



## Legislation Details (With Text)

<b>File #:</b>	17-324	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Consent Item	<b>Status:</b>	Passed		
<b>File created:</b>	6/6/2017	<b>In control:</b>	City Council/Public Finance and Economic Development Authority/Parking Authority/Successor Agency to the Redevelopment Agency		
<b>On agenda:</b>	7/5/2017	<b>Final action:</b>	7/5/2017		
<b>Title:</b>	SUBJECT: City-Owned Real Property Request #17-05 for Use of Bob Hart Square (Merced Center for the Performing Arts and Playhouse Merced)				

### REPORT IN BRIEF

Consider allowing the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, by the Merced Center for the Performing Arts and Playhouse Merced for their annual fundraiser gala (includes the serving of alcohol).

### RECOMMENDATION

City Council - Adopt a motion approving the use of Bob Hart Square from 6:00 a.m. on Saturday, August 19, 2017, to 1:00 a.m. on Sunday, August 20, 2017, for a fundraiser gala, to include the serving of alcohol; subject to the conditions outlined in the administrative staff report.

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. 1. Location Map, 2. 2. Site Plan

Date	Ver.	Action By	Action	Result
7/5/2017	1	City Council/Public Finance and Economic Development Authority/Parking Authority/Successor Agency to the Redevelopment Agency	approved	Pass

*Report Prepared by: Kimberly Nutt, Planning Technician II; Development Services*

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## ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, with modifications; or,
3. Deny the request completely; or,
4. Refer to staff for reconsideration of specific items as requested by Council; or,
5. Continue to a future City Council meeting (date and time to be specified in the motion).

## AUTHORITY

Merced Municipal Code, Section 9.12.020 - Serving or drinking liquors on street:

*"It is unlawful, and a misdemeanor, subject to punishment in accordance with Chapter 1.12 of the Code, for any person to serve, drink, consume, or have in his/her possession an open container containing any spirituous, vinous, malt, or any other intoxicating liquors in or upon any of the streets, sidewalks, alleys, parks, parking lots, or any public place in the city, unless otherwise permitted by the Merced Municipal Code or authorized by the city council."*

## CITY COUNCIL PRIORITIES

Not applicable.

## DISCUSSION

### Background

Each year, Playhouse Merced and the Merced Theater for the Performing Arts hold a major fundraiser dinner in Bob Hart Square, which includes fine dining provided by Five Ten Bistro and live on-stage entertainment by Playhouse Merced's favorite local stars. Each year, a different theme is costumed and performed, including 2015's "Night at the Opry" and 2016's "Playhouse Merced Goes Hollywood." This year's theme, although costumes are not planned, will be a celebration of the past and present of the 50's Broadway.

### Description

The Merced Center for the Performing Arts (MCPA) and Playhouse Merced are requesting use of Bob Hart Square, located at the intersection of W. Main and Canal Streets, for this year's annual gala fundraiser (Attachment 1).

The gala event is scheduled to begin on Saturday, August 19, 2017, at 6:00 p.m. and the last guest is expected to leave by 11:00 p.m. However, to allow for the construction and take-down of a stage and lighting and the dining area, the use of the park is requested from 6:00 a.m. to 1:00 a.m. the next morning (Sunday, August 20, 2017).

Included in the site plan for the event will be a stage and backstage area, a full beer/wine/liquor bar, a check-in station, and 40 dinner tables (8 chairs per table), with the entire area surrounded by fencing (Attachment 2).

At the eastern and northeastern perimeter of the event, the applicants will use 6-foot-high screened temporary cyclone fencing, and the northern side of the park will utilize the City's existing wrought-iron perimeter fencing. The wide, easternmost walkway immediately adjacent to Pinocchio's restaurant and retail/office spaces alongside the park will remain open for non-attendee pedestrians passing from W. Main to W. 16<sup>th</sup> Street and the parking lots.

Security personnel will be posted at each entrance/exit in the perimeter fencing, with the main intake being at the southeastern corner of the event area nearest the parking lots at West 16<sup>th</sup> and Canal Streets, where most guests are expected to park. The applicant will also have “floating” security guards inside the event. The applicant expects approximately 320 guests to attend the event. The Police Department requires security at a minimum of one security personnel per 50 attendees (Condition #8).

Amplified music and loudspeaker activity will end at approximately 10:00 p.m., in respect of the nearby residential lofts (Condition #15).

*Serving of Alcoholic Beverages in City Parks*

Alcohol service will be provided by the Playhouse Merced, to include beer, wine, and liquor specialty drinks. A temporary one-day event alcohol license (Type 77 or suitable) shall be obtained through the California Bureau of Alcohol Control (ABC) by the applicant and a copy provided to Planning staff prior to the event (Condition #14).

The “floating” and entrance/exit security guards will be patrolling through the area during the event to ensure that the requirements of the ABC alcohol permit are in compliance with regards to underage drinking and that no alcohol beverages are carried past the perimeter fence.

The applicants’ request to use the park must be reviewed and approved by the City Council, per Merced Municipal Code (MMC) 9.12.020, which requires Council authorization for any alcohol served in any City park or public place (see full Code Section noted above under “Authority”).

*Conditions of Approval:*

1. Event Sponsor shall indemnify, protect, defend, (with counsel selected by the City) save and hold City, its officers, employees, agents, and volunteers harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Event Sponsor or Event Sponsor’s officers, employees, agents, volunteers, and participants during performance of the Event, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Event Sponsor or its officers, employees, agents, volunteers, or participants, or resulting from the negligence of the City, its officers, employees, agents, and volunteers, except for loss caused solely by the gross negligence of the City. Acceptance by City of insurance certificates and endorsements required for this Event does not relieve Event Sponsor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

2. Prior to engaging in the event, Event Sponsor shall complete and file with the City a special events, general liability and automobile policy of at least \$500,000 combined limit for bodily injury and property damage which covers the entire event. Said policy shall stipulate that this insurance will operate as primary insurance and that no other insurance will be called on to cover a loss covered thereunder. Additional insured endorsements evidencing this special events, general liability and automobile coverage, naming the City and its officers, agents, and employees as additional insureds, must be submitted to the City prior to the event. This certificate shall provide that thirty (30) days written notice of cancellation shall be given to the City.

3. Event staff and attendees shall use the large parking lots along W. 16<sup>th</sup> Street between W. Main

and W. 16<sup>th</sup> Streets. Attendees shall be instructed not to use parking along W. Main Street for the evening, in order to avoid adverse impact to businesses and other downtown patrons.

4. Event Sponsor shall remove all structures, debris, and any other event-generated items from the park and surrounding gutters and sidewalks prior to 10:00 p.m. on the night of the event.

5. If needed, Event Sponsor shall be responsible for making arrangements with the City's Public Works Refuse Department's staff to deliver and remove curbside refuse containers for use during the event and for any necessary cleanup afterwards.

6. Event Sponsor shall comply with all applicable statutes, ordinances, rules, regulations, etc., including all regulations of the City of Merced Fire Department, including obtaining permit(s) for any tents or canopies used for the event.

7. All provisions of the Fire Code shall apply. This includes, but is not limited to, posting no-smoking signs in any tented areas as required, no parking within 20 feet of any tent, all requirements for any cooking in a tent, and including any temporary and portable electrical power supplies that may be used.

8. Event Sponsor shall provide adequate supervision and security throughout the area to ensure the safety of the participants and the public, as required by the Merced Police Department. At minimum, security guards shall be provided at one officer per 50 attendees, or a minimum of seven guards.

9. Event Sponsor and its caterer shall comply with all requirements of the Merced County Health Department with regards to the serving of food and drink.

10. Event Sponsor shall ensure that any independent vendors and services, such as DJ's, portable toilet rental companies, photo booth vendors, bartenders, and caterers, obtain or hold current business licenses with the City of Merced.

11. Event Sponsor shall be responsible for making timely arrangements with the City's Public Works staff to turn on and off the electrical power supply in the park before and after the event.

12. Any temporary modifications of the City's electrical system in the park shall be approved by City staff. Only a State-licensed electrician shall be permitted to make any such modifications. All modifications shall be completely removed and reverted back to the original system after the event.

13. The Event Sponsor shall provide access to disabled-accessible restrooms, as required by the California Building Code.

14. Alcoholic beverages may be served during this event, subject to the strict rules, regulations, and restrictions of the California Alcohol Beverage Control (ABC). A temporary one-day event alcohol license (Type 77 or suitable) shall be obtained by the applicant and a copy provided to Planning staff prior to the start of the event.

15. Noise from music or other activities shall be kept to a minimum, so as not to disturb the nearby residential loft units. Music shall not be played later than 10:00 p.m.

16. As the applicant has indicated that the Five Ten Bistro Restaurant's regular alley service refuse

bins will be utilized for any solid waste generated by the event, thus eliminating the need for additional containers, it shall be the applicant's responsibility to ensure that the restaurant properly disposes of said waste. Any resulting overflow of the restaurant's refuse bins shall be transferred to the applicant's own alley service refuse bins, so as to keep the alleyway clean.

## **IMPACT ON CITY RESOURCES**

No appropriation of funds is necessary.

A small impact to Public Works' Facilities staff is expected, such as staff time in arranging for and turning on electricity in the park to make it available to the event's power needs, along with a general park cleanup the day before.

The event organizers will be required to leave the park cleaned of any trash and debris it generates. Five Ten Bistro Restaurant will place any such trash and debris in their existing City-service container, so additional refuse bins for the event are not necessary (Condition #16).

There is no expected impact to City Police resources, as the applicants will be providing their own security. No other City resource impacts are expected.

## **ATTACHMENTS**

1. Location Map
2. Event Site Plan