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Title: RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO WONDERLUST EVENTS, LLC FOR THE WONDERFRONT FESTIVAL

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9/16/2019	1	Board of Port Commissioners	adopted	Pass

DATE: September 16, 2019

SUBJECT:

RESOLUTION AUTHORIZING ISSUANCE OF A NON-APPEALABLE COASTAL DEVELOPMENT PERMIT TO WONDERLUST EVENTS, LLC FOR THE WONDERFRONT FESTIVAL

EXECUTIVE SUMMARY:

Wonderlust Events, LLC, as the Project Applicant ("Applicant" or "Permittee"), proposes a temporary three-day music and arts festival event, referred to as the "Wonderfront Festival" ("Festival"). The Festival would be located on areas within and outside of District jurisdiction, roughly bounded by the San Diego trolley line from Santa Fe Depot along C Avenue to the Imperial station at the base of 12th Avenue and all along portions of the North and South Embarcadero bayfront in San Diego (Attachment A, Exhibit 1). The Applicant also proposes the setup and load in, and breakdown and load out of associated Festival improvements within District jurisdiction. The Festival and associated improvements and activities, as well as setup and breakdown of the Festival, described herein are collectively referred to as the "Project." Only the areas of the Project within District jurisdiction would be permitted by the subject Coastal Development Permit (CDP) and are shown in Attachment A, Exhibit 2, Project Site. The Applicant will need to obtain other approvals and permits for Project activities outside of the District's jurisdiction.

Subject to certain conditions, including an approval of the Project each year by the District, the CDP has a term for five (5) years and the inaugural 2019 Festival would take place over three days in November (Friday, November 22 to Sunday, November 24, 2019). The weekend preceding Thanksgiving is a period when tourism in the San Diego region is typically low in comparison with the rest of the year and presents an opportunity to activate District tidelands with high-quality family-friendly entertainment and attractions and provide economic return to the region. Setup and breakdown would take approximately eight days; setup would occur approximately five days prior to

the Festival (Sunday, November 17 to Thursday, November 21), and breakdown would occur three days after the Festival (Monday, November 25 to Wednesday, November 27).

The Project would involve: the temporary use of District public parks and other public spaces, public parking lots, District tenant leasehold areas; the temporary erection of structures (including up to 10 event stages), and equipment to support music and sports performances and other Festival activities; the operation of the Festival event; the operation of transportation facilities and services, including land and water shuttle systems, ride sharing and micro-mobility transportation hubs, and parking facilities; and the temporary modification of two District internal circulation street segments. Several District public parks and other public spaces, public parking areas, and portions of District tenant leaseholds would be temporarily closed during some or all of the duration of the Project to allow for setup, breakdown, and Festival activities.

The ticketed venues are where paid music and sports performances and large-scale activations would occur within fenced and gated areas, and may include all or a portion of the following locations: Port Pavilion and Broadway Pier, Ruocco Park, Seaport Village Main Parking Lot, San Diego Bayfront Park [adjacent to the Hilton San Diego Bayfront (Hilton) and Fifth Avenue Landing (FAL)], Embarcadero Marina Park North (EMPN), and Embarcadero Marina Park South (EMPS). EMPS shall only be used subject to availability and appropriate written authorization(s) from the District and/or District lessee San Diego Symphony Orchestra Association (SDSOA).

The Festival would also feature activation sites where unticketed, smaller-scale activations, such as open-air markets, outdoor movie screenings, sports performances, and busker and band and other entertainer performances and activations, would occur, and may include all or a portion of the following locations: Lane Field Park, The Headquarters courtyard, Ruocco Park, Seaport Village, Marriott Marquis San Diego Marina (Marriott) Marina Terrace, and the North and South Embarcadero Promenades. These activations would be available to Festival patrons as well as the general public. For the 2019 Festival, the Applicant proposes to use the eastern portion of EMPS (outside the SDSOA leasehold area) as an activation area.

RECOMMENDATION:

Adopt a resolution authorizing issuance of a Non-Appealable Coastal Development Permit to Wonderlust Events, LLC for the Wonderfront Festival.

FISCAL IMPACT:

An existing agreement between the District and Wonderlust Events, LLC includes District sponsorship for the 2019 Festival in the form of service fee waivers and funding. This sponsorship consists of \$350,000 in waived fees for District services and \$150,000 in District funding, which is anticipated to be spent in FY 2020.

The waived service fees include the use of substantial pier, park, open spaces, and parking spaces, as well as the services of the San Diego Harbor Police, General Services, and a variety of departments involved with permitting and entitlements, including the cost to the Development Services Department incurred in the preparation of the proposed CDP. Expenses associated with waived service fees will be tracked and accounted for throughout the year.

The 2019 Festival is anticipated to generate direct revenue to tenant businesses including hotels,

restaurants, retail enterprises, parking facilities and visitor attractions. This business revenue, in turn, results in concession rent and ticket sale revenue share to the District estimated at \$236,000 to \$422,000.

COMPASS STRATEGIC GOALS:

The Board's action would authorize issuance of a CDP for a temporary event that would help ensure that San Diego Bay remains a vibrant waterfront destination by continuing to provide opportunities for activation of the waterfront.

This agenda item supports the following Strategic Goal:

- A vibrant waterfront destination where residents and visitors converge.

DISCUSSION:

Background

Sponsorship of the 2019 Wonderfront Festival was approved by the Board on July 17, 2018 through an agreement with Stay Classy San Diego, LLC for sponsorship of a three-day music and arts festival on District tidelands. At the July 9, 2019 Board meeting, staff presented an update on the festival as well as a proposed amendment to the agreement to add \$150,000 in funding. During that meeting, the Board requested that staff provide additional information regarding the potential revenue to the District and cost of the festival. At the August 8, 2019 Board meeting, staff provided the Board with the information requested at the July 9, 2019 Board meeting, and the Board authorized adding the \$150,000 in funding.

Proposed Project

Wonderlust Events, LLC, as the Project proponent/applicant ("Applicant" or "Permittee"), proposes a temporary three-day music and arts festival, referred to as the "Wonderfront Festival" ("Festival"). The Festival would be located on areas within and outside of District jurisdiction, roughly bounded by the San Diego trolley line from Santa Fe Depot along C Avenue to the Imperial station at the base of 12th Avenue and all along portions of the North and South Embarcadero bayfront in San Diego (Attachment A, Exhibit 1). The Applicant also proposes the setup and load in, and breakdown and load out of associated Festival improvements within District jurisdiction. The Festival and associated improvements and activities, as well as setup and breakdown of the Festival, described herein are collectively referred to as the "Project." The subject CDP would only permit the areas of the Project within District jurisdiction (Attachment A, Exhibit 2). The Applicant will need to obtain other approvals and permits for Project activities outside of the District's jurisdiction.

The Project Site includes the following District public parks and other public spaces, public parking lots, and District tenant leasehold areas:

- Port Pavilion and Broadway Pier
- Lane Field Park
- North Embarcadero Promenade (Broadway Pier to Tuna Harbor)
- Ruocco Park (including adjacent parking)
- Seaport Village (including parking lots)
- The Headquarters courtyard

- Marriott Marina Terrace
- FAL parking lots
- San Diego Bayfront Park (adjacent to Hilton and FAL)
- EMPN (including parking lot)
- EMPS (including parking lot)
- Joe's Crab Shack parking lot
- SDSOA leasehold
- South Embarcadero Promenade (EMPN to EMPS)

The Festival would feature culinary, arts, and musical entertainment in a variety of genres, as well as a variety of other activities and activations in the public spaces and leaseholds spanning the length of the Project Site. Mobility hubs would be organized throughout the Festival that would bring together shuttle stops, bike and micro-mobility vehicle parking, and ride-sharing businesses with transit and pedestrian connections.

The Project would involve: the temporary use of District public parks and other public spaces, public parking lots, District tenant leasehold areas; the temporary erection of structures (including up to 10 event stages), and equipment to support music and sports performances and other Festival activities; the operation of the Festival event; the operation of transportation facilities and services, including land and water shuttle systems, ride sharing and micro-mobility transportation hubs, and parking facilities; and the temporary modification of two District internal circulation street segments. Several District public parks and other public spaces, public parking areas, and portions of District tenant leaseholds would be temporarily closed during some or all of the duration of the Project to allow for setup, breakdown, and Festival activities. Attachment A, Exhibit 4 shows the areas that would be temporarily closed to the public due to Festival setup activities. Attachment A, Exhibits 7 through 12 contain proposed site plans for the areas where Festival staging, activities, paid music performances at gated ticketed venues, and large-scale activations may occur consistent with the subject CDP.

For portions of the Project Site that occur within District public areas subject to a separate District permit (such as a District-issued Park Permit) or requirements, each site may only be used for Festival staging and activities subject to availability and appropriate written authorizations from the District and said Festival activities shall comply with the subject CDP. For portions of the Project Site that occur within District leaseholds, Applicant shall obtain a valid written agreement from the leasehold lessee authorizing the Project activities on the leasehold and said Festival activities shall comply with the subject CDP. The Applicant shall have the valid signed agreements in place with all District lessees authorizing use of the leaseholds and shall provide the District with a copy of each valid signed Agreement no later than 30 days prior to commencement of the Project (i.e., Festival setup) for the District's review and written consent, which may be granted or denied. For Applicant use of District public parks, the Broadway Pier and Port Pavilion, and other District public areas requiring a separate permit, the Applicant shall obtain the appropriate temporary park permit(s) and/or agreement(s) from the District within 30 days prior to Festival setup.

Subject to certain conditions, including an approval of the Project each year by the District, the CDP has a term for five (5) years and the inaugural 2019 Festival event would take place over three days in November (Friday, November 22 to Sunday, November 24, 2019). The weekend preceding Thanksgiving is a period when tourism in the San Diego region is typically low in comparison with the rest of the year and presents an opportunity to activate District tidelands with high-quality family-friendly entertainment and attractions and provide economic return to the region. Setup and

breakdown would take approximately eight days; setup would occur approximately five days prior to the Festival (Sunday, November 17 to Thursday, November 21), and breakdown would occur three days after the Festival (Monday, November 25 to Wednesday, November 27).

The ticketed venues are where paid music and sports performances and large-scale activations would occur within fenced and gated areas, and may include all or a portion of the following locations:

- Port Pavilion and Broadway Pier
- Ruocco Park
- Seaport Village Main Parking Lot
- San Diego Bayfront Park (adjacent to the Hilton and FAL)
- EMPN
- EMPS. EMPS shall only be used subject to availability and appropriate written authorization(s) from the District and/or District lessee SDSOA. Fisherman access to the public fishing pier at EMPS will be available for the entire duration of the Project.

Paid musical performances and large-scale activations would occur at the outdoor ticketed venue sites described above from 3:00pm to 10:00pm on Friday and 11:30am to 10:00pm on Saturday and Sunday. For the Port Pavilion at Broadway Pier indoor venue, performances and activations would occur: Friday from 3:00pm to 12:00am, Saturday from 11:30am to 12:00am, and Sunday from 11:30am to 10:00pm. Under no circumstances shall any outdoor performances occur past 10:30pm or indoor performances occur past 12:00am. For the 2019 Festival, the ticketed venues are anticipated to have a combined maximum attendance of 35,000 people per day, with a combined maximum total attendance of 105,000 people at the ticketed venues over the duration of the Festival.

Activation sites are where unticketed, smaller-scale activations, such as open-air markets, outdoor movie screenings, sports performances, and busker and band and other entertainer performances and activations, would occur, and may include all or a portion of the following locations: Lane Field Park, The Headquarters courtyard, Ruocco Park, Seaport Village, Marriott Marina Terrace, and the North and South Embarcadero Promenades. For the 2019 Festival, the Applicant also proposes to use the eastern portion of EMPS (outside the SDSOA leasehold area) as an activation site. Back of house operations, which would include comfort areas for Festival employees and entertainers, first aid stations, and storage, would be located at all of the above ticketed venues and activation sites. Back of house operations involving long-term parking for trucks and large vehicles would occur at FAL and the Seaport Village South parking Lot. Attachment A, Exhibit 6 shows the areas containing ticketed venues and back of house operations. The above activation and back of house sites shall only be used by the Applicant subject to availability and appropriate written authorizations from the District and/or District lessees as specified in the CDP.

Setup would take place approximately five (5) days before the Festival and would consist of: up to 10 music stages (of varying sizes up to 45 feet high, 90 feet wide, and 56 feet deep), backstage, infrastructure, concession booths, exhibitor booths, sponsor activations, portable restrooms, tents, art installations, back of house infrastructure, production trailers, and equipment including: sound and light and video systems; temporary eight-foot-high fencing with scrim cover; temporary food and beverage booths; food trucks; activations and vendor booths; temporary structures; portable games such as corn hole and ping pong; generators for powering the stages, and a box office(s). Mobility hub improvements would include tents, bicycle storage, and VIP lounges. A temporary pedestrian

bridge (approximately 25 feet long, 10 feet wide, and 13 feet high) will span the southeast end of Kettner Boulevard and the entrance to EMPN, traversing over and across a portion of the South Embarcadero Promenade near Seaport Village. The Project also proposes temporary street segment modifications at Kettner Boulevard and Convention Way (see Attachment A, Exhibit 2 and Exhibit 5).

At a minimum, three (3) smaller-scale free activations shall be included as part of the Project during each day of the Festival. Such activations shall include: open-air markets, outdoor movie screenings, sports performances, busker and band and other entertainer performances, or similar activations. These activation sites shall not be gated during the smaller-scale activations, shall not require a Festival ticket for admission, and shall be accessible to ticketed Festival patrons as well as the general public.

The Applicant shall provide free programming such as: a free community stage that will host 14.5 hours of live music entertainment, professional skateboard performances, and other activities such as salsa dancing bands, wine and craft beer tastings, and entertainers such as bands and buskers. The Applicant would also host musicians, buskers, and other entertainers, which may occur at the following locations: along the North Embarcadero Promenade (between Broadway Pier and Tuna Harbor), the South Embarcadero Promenade (between EMPN and EMPS), and the Marriott Marina Terrace.

In addition, the Applicant shall provide Festival access to underserved communities by donating free tickets. For the 2019 Festival, such tickets shall be the equivalent of 3,000 weekend passes or 9,000 one-day passes (or a combination of both) or 10% of anticipated ticket sales, whichever is greater.

Approximately 960 pre-paid parking spaces would be available for Festival patrons at the following District parking areas: Manchester Grand Hyatt Hotel, Marriott Hotel, InterContinental San Diego Hotel, and Wyndham San Diego Bayside Hotel, and at other upland, non-District tideland parking areas. Other parking facilities for Festival patrons and employees containing approximately 5,900 parking spaces would be located throughout downtown both on District tidelands [Convention Center Public Parking Garage (underground at the Convention Center) and Convention Center (Adjacent to the Hilton) Public Parking Garage] and off tidelands will also be available on a first come, first served basis. Furthermore, approximately 220 free, limited duration (three hours) parking spaces would be available to the general public (at ABM Lot #1023 located off District tidelands) to help offset the temporary loss of parking spaces resulting from Festival activities.

The Project would provide several mobility options which would serve to facilitate access between the Festival grounds along the bayfront and the greater downtown San Diego area, including:

- Festival patron shuttle that would provide access between the three main festival entrances at Broadway Pier, Seaport Village, and FAL;
- Free fixed-route shuttle for the general public operated by an ADA-compliant neighborhood electric vehicle, similar to a Free Ride San Diego (FRED) vehicle;
- Mobility hubs that would contain bicycle parking and dockless micro-mobility vehicles, and some hubs would contain premium waiting areas for Festival shuttle and ride-hailing; and
- Flagship water ferry route for Festival patrons between venue areas.

Breakdown would take place approximately three (3) days following the Festival and would consist of: load out of booths and stages, production trailers, portable restrooms, infrastructure, and

equipment (including forklifts, man lifts, box trucks, and semi-trucks). During breakdown, portions of the parks and parking lots may be open to the general public certain times during breakdown days, with access restricted to Festival staff the remainder of the time to allow for breakdown. Attachment A, Exhibit 13 shows the areas that would be temporarily closed to the public due to Festival breakdown activities. The Applicant shall restore the Project Site and the street segment modifications to their original condition at the time of setup or better condition.

Coastal Development Permit

The subject CDP is proposed to have a term of five (5) years from its effective date, and shall only permit the inaugural 2019 Festival and subsequent four (4) years, if the Festival is approved in writing by the District for each subsequent year and the Applicant obtains all other necessary agreements and permits from the District and other regulatory agencies. The “Development” section of the Draft CDP represents a worst-case scenario, and activities and configuration of Project components may vary, but may not exceed the parameters described in the “Development” section of the CDP, as determined by the District, without a future amendment to the CDP.

The Project site is located in the Civic Zone, Tuna Harbor, Marina Zone, and Convention Way Basin Subareas of Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan. The land use designations within the limits of the Project site are Commercial Recreation, Marine Terminal, Park/Plaza, Street, and Promenade. Temporary event uses are ancillary to allowed uses under the land use designations. Furthermore, the event is consistent with the applicable special conditions and programming criteria of the existing CDPs for Broadway Pier and Pavilion, FAL, Hilton, Lane Field, The Headquarters, Marriott Marina Terrace, and Ruocco Park. Therefore, the event would be consistent with the certified land use designations, the certified PMP, and existing entitlements, as a temporary special event.

Per the CCC Temporary Event Guidelines, temporary events shall be excluded from CDP requirements except those which: are held between Memorial Day Weekend and Labor Day; and, occupy all or a portion of a sandy beach area or the District’s equivalent of shoreline parks/plaza; and involve a charge for general public admission or seating where no fee is currently charged for use of the same area. While the proposed event would not take place between Memorial Day Weekend and Labor Day, the event is located adjacent to the Bay on park/plaza area, and there would be a charge for public admission where no fee is currently charged for use of the same area. Furthermore, the Guidelines stipulate that a CDP may be required if an event precludes the general public from use of a public recreational area for a significant period of time. In total, the Project would preclude the general public from use of all or portions of a public recreational area for up to 11 days.

In accordance with the District’s CDP Regulations, the proposed actions constitute a Non-Appealable development under Section 7.d.(3) of the District’s CDP Regulations (Regulations): Non-Appealable developments are those not classified in the Regulations in Section 7.d.(1) as “Excluded,” in 7.d.(2) as “Emergency,” or in 7.d.(4) as “Appealable.” Pursuant to Coastal Act Section 30715 and Sections 7.d.(3) and (4) of the Regulations, events and associated temporary improvements/facilities are not listed as appealable developments, requiring an appealable CDP.

Additionally, pursuant to the California Coastal Act, the proposed development is considered “non-appealable”. Chapter 8 of the Coastal Act regulates development within a port in the California coastal zone. Section 30715 of Chapter 8 specifies the sole categories of development that may be appealed to the CCC. A temporary special event is not listed as appealable in Section 30715.

Portions of the Project Site are identified as estuary/wetland on the 1975 Coastal Plan and consistent with Public Resource Code Section 30700, the Project must comply with the Chapter 3 and 8 policies of the Coastal Act. The Project's temporary improvements and use of public areas are "development" as defined in Section 30106 of the Coastal Act. The temporary use of the Project site is fully consistent with applicable land uses identified in the Port Master Plan and Chapters 3 and 8 of the Coastal Act (see Cal. Public Resources Code Section 30700, et seq.). Based on this finding and the entire record, a Non-Appealable CDP may be issued. The District has determined that one Non-Appealable CDP for the Project may be issued.

A copy of the Draft Non-Appealable CDP is provided as Attachment A to this Agenda Sheet. Conditions are incorporated into the draft CDP to ensure conformance with related District requirements and conditions of the existing CDPs. A Public Access Plan (PAP) will be a requirement of the CDP and will ensure that certain areas within the Project Site will be available to the general public during the Project, either to access the bayfront or to participate in certain Festival activities, and that the general public is aware of the public amenities that will be available during the Festival, and will include: information posted on the Festival website and included in all applicable promotional materials (i.e. press releases and information brochures) all amenities available to the general public during the Festival; the availability to the general public of certain District public parks and other public spaces, public parking areas, and District tenant leaseholds during various times during setup, Festival activities, and breakdown; the availability to the general public of certain public areas the entire duration of the Project including the fishing pier at EMPS, North and South Embarcadero Promenades, and EMPN and EMPS perimeter promenade segments (except one hour prior to and during paid music performances); the availability of smaller-scale activations and free programming for Festival patrons and the general public; the availability of free parking/fixed-route shuttle service and alternative parking locations for the general public; information regarding the two temporary street segment modifications; and signage clearly indicating areas open to the general public during the Project, general public parking information, and other amenities available to the general public during the Project. Following the Festival, the Applicant will be required to submit a PAP Report to the District demonstrating conformance with the PAP requirements of the CDP.

General Counsel's Comments:

The Office of General Counsel has reviewed this agenda sheet and attachments, as presented to it, and approves them as to form and legality.

While the term of the proposed CDP is for five (5) years, issuance of the CDP does not constitute approval of any future District sponsorship or approvals in any form and may not be relied on to obtain or claim entitlement to any District sponsorship or approvals.

Environmental Review:

The proposed Board action would authorize issuance of a Non-Appealable CDP for the proposed Project. A CEQA Exemption was previously issued for this project on September 13, 2018. The Project was Categorically Exempt pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15311 (Accessory Structures), and/or 15323 (Normal Operations of Facilities for Public Gatherings) and Sections 3.a., 3.d. (6), and/or 3.i. of the District's Guidelines for Compliance with CEQA. The Project is consistent and within the scope of the project analyzed in the District's exemption and Notice of Exemption. 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 Project for which environmental review was performed, and no further environmental review is required.

The proposed Board actions comply with Section 87 of the Port Act, which allows for 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 Project is consistent with the Public Trust Doctrine.

Equal Opportunity Program:

Not applicable.

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Attachment(s):
Attachment A: Draft Coastal Development Permit