



Legislation Details (With Text)

File #: 2019-0256 **Version:** 1 **Name:**

Type: Action Item **Status:** Passed

File created: 6/26/2019 **In control:** Board of Port Commissioners

On agenda: 8/13/2019 **Final action:** 8/13/2019

Title: RESOLUTION AUTHORIZING AGREEMENTS FOR DISTRICT SPONSORSHIP OF UPCOMING TIDELANDS ACTIVATION PROGRAM SIGNATURE EVENTS:
 A) AGREEMENT WITH 3D ART EXPO LLC FOR SPONSORSHIP OF ANNUAL U.S. SAND SCULPTING CHALLENGE AND DIMENSIONAL ART EXPOSITION IN AN AMOUNT NOT TO EXCEED \$15,000 IN FUNDING AND \$78,450 IN WAIVED FEES FOR DISTRICT SERVICES EACH YEAR FOR TWO YEARS, FOR TOTAL FUNDING NOT TO EXCEED \$30,000 AND TOTAL WAIVED DISTRICT SERVICES NOT TO EXCEED \$156,900. FUNDS REQUIRED FOR FY2020 ARE BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET;
 B) AGREEMENT WITH THE NATIONAL CITY CHAMBER OF COMMERCE FOR SPONSORSHIP OF ANNUAL INTERNATIONAL MARIACHI FESTIVAL AND COMPETITION IN AN AMOUNT NOT TO EXCEED \$65,000 IN FUNDING AND \$31,237 IN WAIVED FEES FOR DISTRICT SERVICES EACH YEAR FOR TWO YEARS, FOR TOTAL FUNDING NOT TO EXCEED \$130,000 AND TOTAL WAIVED DISTRICT SERVICES NOT TO EXCEED \$62,474. FUNDS REQUIRED FOR FY2020 ARE BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

Sponsors:

Indexes:

Code sections:

Attachments: 1. 4. 2019-0256 Attachment A, 2. 4. 2019-0256 Attachment B, 3. 4. 2019-0256 Draft Resolution

Date	Ver.	Action By	Action	Result
8/13/2019	1	Board of Port Commissioners	adopted	

DATE: August 13, 2019

SUBJECT:

RESOLUTION AUTHORIZING AGREEMENTS FOR DISTRICT SPONSORSHIP OF UPCOMING TIDELANDS ACTIVATION PROGRAM SIGNATURE EVENTS:

- A) AGREEMENT WITH 3D ART EXPO LLC FOR SPONSORSHIP OF ANNUAL U.S. SAND SCULPTING CHALLENGE AND DIMENSIONAL ART EXPOSITION IN AN AMOUNT NOT TO EXCEED \$15,000 IN FUNDING AND \$78,450 IN WAIVED FEES FOR DISTRICT SERVICES EACH YEAR FOR TWO YEARS, FOR TOTAL FUNDING NOT TO EXCEED \$30,000 AND TOTAL WAIVED DISTRICT SERVICES NOT TO EXCEED \$156,900. FUNDS REQUIRED FOR FY2020 ARE BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET;**
- B) AGREEMENT WITH THE NATIONAL CITY CHAMBER OF COMMERCE FOR SPONSORSHIP OF ANNUAL INTERNATIONAL MARIACHI FESTIVAL AND COMPETITION IN**

AN AMOUNT NOT TO EXCEED \$65,000 IN FUNDING AND \$31,237 IN WAIVED FEES FOR DISTRICT SERVICES EACH YEAR FOR TWO YEARS, FOR TOTAL FUNDING NOT TO EXCEED \$130,000 AND TOTAL WAIVED DISTRICT SERVICES NOT TO EXCEED \$62,474. FUNDS REQUIRED FOR FY2020 ARE BUDGETED. FUNDS REQUIRED FOR FUTURE FISCAL YEARS WILL BE BUDGETED IN THE APPROPRIATE FISCAL YEAR, SUBJECT TO BOARD APPROVAL UPON ADOPTION OF EACH FISCAL YEAR'S BUDGET

EXECUTIVE SUMMARY:

The District's Waterfront Arts & Activation department administers the annual Tidelands Activation Program (TAP). On April 9, 2019, the Board approved a line-item budget for funding and services for the FY20 TAP cycle in support of activation events on District tidelands. It was subsequently included in the District's FY2020 Annual Budget which was approved on June 18, 2019. Included in this agenda item are approvals of the corresponding agreements for two TAP events: Annual U.S. Sand Sculpting Challenge and Dimensional Art Exposition (Sand Sculpting) and the Annual International Mariachi Festival and Competition (Mariachi Festival).

Both of these are classified as TAP Signature Events per BPC Policy No. 771: Tidelands Activation Program. Signature Events are those that attract large numbers of people to the District tidelands, generate substantial documented financial and/or promotional impact; and provide the District with title sponsorship or similar consideration. Per policy, the producers of Signature Events are offered the option of negotiating a multi-year agreement with the District for sponsorship of their events; renewal of the agreement for the second year and beyond is contingent upon satisfactory completion of the event and approval of funding each year as part of the District's annual budget process. Both 3D Art Expo, LLC and the National City Chamber of Commerce, who are the producers and TAP sponsorship recipients for Sand Sculpting and Mariachi Festival respectively, have requested two-year agreements with the District for sponsorship of their FY20 and FY21 events. Under this agenda item, staff is recommending Board approval of these two TAP agreements.

RECOMMENDATION:

Adopt a Resolution authorizing agreements for District sponsorship of upcoming Tidelands Activation Program events:

- A) Agreement with 3D Art Expo LLC For Sponsorship of Annual U.S. Sand Sculpting Challenge and Dimensional Art Exposition in an amount not to exceed \$15,000 in funding and \$78,450 in waived fees for District services each year for two years, for total funding not to exceed \$30,000 and total waived district services not to exceed \$156,900. Funds required for FY2020 are budgeted. Funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget;
- B) Agreement with the National City Chamber of Commerce for sponsorship of Annual International Mariachi Festival and Competition in an amount not to exceed \$65,000 in funding and \$31,237 in waived fees for District services each year for two years, for total funding not to exceed \$130,000 and total waived District services not to exceed \$62,474. Funds required for FY2020 are budgeted. Funds required for future fiscal years will be budgeted in the appropriate fiscal year, subject to Board approval upon adoption of each fiscal year's budget.

FISCAL IMPACT:

Funds for the FY20 Tidelands Activation Program are included in the District's Waterfront Arts & Activation department's non-personnel expense budget. Expenses associated with waived service fees under the Tidelands Activation Program will be tracked and accounted for, throughout the year. No other ongoing costs are associated with this action. Future fiscal years will be budgeted in the appropriate fiscal year subject to Board approval upon adoption of each fiscal year's budget.

COMPASS STRATEGIC GOALS:

Events sponsored through the Port of San Diego Tidelands Activation Program (TAP) generate return on investment in the form of promotional benefit and incremental revenue derived from events, and through attracting visitors to enjoy a variety of events and recreational opportunities on District tidelands. This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.

- A Port with a healthy and sustainable bay and its environment.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

On January 9, 2018, the Board approved revisions to Board Policy No. 771: Tidelands Activation Program (TAP) to incorporate provisions for event producers to request multi-year sponsorship agreements for TAP Signature Events. Criteria for determining eligibility for a multi-year agreement include an event's success with: attracting attendance, generating financial and/or promotional impact to the District, operating sustainably and responsibly, and meeting its sponsorship fulfillment obligations to the District. This agenda item includes multi-year sponsorship agreements for both Sand Sculpting (Attachment A) and Mariachi Festival (Attachment B) to provide sponsorship for events in FY20 and FY21.

Both Sand Sculpting and Mariachi Festival met their objectives and obligations to the District in the execution of their previous FY19 TAP events. At the conclusion of their upcoming FY20 events, staff will reevaluate the performance of each of these events and, if performance is satisfactory, will recommend that the Board approve the continued funding and services for the second year of each, as part of the District's annual FY21 budgeting process. Following FY21, the producers of these events will be required to apply for TAP sponsorship.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda and proposed agreements as presented as well as the proposed agreements and resolution as to form and legality.

Environmental Review:

Resolution A

The proposed Board action, including without limitation, a resolution authorizing an agreement for sponsorship of the annual U.S. Sand Sculpting Challenge and Dimensional Art Exposition is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15304 (Minor Alterations to Land) and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Section 3.d. of the District's Guidelines for Compliance with CEQA because the project would consist of a temporary event that would not involve the removal of mature, scenic trees, would not have any permanent effects on the environment, and would consist of the normal operations of existing facilities for public gatherings. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2). A CEQA Exemption was previously issued for this project on August 8, 2017. The proposed project is consistent with the project analyzed in the Categorical Determination. The proposed Board action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed, and no further environmental review is required.

In addition, the proposed Board action comply with Sections 21, 35, and 87 of the Port Act, which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its power, and the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board action was covered in the Coastal Development Permit (CDP) for the U.S. Sand Sculpting Challenge and Dimensional Art Exposition (CDP-2017-11). The proposed Board action is consistent with the project in the CDP. No additional action under the California Coastal Act is required at this time.

Resolution B

The proposed Board action, including without limitation, a resolution authorizing an agreement for sponsorship of the

Annual International Mariachi Festival or Competition is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15304 (Minor Alterations to Land) and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Section 3.d. of the District's Guidelines for Compliance with CEQA because the project would consist of a temporary event that would not involve the removal of mature, scenic trees, would not have any permanent effects on the environment, and would consist of the normal operations of existing facilities for public gatherings. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2). A CEQA Exemption was previously issued for this project on February 19, 2019. The proposed project is consistent with the project analyzed in the Categorical Determination. The proposed Board action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed, and no further environmental review is required.

In addition, the proposed Board action comply with Sections 21, 35, and 87 of the Port Act, which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its power, and the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

Finally, the proposed Board action is considered "excluded development" pursuant to Sections 8.d. (5) (Minor Alterations to Land) of the District's Coastal Development Permit Regulations because the project would consist of a temporary event that would not involve the removal of mature, scenic trees, and would have no permanent effects on the environment. A "Coastal Act Categorical Determination of Exclusion" was previously issued for this project on February 19, 2019; therefore, issuance of a Coastal Development Permit or subsequent Exclusion is not required for the proposed Board action.

Equal Opportunity Program:

Not applicable..

PREPARED BY:

Jim Hutzelman
Manager, Waterfront Arts & Activation

Yvonne Wise
Director, Waterfront Arts & Activation

Attachment(s):

- Attachment A: Tidelands Activation Program Multi-Year Agreement with 3D Art Expo LLC for Sponsorship of Annual U.S. Sand Sculpting Challenge and Dimensional Art Exposition
- Attachment B: Tidelands Activation Program Multi-Year Agreement with National City Chamber of Commerce for Sponsorship of Annual International Mariachi Festival and Competition