

**AGREEMENT BETWEEN  
SAN DIEGO UNIFIED PORT DISTRICT  
and  
HP PURDON & COMPANY**

The parties to this agreement ("Agreement") are the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation ("District") and HP PURDON & COMPANY, a California corporation ("HPP"). The District and HPP may from time to time hereinafter be referred to singularly as, "Party", and collectively as, the "Parties."

**Recitals:**

WHEREAS, the District's mission includes activating the waterfront with special events that engage a wide range of audiences and enhance the waterfront experience throughout the year; and

WHEREAS, HPP produces the annual Big Bay Boom July 4<sup>th</sup> Fireworks Show ("Big Bay Boom") that features fireworks launched from four barges located in areas encompassing north San Diego Bay; and

WHEREAS, the Big Bay Boom attracts a combined live and television audience of over 500,000 people throughout Southern California; and

WHEREAS, HPP desires for the District to provide sponsorship funding and services in support of the planning, promotion and production of the Big Bay Boom; and

WHEREAS, the District and HPP now desire to enter into an agreement to set forth the terms and conditions upon which the District will provide HPP with certain sponsorship funding and perform certain services in exchange for HPP providing the District certain promotional services in connection with HPP's production of the 2020 Big Bay Boom fireworks show;

NOW THEREFORE, for valuable consideration receipt of which is hereby acknowledged, the Parties agree as follows:

1. **TERM OF AGREEMENT.** This Agreement shall commence on November 30, 2019 and shall terminate on February 28, 2021, subject to earlier termination as provided herein ("Term").
2. **SCOPE OF SERVICES.** HPP shall provide to the District all services set forth in Attachment A, Scope of Services, attached hereto and incorporated (the "Services") herein by reference. The District shall have the right, in its reasonable discretion, to disapprove any changes in the services that are part of the services to be provided by HPP to the District as part of Big Bay Boom, and any changes to the configuration of Big Bay Boom in 2020.
3. **COMPENSATION AND REMITTANCE.** In consideration for HPP's provision of promotional services to District in connection with HPP's production of Big Bay Boom 2020, the District shall (i) pay HPP One Hundred Ninety Thousand (\$190,000) in funding; (ii) waive the District fees for all District-issued permits including but not limited to the District's Fireworks Display Permit and Large/Corporate Special Event Permit [Note: District permit fee waivers apply only

to District-issued permits and do not apply to permits issued by any other entity or entities]; (iii) waive the District fees to provide event support services to accommodate the additional visitors to District parks and open space areas to view Big Bay Boom that include portable restrooms and associated maintenance, additional park cleanup, and public safety services including law enforcement and traffic control; and (iv) waive the District fees to provide promotional support to Big Bay Boom that includes design of collateral materials, social media posts, District-issued press releases and other promotional and/or informational items regarding Big Bay Boom for the benefit of the public. The services described in subsections (ii)-(iv) above shall not exceed a value of One Hundred Forty Thousand (\$140,000) and the District has the right to payment from HPP for the difference between this not-to-exceed amount and the actual value of the services as determined by District.

4. **RECORDS.** HPP shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to inspection of District at all reasonable times in the City of San Diego and shall be kept for at least three (3) years after the termination of this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

HPP understands and agrees that District, at all times under this Agreement, has the right to review project documents and work in progress and to audit financial records, whether or not final, which HPP or anyone else associated with the work has prepared or which relate to the work which HPP is performing for District pursuant to this Agreement regardless of whether such records have previously been provided to District.

HPP shall provide District at HPP's expense a copy of all such records within five (5) working days of a written request by District. District's right shall also include inspection at reasonable times of the HPP's office or facilities, which are engaged in the performance of services pursuant to this Agreement. HPP shall, at no cost to District furnish reasonable facilities and assistance for such review and audit. HPP's failure to provide the records within the time requested shall preclude HPP from receiving any compensation due under this Agreement until such documents are provided.

5. **SUB-CONTRACTORS.** All sub-contractors that provide services to HPP in support of Big Bay Boom are subject to prior written approval by District. HPP shall remain responsible to District for any and all services and obligations required under this Agreement, whether performed by HPP or HPP's sub-contractors. HPP shall compensate each of its sub-contractors in the time periods required by law. Any sub-contractors employed by HPP in the fulfillment of this Agreement shall be independent Service Providers and not agents of District. HPP shall insure that its sub-contractors satisfy all substantive requirements for the work set forth by this Agreement, including insurance and indemnification.

HPP shall also include a clause in its Agreements with its sub-contractors that reserves the right, during the performance of this Agreement and for a period of

three (3) years following termination of this Agreement, for a District representative to audit any cost, compensation or settlement resulting from any items set forth in this Agreement. This clause shall also require HPP's sub-contractors to retain all necessary records for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved, whichever is later.

6. **COMPLIANCE.** In performance of this Agreement, HPP and its sub-contractors shall comply with the California Fair Employment and Housing Act, the American with Disabilities Act, and all other applicable federal, state, and local laws prohibiting discrimination, including without limitation, laws prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. HPP and its subcontractors shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code, as applicable.

HPP and its subcontractors shall comply with all Federal, State, regional and local laws, and district Ordinances and Regulations applicable to the performance of services under this Agreement as exist now or as may be added or amended.

7. **INDEPENDENT ANALYSIS.** HPP shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of District, other than normal contract monitoring provided, however, HPP shall possess no authority with respect to any District decision.
8. **ASSIGNMENT.** HPP shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express prior written consent of the District in each instance and such consent shall not be unreasonably withheld, omitted or delayed.
9. **INDEMNIFY, DEFEND, HOLD HARMLESS.** To the fullest extent provided by law, HPP agrees to defend, indemnify and hold harmless the District, its agents, officers and employees, from and against any claim, demand, action, proceeding, suit, liability, damage, cost (including reasonable attorneys' fees) and expense for, including but not limited to, damage to property, the loss or use thereof, or injury or death to any person, including but not limited to, HPP's officers, agents, contractors, and employees ("Claims"), caused by, arising out of, or related to HPP's performance of this Agreement, including without limitation, the production of the 2020 Big Bay Boom, the Services listed in Attachment A, Scope of Services; or failure to act by HPP, its officers, agents, contractors and employees. HPP's duty to defend, indemnify, and hold harmless shall not include any Claims arising from the sole negligence or willful misconduct of the District. The indemnity obligation shall apply for the entire time that any third party can make a claim against or sue the District for liabilities caused by, arising out of, or related to HPP's performance of this Agreement.

HPP further agrees that the duty to indemnify, and the duty to defend the District as set forth in this Section 10, requires that HPP pay reasonable attorneys' fees and costs the District incurs associated with or related to enforcing the indemnification provisions, and defending any Claims.

The District may, at its own election, conduct its defense, or participate in the defense of any Claims. If the District chooses at its own election to conduct its own defense, participate in its own defense or obtain independent legal counsel in defense of any Claims, HPP agrees to pay all reasonable attorneys' fees and all costs incurred by the District. This Section 10 shall survive the expiration or earlier termination of this Agreement.

#### 10. INSURANCE REQUIREMENTS.

- a. HPP shall at all times during the term of this Agreement maintain, at its expense, the following minimum levels and types of insurance:
  1. Commercial General Liability (including, without limitation, Contractual Liability, Personal Injury, Advertising Injury, and Products/Completed Operations) coverages, with coverage at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 0001) with limits no less than one million dollars (\$1,000,000) per Occurrence and two million dollars (\$2,000,000) Aggregate for bodily injury, personal injury and property damage.
    - (a) The deductible or self-insured retention on this Commercial General Liability shall not exceed \$5,000 unless District has approved of a higher deductible or self-insured retention in writing.
    - (b) The Commercial General Liability policy shall be endorsed to include the District; its agents, officers and employees as additional insureds in the form as required by the District. An exemplar endorsement is attached (Exhibit A, Certificate of Insurance, attached hereto and incorporated herein).
    - (c) The coverage provided to the District, as an additional insured, shall be primary and any insurance or self-insurance maintained by the District shall be excess of HPP's insurance and shall not contribute to it.
    - (d) The Commercial General Liability policy shall be endorsed to include a waiver of transfer of rights of recovery against the District ("Waiver of Subrogation").
  2. Commercial Automobile Liability (Owned, Scheduled, Non-Owned, or Hired Automobiles) written at least as broad as Insurance Services Office Form Number CA 0001 with limits of no less than one million

dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

3. Workers' Compensation, statutory limits, is required of HPP and all sub-consultants (or be a qualified self-insured) under the applicable laws and in accordance with "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Employer's Liability, in an amount of not less than one million dollars (\$1,000,000) each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee. This policy shall be endorsed to include a waiver of subrogation endorsement, where permitted by law.
  4. Umbrella or Excess Liability insurance with limits no less than one million dollars (\$1,000,000) per occurrence and aggregate. This policy must provide excess insurance over the same terms and conditions required above for the General Liability, Automobile Liability and Employer's Liability policies.
- b. It is understood by HPP and the District that HPP anticipates contracting with a commercial entity to provide transportation services from an offsite parking facility to Harbor Island before and after the event on July 4, 2019. The hired transportation company will provide evidence of commercial automobile liability insurance in the amount of two million dollars (\$2,000,000) per accident for bodily injury and property damage with the District name as Additional Insured.
  - c. HPP shall furnish District with certificates of insurance coverage for all the policies described above upon execution of this Agreement and upon renewal of any of these policies. A Certificate of Insurance in a form acceptable to the District, an exemplar Certificate of Insurance is attached as Exhibit A and made a part hereof, evidencing the existence of the necessary insurance policies and endorsements required shall be kept on file with the District. Except in the event of cancellation for non-payment of premium, in which case notice shall be 10 days, all such policies must be endorsed so that the insurer(s) must notify the District in writing at least 30 days in advance of policy cancellation. HPP shall also provide notice to District prior to cancellation of, or any change in, the stated coverages of insurance.
  - d. The Certificate of Insurance must delineate the name of the insurance company affording coverage and the policy number(s) specifically referenced to each type of insurance, either on the face of the certificate or on an attachment thereto. If an addendum setting forth multiple insurance companies or underwriters is attached to the certificate of insurance, the addendum shall indicate the insurance carrier or underwriter who is the lead carrier and the applicable policy number for the CGL coverage.

- e. Furnishing insurance specified herein by the District will in no way relieve or limit any responsibility or obligation imposed by the Agreement or otherwise on HPP or HPP's sub-contractors or any tier of HPP's sub-contractors. District shall reserve the right to obtain complete copies of any of the insurance policies required herein.
11. **ACCURACY OF SERVICES.** HPP shall be responsible for the technical accuracy of its services and documents resulting therefrom and District shall not be responsible for discovering deficiencies therein. HPP shall correct such deficiencies at no cost or expense to the District. Furthermore, HPP expressly agrees to reimburse District for any costs incurred as a result of such deficiencies. HPP shall make decisions and carry out its responsibilities hereunder in a timely manner and shall bear all costs incident thereto so as not to unreasonably delay performance of the Services.
  12. **NO RELATIONSHIP.** HPP and any agent, employee, or contractor of HPP shall act in an independent capacity and not as agents, officers or employees of the District. The District assumes no liability for HPP's actions and performance, nor assumes responsibility for taxes, bonds, payments or other commitments, implied or explicit by HPP. HPP shall not have authority to act as an agent on behalf of the District unless specifically authorized to do so in writing. HPP disclaims the right to any fee or benefits except as expressly provided for in this Agreement.
  13. **ADVICE OF COUNSEL.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the Parties hereto. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement. The Agreement and the formation, interpretation and performance of this Agreement shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of California.
  14. **INDEPENDENT REVIEW.** Each Party hereto declares and represents that in entering into this Agreement it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each Party further declares and represents that this Agreement is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent or attorney of any other party.
  15. **INTEGRATION AND MODIFICATION.** Except for any Permits issued by the District to HPP, this Agreement contains the entire Agreement between the Parties with regard to Big Bay Boom 2020 and supersedes all prior negotiations, discussions, obligations and rights of the Parties in respect of each other regarding the subject matter of this Agreement. Except for this Agreement and the Permits, there are no other written or oral understandings between the Parties. No modifications, amendment or alteration of this Agreement shall be valid unless it is

in writing and signed by each of the Parties hereto. This Agreement does not supersede any requirements placed upon HPP through any Permit issued by the District.

16. **OWNERSHIP OF RECORDS.** Any and all materials and documents, including without limitation drawings, specifications, computations, designs, plans, investigations and reports, prepared by HPP, if any, pursuant to this Agreement, shall be the property of District from the moment of their preparation and HPP shall deliver such materials and documents to District at the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101) whenever requested to do so by District. However, HPP shall have the right to make duplicate copies of such materials and documents for its own file, or other purposes as may be expressly authorized in writing by District. Said materials and documents prepared or acquired by HPP pursuant to this Agreement (including any duplicate copies kept by HPP) shall not be shown to any other public or private person or entity, except as authorized by District. HPP shall not disclose to any other public or private person or entity any information regarding the activities of District, except as expressly authorized in writing by District.
17. **TERMINATION.** In addition to any other rights and remedies allowed by law, the Executive Director (President/CEO) of District may terminate this Agreement at any time with or without cause by giving thirty (30) days written notice to HPP of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall at the option of District be delivered by HPP to the Don L. Nay Port Administration Building (located at 3165 Pacific Highway, San Diego, California 92101). Termination of this Agreement by Executive Director (President/CEO) as provided in this paragraph shall release District from any further fee or claim hereunder by HPP other than the fee earned for services which were performed prior to termination but not yet paid. Said fee shall be calculated and based on the schedule as provided in this Agreement.
18. **DISPUTE RESOLUTION**
  - a. If a dispute arises out of or relates to this Agreement, or the alleged breach thereof, and is not settled by direct negotiation or such other procedures as may be agreed, and if such dispute is not otherwise time barred, the Parties agree to first try in good faith to settle the dispute amicably by mediation administered at San Diego, California, by the American Arbitration Association, or by such other provider as the Parties may mutually select, prior to initiating any litigation or arbitration. Notice of any such dispute must be filed in writing with the other party within a reasonable time after the dispute has arisen. Any resultant agreements shall be documented and may be used as the basis for an amendment or directive as appropriate.
  - b. If mediation is unsuccessful in settling all disputes that are not otherwise time barred, and if both Parties agree, any still unresolved disputes may be resolved by arbitration administered at San Diego, California, by the American Arbitration Association, or by such other provider as the Parties may mutually select, provided, however, that the arbitration award shall be

non-binding and advisory only. Any resultant agreements shall be documented and may be used as the basis for an amendment or directive as appropriate. On demand of the arbitrator or any Party to this Agreement, sub-contractor and all parties bound by this arbitration provision agree to join in and become parties to the arbitration proceeding.

- c. The foregoing mediation and arbitration procedures notwithstanding, all claim filing requirements of the Agreement documents, the California Government Code, and otherwise, shall remain in full force and effect regardless of whether or not such dispute avoidance and resolution procedures have been implemented, and the time periods within which claims are to be filed or presented to the District Clerk as required by said Agreement, Government Code, and otherwise, shall not be waived, extended or tolled thereby. If a Claim is not timely filed or presented, such Claim shall be time barred and the above dispute avoidance and resolution procedures, whether or not implemented or then pending, shall likewise be time barred as to such Claims.
19. **PAYMENT BY DISTRICT.** Payment by the District pursuant to this Agreement does not represent that the District has made a detailed examination, audit, or arithmetic verification of the documentation submitted for payment by HPP, made an exhaustive inspection to check the quality or quantity of the services performed by HPP, made an examination to ascertain how or for what purpose HPP has used money previously paid on account by the District, or constitute a waiver of claims against HPP by the District. The District may in its sole discretion withhold payments or seek reimbursement from HPP for expenses, miscellaneous charges, or other liabilities or increased costs incurred or anticipated by the District which are the fault of or as result of work performed or negligent conduct by or on behalf of HPP. Upon five (5) day written notice to HPP, the District shall have the right to estimate the amount of expenses, miscellaneous charges, or other liabilities or increased costs and to cause HPP to pay the same; and the amount due HPP under this Agreement or the whole or so much of the money due or to become due to HPP under this Agreement as may be considered reasonably necessary by the District shall be retained by the District until such expenses, miscellaneous charges, or other liabilities or increased costs shall have been corrected or otherwise disposed of by HPP at no expense to the District. If such expenses, miscellaneous charges, or other liabilities or increased costs are not corrected or otherwise disposed of at no expense to the District prior to completion date of the Agreement, the District is authorized to pay for such expenses, miscellaneous charges, or other liabilities or increased costs from the amounts retained as outlined above or to seek reimbursement of same from HPP. It is the express intent of the Parties to this Agreement to protect the District from loss because of conduct by or on behalf of HPP.
  20. **CAPTIONS; SECTION REFERENCES.** All captions to, or headings of, the sections, subsections, paragraphs or sub-paragraphs of this Agreement are solely for the convenience of the Parties, are not a part of this Agreement and will not be used for the interpretation or determination of the validity of this Agreement or any



provision hereof. Unless otherwise indicated, references in this Agreement to sections, clauses, exhibits, attachments and schedules are to the same contained in or attached to this Agreement and all exhibits, attachments and schedules referenced in this Agreement are incorporated in this Agreement by this reference as though fully set forth in this Section 21.

21. **NO WAIVER.** The waiver or failure to enforce any provision of this Agreement by a Party will not operate as a waiver of such Party's right to enforce future defaults or breaches of any such provision or any other provision of this Agreement.
22. **PARTIAL INVALIDITY.** If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion will be deemed severed from this Agreement and the remaining parts of this Agreement will remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Agreement.
23. **NOTICES.** Any notice or notices provided for by this Agreement or by law to be given or served upon the District may be given or served by certified or registered letter, return receipt requested, addressed to the District at Executive Director, San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488; with copy, Waterfront Arts & Activation, San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488, and deposited in the United States mail, or may be served personally upon said District or any person hereafter authorized by it in writing to receive such notice; and that any notice or notices provided for by this Agreement or by law to be given or served upon SCSD may be given or served by certified or registered letter, return receipt requested, addressed to H.P. Purdon & Company. Attention: H.P. "Sandy" Purdon, H.P. Purdon and Company, Inc., 747 Golden Park Ave, San Diego, CA 92106-2912, and deposited in the United States mail, or may be served personally upon HPP or any person hereafter authorized by it in writing to receive such notice. Notices shall be deemed delivered on the date of personal delivery, or if delivered by certified mail, upon the date shown for delivery in the returned receipt. Any Party may designate a different address by giving written notice as set forth in this Section.
24. **HPP'S REPRESENTATION AND WARRANTY.** HPP represents and warrants to the District that it has, or will obtain, all of the rights, permits, and approvals necessary to produce Big Bay Boom 2020, provide the District with the Services as set forth in this Agreement, and perform all of its obligations under this Agreement. The terms of this Section 25 shall survive the expiration or earlier termination of this Agreement.
25. **ATTORNEYS' FEES.** In the event any suit is commenced to enforce, protect or establish any right or remedy of any of the terms, covenants and conditions hereof, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorneys' fees and costs of suit.
26. **NO THIRD PARTY BENEFICIARIES.** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than HPP and the District and their

respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any Party to this Agreement, nor shall any provisions give any third persons any right of subrogation or action over or against any Party to this Agreement.

27. CAPACITY OF PARTIES. Each signatory and Party to this Agreement warrants and represents to the other Party that it has the legal authority, capacity and direction from its principal(s) to enter into this Agreement and that all resolutions, ordinances or other actions have been taken so as to enter into this Agreement.
28. SIGNATURE OF THE PARTIES. It is an express condition of this Agreement that said Agreement shall not be complete nor effective until signed by both the Executive Director of the District or her authorized designee on behalf of the District and by the authorized representative(s) of HPP.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

SAN DIEGO UNIFIED PORT  
DISTRICT, INC a public corporation

Yvonne Wise  
Director, Waterfront Arts & Activation

H.P. PURDON & COMPANY,

H.P. Purdon  
Producer

Approved as to form and legality:

GENERAL COUNSEL

By: Assistant/Deputy

A manually signed copy of this Agreement transmitted by email or any other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**ATTACHMENT A**  
**SCOPE OF SERVICES**

**San Diego Unified Port District**

**EVENT DATE: July 4, 2020**

HPP EVENT SERVICES. Event Services to be provided by HPP include the following:

- A fireworks show, titled "The Port of San Diego Big Bay Boom July 4th Fireworks Show", consisting of fireworks:
  - Launched simultaneously from four (4) locations in San Diego Bay: near Seaport Village, the Embarcadero, Harbor Island, and Shelter Island;
  - Synchronized to music programming from HPP's broadcast partner;
  - In conformance with requirements set forth in Attachment C: San Diego Unified Port District Code, Article 14, Fireworks Display Ordinance, under which the HPP shall secure from the District a Fireworks Display Event Permit.
- HPP agrees to prepare the "Big Bay Boom July 4th Fireworks Show" to last between fifteen (15) minutes and eighteen (18) minutes and to use commercially reasonable efforts to ensure that this minimum fifteen (15) minute duration is met. In the event that the 2019 Big Bay Boom July 4th Fireworks Show lasts less than fifteen (15) minutes despite HPP's commercially reasonable efforts, HPP shall, at the District's request, take commercially reasonable steps at HPP's sole expense to enforce HPP's contractual rights and remedies resulting from the failure of the Big Bay Boom July 4th Fireworks Show to last a minimum of fifteen (15) minutes to the extent HPP has such rights and remedies. After deduction for HPP's actual third-party costs of enforcing such rights and remedies, HPP shall pay the remaining proceeds to the District up to the sum of \$190,000 plus the value of District services provided hereunder, which are not to exceed \$140,000 for the affected show.

HPP PROMOTIONAL SERVICES. HPP shall provide the following Promotional Services to District, which encompass marketing, advertising, communications, publicity and on-site considerations:

- Opportunity to align all artwork and all other marketing opportunities to Port branding guidelines with customized artwork included in all materials
- Inclusion of Port of San Diego logo and 2020 art in visual materials as follows:
  - All printed event art including flyers, posters, stickers, barge sheets, and postcards;
  - All digital event art including banners, memes, cover art, background art, and e-headers;
  - All print advertising including newspaper and magazine ads;
  - Event website with link to District's "Visit the Waterfront" webpage
- Inclusion in Social Media promotion, specifically in Facebook posts mentioning PoSD sponsorship tagging @portofsandiego, #Wonderfront #BigBayBoom,

#SanDiegoBay, #GoSanDiego and/or any handles determined and provided by District.

- Inclusion in Broadcast Media as follows:
  - Mention of Port of San Diego as title or presenting sponsor in radio spots on the stations operated by HPP's broadcast partner for that year's event;
  - Mention of Port of San Diego as title or presenting sponsor and inclusion of Port of San Diego logo and 2020 art in television spots on HPP's television advertising outlets;
- Communications and Publicity Inclusion as follows:
  - District's messaging, as provided to HPP by District, on event website and in media speaking points and e-blast distribution;
  - Media interview opportunities for District spokesperson;
- On-Site Inclusion as follows:
  - Prominent Port of San Diego banner placement, at District's expense and effort, in all Big Bay Boom viewing locations;
  - On-site media interview opportunities for District spokesperson;
  - Opportunity to distribute promotional items and marketing materials at all viewing locations;
  - Opportunity to provide or produce any other activities in District public spaces with a view of the Big Bay Boom, with the consent of HPP.

**CONFIRMATION OF FULFILLMENT.** To confirm fulfillment of its partnership obligations under this Agreement, HPP will forward to District documentation that it provided the above-mentioned promotional services and submit all of the following electronic materials by September 30, 2020 for the 2020 Big Bay Boom:

- Summary of Marketing and Advertising Inclusion
  - Summary of electronic marketing and advertising containing the Port logo, along with electronic images of the Port logo inclusion from each item. These include but are not limited to e-blasts, the event website, banner ads and event calendar entries;
  - List of print collateral materials generated, number of each distributed, and representative image(s) of each item;
  - Summary of social media efforts including numbers of Facebook, Instagram and other social media posts and associated numbers of followers; number of Tweets and followers;
  - Summary of paid television and radio advertising including medium (television/radio), number and length of spots and impressions, whether District received logo and/or verbal mention as a sponsor, and ad value for each ad type;
  - Summary of print newspaper/magazine advertising including name of publication, its circulation, the ad size used and the ad value for each ad;
- Summary of Communications and Publicity Inclusion
  - List of media in which District messaging was conveyed, including speaking points, e-blasts and other means;
  - List of media interview opportunities made available for a District spokesperson.
- Summary of On-Site Inclusion

- List of prominent viewing locations available for the display of a District banner(s) and distribution of District promotional items and marketing materials;
- A minimum of five (5) high resolution photographs of Big Bay Boom 2020, as applicable.

**DISTRICT FUNDING AND SERVICES.** District agrees to provide HPP, in support of Big Bay Boom 2020, the following:

**FUNDING.** Upon receipt of a proper invoice in compliance with Attachment B, Compensation & Invoicing, District shall pay HPP the sum of \$190,000.

**MARKETING & ADVERTISING SUPPORT.** District shall provide the following services in support of marketing and advertising of the Big Bay Boom:

- Customized graphic design of 2020 artwork for all media outlets in alignment with the Port brand;
- Inclusion of Big Bay Boom on Port of San Diego online events calendar;
- Event sharing/co-hosting or creation on Facebook with link to Big Bay Boom event website
- Social media mentions on Facebook (44,000 fans) and Twitter (28,000 followers) tagging handles provided by HPP, using #Wonderfront, #BigBayBoom, #SanDiegoBay and/or #GoSanDiego

**COMMUNICATIONS & PUBLICITY INCLUSION.** District shall include Big Bay Boom 2020 in the following District-produced communication and publicity items:

- Event-specific press release showcasing the Port's title or presenting role along with key event information for visitors and attendees;
- E-blast distributions to subscribers on the following Port newsletter subscriber lists: Community Events, Recreation & Tours (5,500 subscribers) and/or Headlines list (2,500 subscribers); and
- Drive-market publicity pitches.

**DISTRICT STORMWATER CONDITIONS.** The District has the authority to make and enforce necessary rules and regulations governing, among other things, stormwater management and discharge control. The District's stormwater regulations are found in Article 10 of the San Diego Unified Port District Code ("District Code"). Among other things, the District Code prohibits all non-stormwater discharges to the stormwater conveyance system and San Diego Bay.

Special events have been identified by the District as a potential source of non-stormwater discharges to the storm drain system and San Diego Bay. Discharges to the storm drain system or the Bay that are not entirely stormwater violate the District's Code. To help prevent illicit discharges, the District requires the implementation and maintenance of Best Management Practices (BMPs) at special events.

**The discharge of any event-related material (including trash, bacteria, or metals) into the storm drain system or the bay will result in a citation. BMPs specific to the activities planned for each special event are to be identified in writing prior to the event time. The following BMPs are routinely required:**

- **Trash dumpsters, portable toilets and generators shall have secondary containment and must be located at least 10 feet away from any open storm drain inlets or catch basins and the water's edge.**
- **All waste containers must be covered when not in use. Dumpsters must have lids closed and covered.**
- **Waste containers should be kept at acceptable levels (not overflowing).**
- **Full trash bags must be transported in a spill proof container to ensure that any leaks from the bags do not spill on the ground.**
- **Keep outdoor areas neat and clean before, during, and after your event.**
- **Remove and dispose of debris generated by your event.**
- **Regularly conduct outdoor sweeping of hardscape areas like the parking lot, (if spaces have been requested) sidewalks or any other paved area within your event site to adequately control dust and debris.**
- **Minimize outdoor material storage areas in and around your event space.**
- **Keep outdoor material storage areas clean and dry.**
- **Keep materials stored under overhead cover (e.g. tarps or canopies) or within secondary containment.**
- **Keep stored materials closed and secure with proper labels.**
- **Keep the event site clear from indoor activities being tracked outdoors (e.g. dirt or spilled liquids being stepped in and tracked outside).**
- **A spill kit is to be easily accessible at all locations that have the potential to pollute (wash stations, dumpsters, portable restrooms, etc.).**
- **All spills (oil, grease, trash juice and beverages) must be cleaned up immediately. Some spills will require the use of a power washer to remove any stain.**
- **Capture, contain, and properly dispose of all wash water used before, during, and after the event. If hazardous materials are present, you must hire someone who is a licensed hazardous waste removal company to properly dispose of the water.**
- **Minimize the volume of cleaning water to decrease wastewater.**
- **Keep your event clear of illegal connections and unauthorized non-stormwater discharges to the storm drain system or the bay. Only rain is allowed in the storm drain system or the bay.**
- **Keep site of leaking fluids from vehicles and equipment. Use drip pans under vehicles or equipment.**
- **Regularly conduct preventive maintenance on all vehicles and equipment directly associated with the event to ensure no leaks are present.**
- **Have absorbent booms or spill materials available when fueling vehicles and equipment on-site.**
- **Train employees in stormwater, spill response, and pollution prevention.**
- **Conduct routine inspections of BMPs and storm drain system to ensure that BMPs are being properly followed and that no discharges to the storm drains have occurred.**

BMP implementation record and the stormwater training will be filled out and signed by event organizer during a pre-event environmental walk-through. Direction related to permitted special event activities can be found in the District's Jurisdictional Runoff

Management Document (JRMP). The JRMP is available on the District website: (<https://www.portofsandiego.org/environment/clean-water.html>) or by contacting the Environmental Protection Department, (619) 686-6254.

**ATTACHMENT B**  
**COMPENSATION & INVOICING**  
**San Diego Unified Port District**

COMPENSATION. In advance of the satisfactory performance and completion of the services under this Agreement, District shall pay HPP compensation as set forth hereunder.

- HPP shall be compensated and reimbursed by District on the basis of invoices submitted.
- Each invoice shall include:
  - Date work will be performed;
  - Description of the work to be performed;
  - Agreement No. \_\_\_\_\_ - \_\_\_\_\_ 2019ND
  - The following certification phrase, with printed name, title and signature of
  - HPP's project manager or designated representative:  
"I certify under penalty of perjury that the above statement is true and correct according to the terms of Document No. \_\_\_\_\_ and that payment has not been received."
  - Date of invoice
  - A unique invoice number
- District shall, at its discretion, return to HPP, without payment, any invoice, which has been submitted without the above information and certification phrase.
- Invoices shall be e-mailed to Jocelyn dePolenc at email [jdepolenc@portofsandiego](mailto:jdepolenc@portofsandiego).
- Should District contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. District may, at any time, conduct an audit of any and all records kept by HPP for the Services. Any overpayment discovered in such an audit may be charged against the HPP's future invoices and any retention funds.
- HPP shall submit via email by September 30, 2020 all documentation listed in Attachment A, Scope of Services, under DOCUMENTATION OF FULFILLMENT.
- Payment will be made to HPP after receipt of a proper Invoice.