



## Legislation Text

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**File #:** 19-161, **Version:** 1

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**SUBJECT:** Approval of City-Owned Real Property Use Request #19-03 by the Greater Merced Chamber of Commerce for the Use of Bob Hart Square Park to Host their Annual Fundraising Event, "Burgers and Brews" Which Includes the Serving of Alcohol, on Saturday, May 18, 2019, from 3:00 p.m. to 9:00 p.m.

### REPORT IN BRIEF

Considers approving a request by the Greater Merced Chamber of Commerce to allow the exclusive use of Bob Hart Square Park on Saturday, May 18, 2019, from 3:00 p.m. to 9:00 p.m. for their "Burgers and Brews" fundraiser event, to include the serving of alcohol.

### RECOMMENDATION

**City Council** - Adopt a motion approving the exclusive use of Bob Hart Square Park on Saturday, May 18, 2019, from 3:00 p.m. to 9:00 p.m. for a "Burgers and Brews" gourmet burger and local microbrewery beer sampling event, allowing the serving of alcohol; subject to the conditions outlined in the administrative report.

### 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, alley, 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

The Greater Merced Chamber of Commerce is presenting a fundraising event, "Burgers and Brews," on Saturday, May 18, 2019, and is requesting the use of Bob Hart Square from 3:00 p.m. to 9:00 p.m. The event is planned to begin at 6:00 p.m. and will end by 8:30 p.m.

The fundraiser will be a competition between talented home cooks and local restaurateurs and their chefs who have been determined as the area's best, in part by their success in other cooking competitions and by citizen polls published in local newspapers and other media. These cooks and chefs will receive automatic invitations to compete.

To accompany the burger cuisine, the event will also feature multiple Valley-wide microbreweries. Attendees to the event will have the opportunity to vote on their favorite burger and microbrewery samplings while enjoying live music provided by a local musical artist.

### Event Details

All alcohol served will be contained within the existing fenced areas of Bob Hart Square, and all entrances into and out of the park will be staffed by security guards to ensure that all alcohol consumption remains contained to the park area (Attachment 2). Identification of each attendee will be checked to ensure appropriate age requirements are met.

Regarding park access, the event site plan indicates that vendor cook stations will be placed across the westernmost and the eastern entrances to the park, leaving only the diagonal pathway running between the Rossi Fountain and the clock at W. Main Street open as the sole entrance/exit point (Attachment 2 and 3). The registration table (under tent) will be located across the burger booths on the eastern side of the park nearer to Five Ten Bistro, to be staffed by the applicant and security guards to receive attendees, check identification, and ensure containment of alcohol (Attachment 2).

A minimum of four security guards will be provided by the applicant initially, unless it is determined by the Chief of Police that more security is required for the event. The applicant anticipates an attendance of approximately 500 people.

Weather-dependending, food and microbrewery vendors may choose to use shade canopies at their stations to protect their staff from the elements. Canopies without drop-down sides up to 700 square feet in size may be used without the need for Fire Department approval. For all tent sizes, supports shall be anchored or weighted down to prevent wind-related issues.

Five Ten Bistro will be collecting all refuse generated by vendors and guests and will be disposing of it in their existing refuse service container; therefore, no additional refuse receptacles will be needed for the event. However, the event will need the City's electrical supply in the park for power.

### 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 be encouraged to use the large parking lots along W. 16<sup>th</sup> Street between M and K Streets 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. 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 large tents or canopies used for the event.

6. 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.

7. 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. Security guards shall typically be provided at one officer per 50 attendees. To start, four security guards shall initially be provided. If the Police Chief or their designee determines four guards is insufficient to the actual number of attendees, more guards shall immediately be provided.

8. Event Sponsor and its caterers, restaurateurs, and cooks shall comply with all requirements of the Merced County Health Department with regards to the serving of food and drink.

9. 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.

10. 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.
11. 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.
12. The Event Sponsor shall provide access to disabled-accessible restrooms, as required by the California Building Code.
13. 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.
14. 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. at the expiration of the permit to use the park, or by the termination of the event itself.
15. As the applicant has indicated that the 510 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, including ensuring receptacles are not over-filled.
16. If it is later determined that utilizing Five Ten Bistro Restaurant's refuse service dumpster will not be sufficient, Event Sponsor shall be responsible for making arrangements with the City's Public Works Refuse Department's staff to deliver and remove special event curbside refuse containers for use during the event and for any necessary cleanup afterwards.

## **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 (Conditions #15 and #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
3. Photographs - Bob Hart Square entrance points