



Legislation Text

File #: 2018-0268, **Version:** 1

DATE: July 17, 2018

SUBJECT:

RESOLUTION WAIVING BOARD OF PORT COMMISSIONERS POLICY NO. 110 SECTION II E AND AUTHORIZING AN AGREEMENT WITH STAY CLASSY SAN DIEGO, LLC FOR SPONSORSHIP OF A SAN DIEGO FESTIVAL IN NOVEMBER 2019 ON THE DOWNTOWN SAN DIEGO WATERFRONT IN AN AMOUNT NOT TO EXCEED \$100,000 IN FUNDING AND WAIVER OF DISTRICT SERVICES NOT TO EXCEED \$350,000; FY 2019 EXPENDITURES ARE BUDGETED

EXECUTIVE SUMMARY:

District staff was approached by representatives of Stay Classy San Diego, LLC (SCSD) with the concept of investing in the region with the creation of a premier three day waterfront culinary arts and music festival for 2019 (Festival) that will span several locations on and adjacent to the San Diego Bay waterfront. The principals of SCSD have an accomplished track record of successful event production and promotion, along with the professional experience and proven ability to secure substantial sponsorships from multiple entities to produce distinctive events with national recognition. The prospective event is proposed for November 2019 during the weekend prior to Thanksgiving. This time frame presents an opportunity to activate District tidelands with high quality family-friendly entertainment and attractions including music, culinary, and arts, with a three-day festival that has the potential to generate high numbers of incremental room-nights and other visitor spending during a typically low tourism weekend. The proposed venues for the 2019 Festival include public and privately managed facilities in District parks and Broadway Pier; and on tenant leaseholds. The Festival will span Friday through Sunday, November 22-24, 2019.

This agenda item is being brought forward for the Board to adopt a resolution to authorize and agreement with Stay Classy San Diego, LLC (Attachment A) for District sponsorship of a premier three-day waterfront Festival in November 2019. Board of Port Commissioners Policy No. 110 Section II E requires that agreements for over \$175,000 use a formal solicitation process. Staff recommends waiving that process and entering into an agreement with SCSD.

RECOMMENDATION:

Adopt a resolution waiving Board of Port Commissioners Policy No. 110 Section II E and authorizing an agreement with Stay Classy San Diego, LLC for sponsorship of a festival event in November 2019, in an amount not to exceed \$100,000 in funding and up to \$350,000 in District services.

FISCAL IMPACT:

While the Festival will occur during FY 2020, the special event expenditure in the amount of \$100,000 will be incurred during the FY 2019 budget year due to the lead time required for the event sponsor to effectively market and promote a multi-day entertainment event of this scale and magnitude as well as contract with high-profile entertainers.

Funds for this major event sponsorship of \$100,000 are budgeted in the Waterfront Arts & Activation department's FY 2019 non-personnel expense budget. Waiver of the proposed \$350,000 District services and facilities fees are anticipated to occur during FY 2020 and will be included in that year's budget, subject to Board approval upon adoption of the budget.

This event is anticipated to generate indirect revenue consisting of concession rent from District tenant hotels, restaurants, retail enterprises and tenant/operator parking facilities, and direct revenues from ticket sales. Sponsorship of this event will also generate indirect value from the promotional considerations to be provided to the District.

COMPASS STRATEGIC GOALS:

The Festival on the downtown Embarcadero will activate multiple locations on the District tidelands with several thousand visitors who will experience San Diego Bay and the waterfront, contribute to the social media following of the District and its activities, and generate revenue to the District and its tenants during a timeframe in the region's low season for tourism. This agenda item therefore supports the following Strategic Goal(s):

- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The District's mission includes activating the waterfront with unique special events that will engage a wide range of audiences and enhance the waterfront experience throughout the year. The principals of SCSD -- Paul Thornton and Ernie Hahn -- have a proven track record of success in the production and promotion of events that include major outdoor festivals. Their experience also entails the development of outdoor music venues, the most notable of which is the Skyline Theatre at the Long Center in Austin, Texas. Paul Thornton has over 25 years of experience in event production that includes major elements of the ESPN X Games, Formula 1 Racing, and Austin FanFest, an annual motor sports festival. Ernie Hahn has served as the general manager of the Valley View Casino Center/San Diego Sports Arena for the past 12 years, overseeing the booking, development, sponsorship and day-to-day operations of the arena. Mr. Hahn was instrumental in the return of the American Hockey League San Diego Gulls to the Arena, where they are one of the top-attendance teams in all of minor league hockey.

The proposed Festival will span 3 days - Friday through Sunday, November 22-24, 2019 - and is designed to appeal to a variety of age groups and demographics including families. The Festival will feature culinary, arts, and musical entertainment in a variety of genres in each of the following venues: Embarcadero Marina Park North, Embarcadero Marina Park South and Broadway Pier, as

well as the San Diego Convention Center, San Diego Bayfront Park, Fifth Avenue Landing Park, and - if available - the main parking lot of Seaport Village at the foot of Kettner Boulevard. Any usage of non-public tidelands locations and San Diego Bayfront Park and Fifth Avenue Landing Park will be arranged with the appropriate parties for those facilities. The vision of the producers is to provide activities and entertainment offerings in public facilities along the Embarcadero Promenade that connects these venues to each other, and to promote and support any attractions at District tenant businesses that are located along this route.

The Festival is strategically timed to be held on the weekend prior to Thanksgiving 2019, a period when tourism to the San Diego region is typically low in comparison with the rest of the year and an optimum time for a destination event. Accordingly, the Festival provides an important opportunity to make San Diego Bay and the region a destination during this timeframe, with the potential to attract families and individuals to the Tidelands for extended stays that include the days of the event and the subsequent week and weekend of the Thanksgiving holiday.

The Festival is projected to generate direct revenue to numerous District tenant businesses including hotels, restaurants, retail enterprises, parking facilities and visitor attractions. This business revenue in turn results in concession rent to the District. The proposed sponsorship agreement with SCSD for the festival also contains provisions for the District to receive percentage rent from SCSD in the following manner:

- If gross ticket revenue exceeds a threshold amount of \$7,250,000, the District receives 3.5% of the difference between the threshold amount and the actual gross ticket revenue. The forecasted gross ticket revenue amount is \$7,542,000. By way of example, if this forecasted amount is the actual gross ticket revenue, the District would receive 3.5% of the difference between \$7,542,000 and \$7,250,000, totaling \$10,220.
- If actual gross ticket revenue is less than the threshold amount of \$7,250,000, the District would receive a minimum rent of two-thirds of the above \$10,220 in total forecasted versus threshold ticket revenue amount, or \$6,813.

The proposed agreement also contains an extensive array of branding, promotional and community engagement considerations to the District. Highlights of these include:

Branding & Promotions

- District designation as presenting sponsor of the Festival;
- Prominent District banner and logo placement in the individual Festival venues;
- Dedicated space for District promotional activity;
- District-produced ads, videos and logo placement throughout the Festival print and electronic collateral;
- District and San Diego Bay mentions, images, video and social media presence in on-site announcements, narrations, live and post-event productions, and broadcast coverage of the Festival.

Community Engagement

- Low-cost or free admission for individuals from underserved communities;
- Outreach to local schools to offer concert production facilities tours and introduction to the

business of concert production and promotion.

Additionally, the proposed sponsorship agreement requires SCSD to complete an analysis of the economic, media and promotional impacts of the Festival. This analysis will inform the District as to the indirect revenue impacts of the Festival from tenant concession rent, as well as provide estimated value of the branding and promotional considerations provided to the District by SCSD. When this analysis is received and evaluated, staff will provide a review of the impacts of the Festival for the Board.

The attached agreement (Attachment A) contains the specific financial and promotional considerations that the District and SCSD will provide to the other entity. The promotion that will occur in advance of the 2019 Festival is anticipated to maximize attendance and, by extension, the financial and promotional impacts to the District, its tenants and the region.

Board of Port Commissioners Policy No. 110 Section II E requires that agreement for over \$175,000 use a formal solicitation process. Staff recommends waiving that process and entering into an agreement with SCSD.

General Counsel's Comments:

The Office of the General Counsel has reviewed the terms and conditions of the agreement with Stay Classy San Diego, LLC and approves as to form and legality. The agreement requires Stay Classy San Diego, LLC to provide indemnity to the District as well as commercial general liability insurance coverages as follows: \$10M for personal injury; \$2M for property damage; \$1M for commercial vehicle; \$1M workers compensation; and \$1M liquor liability. The District will also procure Special Event Liability excess insurance which will provide coverage for the District for any amounts not covered by Stay Classy San Diego, LLC's insurance or indemnity obligations to the District.

Environmental Review:

The Board direction or action, including without limitation, a resolution authorizing an agreement with Stay Classy San Diego, LLC for sponsorship of a San Diego Festival is Categorically Exempt pursuant to California Environmental Quality Act (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 because the project in question proposes a temporary event occurring over 3 days, with a maximum set up and break down of 7 days, that would involve a negligible expansion of use beyond that previously existing, would not involve the removal of mature scenic trees, would have no permanent effects on the environment, would involve the erection of temporary structures that would be disassembled at the end of the event, 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), because the location of this project would not result in an impact that would ordinarily be considered insignificant, no cumulative impacts would result from this projects, as the facilities would have substantially the same purpose and capacity, there is no reasonable possibility that the project would result in a significant impact, the project site would not result in damage to scenic resources, especially within a state scenic highway, the project site is not located on within a hazardous waste site, and the project would not result in a substantial adverse change in the significance of a historical

resource. Pursuant to Section 15378(c) of the State CEQA Guidelines, the term “project” refers to the activity being approved, which may be subject to several discretionary approvals of governmental agencies, and does not mean each separate governmental approval. No further action under CEQA is required.

In addition, the proposed Board direction or action complies with Sections 35, 82, and 87 of the Port Act, which allow for: the Board to do all acts necessary and convenient for the exercise of its powers; the use of funds for advertising the commercial and other advantages of the District and encouraging and promoting commerce; 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 direction or action is consistent with the Public Trust Doctrine.

Finally, the proposed Board direction or action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a CDP or exclusion is not required at this time. However, future development of the project will require issuance of a CDP by the District and the item will come to the Board at a future date. The project’s future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The Board’s direction or action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

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Attachment(s):

Attachment A: Agreement between San Diego Unified Port District and Stay Classy San Diego, LLC