

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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Agenda Number:
Prepared on: 05/10/02
Department Name: Park
Department No.: 052
Agenda Date: 05/21/02
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Jennifer Briggs
Director of Parks

STAFF CONTACTS: Coleen Lund, Project Manager (568-2470)
Mike Gibson, Business Manager (568-2477)

SUBJECT: Approve the Fifth Amendment to Santa Barbara Bowl Foundation Management and Lease Agreement and request for six (6) additional mid-week variances during the 2002 concert season; First Supervisorial District; Folio No. WC 1076

Recommendation:

That the Board of Supervisors:

- A. Execute this Fifth Amendment to the Management and Lease Agreement between the County of Santa Barbara and the Santa Barbara Bowl Foundation. This Amendment: (1) Modifies the after show settlement statement reporting requirement to reflect the sufficient year-end financial reporting practice; (2) Clarifies the approval process for improvements, construction, and alterations to be performed by the Bowl Foundation at the Santa Barbara Bowl; (3) Adds language which would allow for federal relief in the event of partial destruction to the Bowl, as a result of any natural disaster that has been identified as a local emergency by the Board of Supervisors; (4) Establishes the restructured debt service payment schedule between the County and the Bowl Foundation for previously approved loans and (5) Authorizes the Bowl Foundation to grant naming opportunities for specific facilities and areas at the County Bowl as a method of raising capital improvement funding.
- B. Approve the attached request from the Santa Barbara Bowl Foundation for six (6) additional mid-week variances during the 2002 concert season at the Santa Barbara Bowl.

Alignment with Board Strategic Plan: The recommendation is primarily aligned with Goal No.1: An Efficient Government Able to Anticipate and Respond Effectively to the Needs of the Community and Goal No.5: A high Quality of Life for All Residents.

Executive Summary and Discussion:

LEASE AMENDMENT

The Santa Barbara Bowl Foundation was incorporated as a California non-profit public benefit organization in 1981. In 1994, the County executed a 45-year management lease with the Foundation for the specific purpose of operating the Bowl as a community-based, non-profit entertainment center. The Foundation is responsible for the operation, maintenance and renovation of the outdoor performing arts amphitheater.

The Foundation has proposed certain amendments to the agreement with regard to capital improvements, financing and other administrative matters some of which have already been implemented. The amendments facilitate the Foundation's ability to effectively manage its responsibilities under the lease agreement.

Specifically, the Foundation has proposed amendments relating to the approval process for construction projects to be performed by the Foundation at the Bowl. In response to this request, this lease amendment clarifies certain provisions relating to non-responsibility, stop notices, and bonding.

This amendment also addresses the contingency of the destruction of the premises by natural disasters. As discovered during the 1995 floods, the agreement currently allows neither the County nor the Foundation to qualify for federal relief in the event of a natural disaster. The revised provisions in the amendment will allow for such relief in the event of a natural disaster that has been identified as a local emergency by the Board of Supervisors.

In addition, this amendment formalizes in the agreement the previously approved restructured debt service payment schedule of the Bowl Foundation in regard to:

1. Funds loaned to the Foundation by the County for electrical system upgrades, which were originally approved in the First Amendment to the Management and Lease Agreement in April 1995.
2. Funds loaned to the Foundation by the County for storm damage repair and cleanup, which were originally approved in the Second Amendment to the Management and Lease Agreement in May 1995.
3. Funds loaned to the Foundation by the County for a complete water/sewer line replacement project, which were originally approved in the Third Amendment to the Management and Lease Agreement in February 1997.

These changes to the debt service schedule were approved by the Board of Supervisors in October 1998 with the restructuring of the Bowl Foundation's loans with the County.

The newly revised Estimated Debt Service Payment Schedule is attached to this Fifth Amendment to the Management and Lease Agreement as Exhibit "A".

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Finally, the amendment authorizes the Foundation to name specific facilities and areas at the County Bowl in recognition of persons or organizations who have made financial contributions toward a capital improvement specified on a naming opportunities menu proposed by the Foundation and included as Exhibit "B" to the lease.

The County of Santa Barbara owns the Santa Barbara Bowl. As an owner in fee simple, the County Board of Supervisors controls the property rights associated with the property. The Board's rights with respect to the property include the rights of possession, use and disposition (Civil Code sect. 654). The right to name the property falls within this broad scope of property rights held by the owner. The County retains any naming right until such time as it grants a third party the right to use the property by easement, license, lease or other form of agreement.

One of the fundraising strategies of the "Bowl Renovation Capital Campaign" is offering naming opportunities for various buildings and amenities within the venue complex. To date, the campaign has raised \$8.2 million including a recent \$2 million grant from the Wendy P. McCaw Foundation towards the \$22 million required to fully implement the facility master plan to renovate the Bowl. This is the first major naming opportunity grant and requires your Board's confirmation and approval to fulfill the McCaw Foundation grant condition to publicly recognize the donor on the "El Balcon facility and Upper Plaza area.

The goal of the Santa Barbara Bowl Foundation is to enhance the facilities for artists and patrons in order to create one of the premiere small venue performing arts centers on the central coast. The Foundation has also endeavored to raise funds to build an endowment in order to underwrite program diversity in the fields of art, music, and drama and create a source of funding for local arts and education programs.

MID-WEEK VARIANCES

The Santa Barbara Bowl Foundation has also requested your Board approve six (6) additional mid-week variances during the 2002 concert season.

The current lease agreement between the County and the Bowl Foundation requires adherence to the existing Sound Control Plan for performances at the Bowl. This Sound Control Plan allows for six (6) mid-week variances, defined as concert events that occur Sunday night through Thursday night and that end no later than 10:00 p.m. Mid-week concerts may occur if concluded by 8:00 p.m. without variance requests. The Sound Control Plan also requires any mid-week variances, in excess of the six (6) allowed under the plan, to be approved by the Board of Supervisors.

The attached letter from the Santa Barbara Bowl Foundation requests six (6) additional mid-week variances for a total of twelve (12) for the 2002 season. This is consistent with previous requests from the Foundation in past concert years. Given the Foundation's success with concerts performed during these variance periods as explained in the attached letter of April 30, 2002, County Parks recommends that your Board grant the

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additional six (6) mid-week variances for the scheduled concerts as outlined in the Bowl Foundation's request and allow the flexibility for the six additional mid-week concerts through the end of the 2002 season.

Mandates and Service Levels:

There are no mandates or changes to existing service levels.

Fiscal and Facilities Impacts:

There are no fiscal or facilities impacts.

Special Instructions: Upon approval and execution, the Clerk of the Board should distribute as follows:

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| 1. Original signed documents | Official File |
| 2. Duplicate original signed documents | GS/Real Property-Attn: Connie Smith |

NOTE: Real Property will send copies of all documents to the Park Department and forward the duplicate original to the Bowl Foundation.

Concurrences:

County Counsel
Real Property
Auditor-Controller
Risk Management