


**CITY COUNCIL ACTION REQUEST**

<b>Department(s):</b> <b>Transportation</b>	<b>CEQA:</b> Not a Project, File No. PP17-003, Agreements and Contracts (New or Amended) that will result in no physical changes to the environment.	<b>Coordination:</b> City Attorney's Office, City Manager's Budget Office, and Office of Economic Development	<b>Dept. Approval:</b> /s/ John Ristow
<b>Council District(s):</b> <b>3</b>			<b>CMO Approval:</b>  9/10/20

**SUBJECT: RIGHT OF ENTRY WITH GUGGENHEIM ENTERTAINMENT**

**RECOMMENDATION:**

Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Right of Entry with Guggenheim Entertainment for its use and activation of the 2<sup>nd</sup>/San Carlos garage rooftop with no rent payable to the City.

**BASIS FOR RECOMMENDATION:**

Due to the unprecedented impact of the COVID-19 outbreak, non-essential businesses have been forced to close and/or severely limit their operations. To help invigorate businesses, the City and various stakeholders have been reimagining the use of public space for outdoor seating and services to enable sufficient social distancing for the safety of their employees and the public while allowing business to resume operations in accordance with Santa Clara County Health Guidelines. Council has approved a similar public space usage with "San Jose AL FRESCO" allowing local businesses to operate outdoors using public spaces with no rent payable to the City.

Activation of the rooftop of the 2<sup>nd</sup>/San Carlos garage by the property's ground floor tenant, 3Below Theaters which is operated by Guggenheim Entertainment, and through a partnership with the San Jose Downtown Association, will focus on bringing live entertainment and movies back to Downtown, with performances planned for the month of October.

Due to the impacts of the pandemic on parking occupancy, the 2<sup>nd</sup> & San Carlos Garage is currently an underutilized City Parking Facility, and the proposed rooftop activation will have no operational or financial impacts to the City. As with other Council approved San Jose AL FRESCO uses, staff recommends that Council approve this use with no rent payable to the City.

**Climate Smart San Jose:**

The recommendation in this memo has no effect on Climate Smart San Jose energy, water, or mobility goals.

**Commission Recommendation/Input:**

This item was discussed with the Downtown Parking Board at their September 16, 2020 meeting.

**COST AND FUNDING SOURCE:**

There will be no costs to the General Purpose Parking Fund (Fund 533) associated with this agreement.

**FOR QUESTIONS CONTACT:** Arian Collen, Parking Manager at 408-975-3246.