



Legislation Text

File #: 2018-0543, **Version:** 1

DATE: January 16, 2019

SUBJECT:

RESOLUTION AUTHORIZING AN AGREEMENT WITH H.P. PURDON & COMPANY FOR SPONSORSHIP OF THE 2019 JULY 4TH BIG BAY BOOM FIREWORKS SHOW IN THE AMOUNT OF \$190,000 IN FUNDING AND \$140,000 IN DISTRICT SERVICES FOR A MAXIMUM AMOUNT NOT TO EXCEED \$330,000. FY19 EXPENDITURES ARE BUDGETED.

EXECUTIVE SUMMARY:

The purpose of this agenda item is to request that the Board adopt a resolution authorizing the District to enter into an agreement with H.P. Purdon & Company, Inc., dba Big Bay Boom (H.P. Purdon or Mr. Purdon) for the "Port of San Diego Big Bay Boom July 4th Fireworks Show" (Agreement). Under this Agreement, the District is the title sponsor of the 2019 July 4th Big Bay Boom Fireworks Show (Big Bay Boom) and will provide funding in the amount of \$190,000 and waived services fees not to exceed \$140,000, for a total of \$330,000. Mr. Purdon will be required to conform in full with Article 14 of the San Diego Unified Port District Code, Fireworks Display Ordinance (District Fireworks Ordinance), including submitting applications for a permit to conduct a fireworks display event pursuant to the District Fireworks Ordinance.

RECOMMENDATION:

Adopt a resolution authorizing an agreement with H.P. Purdon & Company, Inc., dba Big Bay Boom for sponsorship of the "Port of San Diego Big Bay Boom July 4th Fireworks Show", (Attachment A), in the amount of \$190,000 in funding and \$140,000 in District services for a total of \$330,000.

FISCAL IMPACT:

The approved non-personnel expense appropriation for this agreement includes \$190,000 for this item in the Waterfront Arts & Activation department's FY19 budget. The \$140,000 waived fees portion is included in various departmental expense accounts supporting public service events.

COMPASS STRATEGIC GOALS:

The Big Bay Boom draws an estimated 300,000 people to the District tidelands, where they enjoy the festivities in the District's parks and public spaces along the waterfront as well as in private and commercial vessels in San Diego Bay. A variety of District tenant businesses benefit from this signature event.

Sponsoring the Big Bay Boom supports the District's mission to be a provider of waterfront activation,

economic vitality, and community benefit through water and land recreation.

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:

Background

The Big Bay Boom has been an annually recurring event for the last 18 years. The show consists of fireworks discharged simultaneously from four barges located in North San Diego Bay near Seaport Village, the Embarcadero, Harbor Island, and Shelter Island. The show is typically synchronized with themed music broadcasted by a local radio partner.

Economic and Promotional Impacts of the Big Bay Boom

The District's agreement with Mr. Purdon for sponsorship of the July 4, 2018 Big Bay Boom required Mr. Purdon to complete an analysis of the economic and promotional impacts of the 2018 show to inform the District when assessing sponsorship investment options for future Big Bay Boom shows. This analysis was completed at Mr. Purdon's expense by consultants at the Fermanian School of Business at Point Loma Nazarene University. The analysis concludes that the 2018 Big Bay Boom generated a direct economic impact of \$10.1 million and a total economic impact-including direct and indirect impacts-of \$17.9 million on the San Diego region. A key component of this overall economic impact is \$7.9 million in wages to workers in the region. The analysis also concluded that District tenant businesses-including hotels, restaurants, retail enterprises, visitor attractions and parking facilities-benefited from \$8.2 million in Big Bay Boom-related visitor spending, of which \$587,000 accrued to the District in the form of concession rent. Additionally, the analysis indicated that the 2018 Big Bay Boom garnered \$1.1 million in promotional impact from print and electronic media in the form of news articles, magazine promotions, radio and television ads and broadcasts of the event, sponsor recognition in television programming, and social media generated by the event's television partners.

Through the Agreement, Mr. Purdon will provide the District with promotional benefits that include but are not limited to the following:

- Inclusion of Port branding in an array of visual marketing and advertising materials that include the event's website, social media, print and digital ads, flyers, posters, information pieces, and email blasts;
- Direct mentions of District as title sponsor of the Big Bay Boom in television and radio spots promoting the event;
- Opportunities for messaging and District spokesperson participation in a variety of Big Bay Boom-related broadcast media interviews.

District Services in Support of the Big Bay Boom

In addition to its funding of the Big Bay Boom, the District provides several types of services in support of this event.

- The Waterfront Arts & Activation department works directly with Mr. Purdon, his sub-contractors and the other affected public agencies to coordinate the District's efforts in support of the Big Bay Boom.
- The San Diego Harbor Police plan and provide for public safety services on land and water throughout the day, in cooperation with federal, state and local agencies.
- The General Services department provides sanitation, disposal and cleanup services to accommodate the hundreds of thousands of visitors to San Diego Bay.
- The Marketing & Communications department promotes the Big Bay Boom and distributes valuable information for those visiting the bay to view the event, using an array of electronic media including the web, social media and press releases.
- The Development Services and the Planning & Green Port departments assist the event production team with information and interactions with the other agencies, as needed, to ensure compliance by the event with the District Fireworks Ordinance and all other applicable environmental regulations.

Compliance with District Fireworks Ordinance

In May 2017 the Board approved Article 14 of the San Diego Unified Port District Code, the District Fireworks Ordinance, that establishes requirements and procedures for fireworks display events that occur within San Diego Bay and the Imperial Beach Oceanfront that require a discretionary action by the District or that are operated by the District's tenants. In addition to the general requirements for fireworks display events, the District Fireworks Ordinance contains requirements and procedures that are specific to the Big Bay Boom. These include, but are not limited to, the following:

- A limit of four barges, located in northern San Diego Bay, providing a fireworks display time maximum of 20 minutes;
- Limits on the net explosive cumulative weight and shell size of the fireworks;
- Requirements for the chemical composition and material makeup of the fireworks;
- Fireworks loading and setup requirements;
- Post-event debris cleanup and reporting requirements;
- Requirements for cleanup and sanitation of public locations where fireworks viewing will occur;
- Eelgrass avoidance and mitigation measures for fireworks tug-and-barge operations;
- Transportation and parking management plans that include public information components;
- Coverage under, and compliance with the San Diego Regional Water Quality Control Board General Permit and all other applicable federal, state, and local laws and permits;
- Requirements for insurance, indemnification, and a performance bond in an amount sufficient to cover the cost of security for the protection of sensitive species and habitat, and for cleanup and removal of debris, rubbish and trash.

Additionally, H.P. Purdon is required to obtain all other permits and approvals required by law, including approvals and permits required under the California Coastal Act. A copy of the District Fireworks Ordinance is included as Attachment C to the agreement.

Conclusion

The Big Bay Boom July 4th Fireworks Show is one of the highlights of the summer in the San Diego area, drawing hundreds of thousands of visitors, both local and out-of-area, to San Diego Bay and the waterfront. The Big Bay Boom generates substantial economic and promotional impact through

visitor spending and strong media exposure. The July 4, 2019 Big Bay Boom is anticipated to be viewed by approximately 500,000 people in person and on live television. Given its significantly positive effects on the District, its tenants and the region, staff recommends Board authorization of this proposed agreement.

General Counsel's Comments:

The Office of the General Counsel reviewed this Agenda and approved the proposed agreement as presented to it as to form and legality.

Environmental Review:

The proposed Board action would renew sponsorship of an annual event which has occurred in San Diego Bay for many years and which is subject to a new sponsorship agreement, and will comply with the permitting and other requirements set forth in the District Fireworks Ordinance. On May 25, 2017, the District certified a Final Environmental Impact Report for the San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project (UPD #EIR-2015-115; SCH #2015081013), which evaluated the potential environmental effects of the District Fireworks Ordinance and four new proposed fireworks display events in the South Bay, and identified the Best Management Practices and other measures applicable to fireworks display events, including the Big Bay Boom.

In addition, the proposed Board action is subject to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. A "significant effect on the environment" means a substantial or potentially substantial adverse change in any of the physical conditions within the area affected by a project. The Big Bay Boom July 4th Fireworks Show is a recurring event that has taken place annually for approximately 18 years. The Big Bay Boom July 4th Fireworks Show will be the same size, duration and in the same locations as the previous events. As such, the proposed Board action involves the continuing sponsorship of existing activities and does not authorize any new or increased activities that could result in a substantial or potentially substantial adverse change in the environment.

The proposed Board action also meets the requirements for a Class 4 (Minor Alterations to Land), Class 11 (Accessory Structures), and/or Class 23 (Normal Operations of Existing Facilities) Categorical Exemption from environmental review, as detailed below.

CEQA Guidelines section 15304 (Class 4) applies to minor public or private alterations in the condition of land, water or vegetation. Subdivision (e) of section 15304 provides an exemption for the minor temporary uses having "negligible or no permanent effects on the environment." Renewed sponsorship of a continuing event, which consists of a fireworks display once per year for a period less than one-half hour, meets the requirement for a minor temporary activity that will have negligible or no permanent effects on the environment.

CEQA Guidelines section 15311 (Class 11) applies to the construction or placement of seasonal or temporary use items such as lifeguard towers, mobile food units, public restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use. Renewed sponsorship of a continuing event, which involves the use of fireworks-launching equipment on four barges in San Diego Bay for the annual Fourth of July fireworks display, fits within the exemption for seasonal or temporary use items in generally the same

locations in areas intended for public use.

CEQA Guidelines section 15323 (Class 23) provides an exemption for “the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose.” For the purposes of section 15323, “past history” means that “the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility.” Facilities included within this exemption include, but are not limited to, “racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools and amusement parks.” Renewed sponsorship of the continuing use of the barges and surrounding public areas for an annual fireworks display meets the requirement for the normal operations of existing facilities for public gatherings. Because the Big Bay Boom Fireworks Show has been presented annually since 2001 and the annual 4th of July fireworks display is expected to continue in the future, the requirement for “a past history of the facility being used for the same or similar kind of purpose” also is satisfied.

The proposed Board action would renew sponsorship of an annual event that discharges fireworks at four locations in San Diego Bay located within State Lands Commission jurisdiction. As such, as a condition of the Board’s approval, the Permittee shall obtain all necessary approvals and/or permits required by the California Coastal Act prior to obtaining any funding as specified in the sponsorship agreement. Also, the Big Bay Boom Fireworks Show is subject to Regional Water Quality Control Board’s (RWQCB) Order # R9-2011-0022, General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, San Diego Region, NPDES No. CAG999002.

The proposed Board action will comply with existing regulations that will assist in avoiding or reducing any potential impacts on the environment. As noted above, the Big Bay Boom July 4th Fireworks Show is subject to the RWQCB permit which was adopted in 2011 and applies to anyone who wishes to produce a public fireworks display that may affect waters of the United States within the RWQCB’s jurisdiction. The permit provides discharge specifications, receiving waters limitations, best management practices, standard and special provisions, and monitoring requirements. The RWQCB permit issued to the project applicant contains “Best Management Practices” which address the potential impacts of fireworks displays on water quality in San Diego Bay.

In addition, the proposed Board action allows the District to implement its obligations under 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 Board action is consistent with the Public Trust Doctrine.

Finally, the project site is within the coastal development permitting jurisdiction of the California Coastal Commission (CCC) and approval of the project must be obtained from that agency. As such, on December 5, 2018 CCC issued an exemption (No. 6-18-0337-X) with a determination for the 2019 Big Bay Boom Fireworks Display does not require a Coastal Development Permit under the

Guidelines for the Exclusion of Temporary Events from Coastal Commission Permit Requirements.
No further Coastal approvals are required.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A: Agreement - H.P. Purdon & Company, Inc.
 - 2019 Big Bay Boom July 4th Fireworks Show