide routine security patrol of the parking areas.

Each of the responsibilities for operation of the 12th Street Garage is already undertaken by County staff, and no additional parking impact is foreseen at this time. If a greater staffing impact is anticipated or realized with these parking license agreements, staff will evaluate such impacts and return to the Board of Supervisors to reassess the use of the parking resource(s) for non-County purposes.

**PARKING LICENSE AGREEMENT
BETWEEN
THE COUNTY OF STANISLAUS
AND THE STANISLAUS COUNTY OFFICE OF EDUCATION**

This Agreement is entered into as of the 1st day of January, 20¹⁰, by and between the COUNTY OF STANISLAUS (the "County") and the STANISLAUS COUNTY OFFICE OF EDUCATION (the "SCOE"). The County and SCOE (individually a "Party" and collectively the "Parties") agree as follows:

WHEREAS, this Parking License Agreement is entered into to create and define parking rights of the SCOE at the County's 12th Street Parking Garage (the "Garage").

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **EFFECTIVE DATE:** The effective date of this Agreement shall be January 1, 2010 ("Effective Date"). The SCOE shall have no parking license rights under this Agreement until the Effective Date.
2. **GARAGE PARKING LEASE:** Subject to the terms and conditions of this Agreement, and subject to availability of parking spaces in the Garage, the SCOE shall have a nonexclusive license to use and occupy Twenty (20) parking spaces from 6:00 a.m. to 6:00 p.m. on weekdays during working hours, excluding County holidays or special events. (The County Holiday Schedule is attached as Exhibit 1.) This parking license does not guarantee availability of parking spaces. Parking within the Garage shall be on a first-come, first-served basis. Spaces for SCOE are not provided on an exclusive-use basis. The County reserves the right to close the garage for special events, maintenance, or other reasons deemed appropriate. The County will endeavor to provide adequate notice of any such closures in advance.
3. **DESIGNATED SPACES; NO OVERNIGHT PARKING:** Parking is allowed only in designated areas and vehicles must park completely within the striped spaces. Overnight parking is not permitted in the Garage, except for authorized, official County vehicles. Violators may be issued a citation or towed at their own expense.
4. **PARKING ACCESS CARDS:**
 - a. The County will issue Twenty (20) Access Cards for access to the parking garage for use of the officers or employees of SCOE. One vehicle may enter the Garage per Access Card.
 - b. The Access Card system will allow SCOE employees to park in the garage without charge, provided the SCOE and its users are in compliance with the terms and conditions of this Agreement.

- c. The SCOE and the County may mutually agree from time to time to adjust the number of Access Cards issued to the SCOE.
 - d. The County reserves the right to change or revise the parking access system from time to time. All County-issued Access Cards shall remain the property of Stanislaus County. Users shall be required to pay a fee for any lost or damaged card provided by the County (currently \$10.00 per card). County-issued Access Cards must be promptly returned by users upon the request of the County.
 - e. The SCOE shall not assign, sell, transfer or grant any right or interest in the Access Cards to any persons or entities other than SCOE officers, employees or invitees.
5. GARAGE ADMINISTRATION: The County shall be responsible for the administration, control, validation and enforcement of parking rights of all patrons of the Garage. The County may, from time to time, adopt and/or amend reasonable rules and regulations related to the use of the Garage and the operation or implementation of the Access Control System. The SCOE's right to park in the Garage shall be subject to and conditioned upon its compliance with the rules and regulations adopted by the County.
6. SCOE RESPONSIBILITIES: The SCOE shall be responsible for distribution of Access Cards and for the accurate maintenance of records of the name and daytime contact telephone number of persons to whom the Access Cards have been distributed. These records shall be supplied to the County and updated promptly upon the change of a user or of their contact information.
7. LIMITATION OF LIABILITY: The SCOE shall advise all garage patrons that their use of the Garage is at their own risk. The County shall not be responsible for fire, theft, damage or loss to any vehicle or its contents. SCOE shall defend, indemnify and hold County harmless from any and all claims, suites, and actions arising from this license agreement. All vehicles shall be locked and valuables removed from view.
8. PARKING PAYMENT:
- a. For parking commencing on January 1, 2010 and quarterly thereafter through 2010, the SCOE shall pay a parking fee of \$960 per quarter, calculated as follows:

20 Total Access Cards at \$66.00 each per month, times 3 months - \$3,960.00.
 - b. The SCOE's parking payment shall be deposited into the County Treasury, in advance, prior to the beginning of any quarter for which parking is provided under this Agreement. If the SCOE fails to pay the parking fee in a timely manner, the County may deactivate all Access Cards and prohibit access to the Garage by SOCE users. If the SCOE fails to pay a portion of the parking fee in a timely

manner and no prioritization for the proportionate deduction in parking access is received from the SCOE, the County may randomly deactivate the Access Cards proportionate to the amount of the delinquent payment.

c. Currently, the parking access fee is \$66.00 per access card per month during calendar 2010. The County reserves the right to adjust the parking fee at the commencement of any quarter. Currently, the County follows the parking rate established by the Modesto City Council Resolution Number 2007-359, Section 1(e) as it pertains to Monthly Parking in the City of Modesto Parking Structure on 11th Street. Modesto City Council Resolution Number 2007-359 is provided in Exhibit 1. The County reserves the right to establish or change the cost per space, or change the index value used for setting the parking cost, upon written notice at least 30-days prior to the start of any quarter. The current index, the Modesto City Council Resolution Number 2007-359, provides for an annual escalation of the monthly parking rate at the beginning of each calendar year.

d. Stanislaus County will credit SCOE one day of parking at no charge for each day in which a SCOE 12th Street Parking User is unable to find an open, available parking space in the designated area and for which the County is unable to provide an alternative off-street parking space; provided that the County is notified on the day parking was not available. Notification should be made to the 12th Street Building Security station. The credit shall be calculated as one business day of parking in the next payment period begins, determined as follows: *(Monthly Access Charge x 12 Months) divided by (260 Parking Days Per Year)*

For example, at the current (2009) \$66.00 per month Parking Access Charge, the daily credit in the next billing cycle would equal -\$3.05 per vehicle per day:

$$(\$66.00 \text{ per month} \times 12 \text{ months}) = \$792.00 / 260 \text{ days/year} = \$3.05 \text{ credit}$$

The accumulated credits will be deducted from the next periodic billing for which a payment is due.

e. If the parking fee is not paid within ten (10) days after the date such amount is due then, without any requirement for notice to the SCOE, the SCOE shall also pay to the County a late charge equal to six percent (6%) of the delinquent amount then owing.

9. TERM OF AGREEMENT: Subject to the payment of the parking fee and the compliance with the terms and conditions of this Agreement, the Agreement shall commence on January 1, 2010 and shall continue until terminated by either party upon 30 days prior written notice.

10. TERMINATION: The County may terminate this Agreement if:

- a. The SCOE fails to pay when due any payment required to be paid under this Agreement and such failure to pay is not cured within 15 days of written notice from the County.
 - b. The SCOE is in breach or default of any other provision of the Agreement and such breach or default is not cured within 15 days of written notice from the County.
11. WAIVERS: A waiver or breach of covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance or any other obligation or act.
12. TIME IS OF THE ESSENCE: Time is of the essence in this Agreement.13.
CONSTRUCTION: Each Party has reviewed this Agreement and agrees that the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or Exhibits hereto. This Agreement shall be constructed neither for nor against any Party, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the Parties.
14. NOTICE: Any notice required or permitted to be given hereunder shall be in writing and shall be effective upon personal delivery or three days after deposit in the United States Postal Service, postage prepaid and addressed as follows:

County of Stanislaus
Attn: Chief Executive Officer
1010 10th Street, Suite 6800
Modesto, CA 95354

Stanislaus County Office of Education
Attn: Assistant Superintendent Administrative Services
1100 H Street
Modesto, CA 95354

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

THE COUNTY OF STANISLAUS

STANISLAUS COUNTY OFFICE OF
EDUCATION

By Patricia Hill Thomas
Patricia Hill Thomas
Assistant Executive Officer

By Don Gatti
Don Gatti
Assistant Superintendent Business Services

Approved as to form:

By Jane Johnston
Jane Johnston
Assistant Superintendent Administrative Services

Dean Wright
Dean Wright
Deputy County Counsel
Stanislaus County

Exhibit 1

COUNTY HOLIDAY SCHEDULE FOR 2010

New Year's Day.....	Friday	January 1, 2009
Martin Luther King Holiday	Monday	January 18, 2009
President's Day Holiday	Monday	February 15, 2009
Memorial Day Holiday	Monday	May 31, 2009
Independence Day Holiday.....	Monday	July 5, 2009
Labor Day Holiday	Monday	September 6, 2009
Veteran's Day Holiday	Thursday	November 11, 2009
Thanksgiving Holidays	Thursday & Friday.....	November 25-26, 2009
Christmas Eve	Friday	December 24, 2009
Christmas Day Holiday.....	Friday	December 31, 2009

Official Stanislaus County holidays can be found on the County's website:

www.stancounty.com/personnel/