

THIRD AMENDMENT TO FIXED RATE PATRON PARKING AGREEMENT
(CITY OF FRESNO/CLUB ONE CASINO, INC.)

CITY OF FRESNO
City Clerk's Office (Original)

THIS THIRD AMENDMENT TO FIXED RATE PATRON PARKING AGREEMENT ("Amendment") between the CITY OF FRESNO ("City") and CLUB ONE CASINO, INC. ("Club One") is effective as of July 1, 2012. City and Club One are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, City and Club One entered into a Fixed Rate Patron Parking Agreement ("Agreement"), dated July 1, 2009, and amended July 1, 2010 and July 1, 2011 providing Club One with certain fixed rate patron parking in City's Garage No. 8, upon finding, determinations, terms and conditions therein; and

WHEREAS, the Agreement expires on June 30, 2012; and

WHEREAS, Club One has requested that the City continue to make available to its patrons parking on a fixed rate basis in lieu of otherwise applicable Master Fee Scheduled ("MFS") Rates; and

WHEREAS, City finds and determines based upon the underlying Staff Report and the record in this matter incorporated herein, that continuing to provide Club One with fixed rate parking upon the terms and conditions herein is in furtherance of the public interest and contributes to revitalization/reinvigoration of Fulton Mall and environs through increased workforce, customer and visitor activity and interest, reduction of physical blight/economic deterioration, an increase in private sector investment and related tax base expansion, all in furtherance of the Downtown Revitalization Plan; and

WHEREAS, the Parties desire to extend the Agreement, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, the Parties agree that the aforesaid Agreement be amended as follows:

1. The term of the Agreement is extended to June 30, 2013, subject to any earlier termination in accordance with the Agreement.
2. Except as expressly modified and amended hereby, the Agreement entered into by City and Club One, remains in full force and effect.

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IN WITNESS WHEREOF, the Parties have executed this Amendment No. 3 at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a municipal corporation

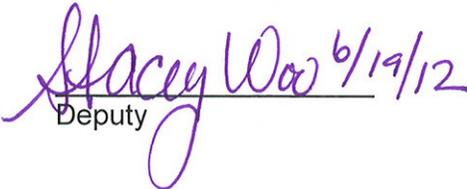
By 
Name Bruce Judd
Title Asst City Manager

CLUB ONE CASINO, INC.
a California corporation

By 
Name Kyle v. Kirkland
Title President

ATTEST:

YVONNE SPENCE
City Clerk

By  6/19/12
Deputy

By _____
Name _____
Title _____

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By:  5/17/2012
Date
Senior Deputy A. Abrams

AGENDA ITEM NO. 15
COUNCIL MEETING 6/14/12
APPROVED BY _____

June 14, 2012

DEPARTMENT DIRECTOR _____

CITY MANAGER 

FROM: CRAIG SCHARTON, Assistant Director
Development and Resource Management Department 

BY: DEL ESTABROOKE, Parking Manager
Parking Services Division 

SUBJECT: ADOPT A FINDING OF CATEGORICAL EXEMPTION PER STAFF DETERMINATION PURSUANT TO ARTICLE 19, SECTION 15301 CLASS 1 (EXISTING FACILITY) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES AND AUTHORIZE THE THIRD AMENDMENT TO THE PARKING AGREEMENT BETWEEN CITY OF FRESNO AND CLUB ONE CASINO, INC. FOR FIXED RATE PATRON PARKING IN THE AMOUNT OF \$72,000 PER YEAR (COUNCIL DISTRICT NO. 3)

RECOMMENDATION

1. Adopt findings of Categorical Exemption per staff determination, pursuant to Article 19, Section 15301 /Class 1 (Existing Facility) of the California Environmental Quality Act (CEQA) Guidelines for the extension of the parking agreement with the Club One Casino (Club One).
2. Approve the third amendment to extend the existing parking agreement between the City of Fresno and Club One to provide parking in the Underground Parking Garage #8, at a fixed rate of \$6,000 per month for 100 parking spaces for one year. The recommended agreement also requires Club One to pay \$1.00 per vehicle, per day for any Club One patron's vehicle over the 100 allotted spaces between the hours of 6am and 6pm.

EXECUTIVE SUMMARY

Parking Garage No. 8 is located under Van Ness Avenue between Tulare and Fresno Streets and provides parking to various downtown business and public agencies. One of the businesses, Club One, has procured parking privileges for its patrons at a fixed monthly rate of \$6,000 since June 2010. The City of Fresno has previously extended the terms of the parking agreement with Club One on an annual basis so the contract can be reviewed each year in context of the changing downtown landscape. Analysis over the past year has determined that Garage #8 still has the capacity to house Club One visitors, Holiday Inn guests, and the usual volume of monthly permit holders. This contract seeks continue the prior conditions of the agreement for a one year period. The 100 stalls will be reserved for Club One guests at a flat \$6,000 per month rate, with each additional Club One patron's vehicle charged at a rate of \$1.00 per day during the hours of 6am to 6pm.

Presented to City Council
Date 6/14/12
Disposition Approved

REPORT TO THE CITY COUNCIL

Adopt CEQA Exception (Existing Facilities) to Authorize Third Amendment to Parking Agreement with Club One Casino, Inc.

June 14, 2012

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BACKGROUND

In the 1990s, Club One began using an unlimited number of spaces in Garage #8, initially at a rate of \$5,000 per month. In 2009, Council directed the Parking Division to renegotiate the Club One parking agreement with consideration to ongoing revitalization efforts downtown and other garage users including the Holiday Inn. The contract for 100 designated spaces per month at the \$6,000 rate plus \$1.00 each additional car during the 6am-6pm time period was enacted in 2006-2007, renewed in 2008-2009, 2009-2010, 2010-2011, and is viable for an additional 12 month period.

ENVIRONMENTAL FINDINGS

Staff has determined that the proposed Third Amendment is exempt under CEQA Guideline 15301 Class 1, which provides exemption for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures and facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed Third Amendment is within the Class 1 exemption because it involves existing City parking structures and facilities involving negligible or no expansion of use.

The above exemption is not precluded by Guideline 15300.2, which prevents the use of categorical exemptions for projects where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances, or where a project may cause a substantial adverse change in the significance of a historical resource. The proposed Third Amendment does not have a significant effect on the environment due to unusual circumstances, nor does it cause a substantial adverse change in the significance of a historical resource. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project."

FISCAL IMPACT

The parking agreement generates \$72,000 annually. It should be noted that Club One pays to the City approximately \$1,200,000 annually to the City in the form of table tax. No other business entity pays this type of tax. Terms of the agreement are reviewed annually so changes can be made as needed.

Attachment:

Third Amendment to Fixed Rate Patron Parking Agreement – Club One Casino