



Legislation Text

File #: 2019-0348, **Version:** 1

DATE: November 5, 2019

SUBJECT:

RESOLUTION AUTHORIZING A SPONSORSHIP AGREEMENT WITH H.P. PURDON & COMPANY RELATED TO THE 2020 PORT OF SAN DIEGO JULY 4TH BIG BAY BOOM FIREWORKS SHOW IN AN AMOUNT NOT TO EXCEED \$190,000 IN FUNDING AND UP TO \$140,000 IN DISTRICT SERVICES; FY20 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) 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 2020 July 4th Big Bay Boom Fireworks Show (Big Bay Boom), will receive certain promotional benefits, and, in exchange, will provide funding in the amount of \$190,000 and waived services fees not to exceed \$140,000, for a total of \$330,000. H.P. 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 an application for a permit to conduct fireworks display events pursuant to the District Fireworks Ordinance.

RECOMMENDATION:

Adopt a resolution authorizing a sponsorship agreement with H.P. Purdon & Company, Inc. for sponsorship of the Port of San Diego Big Bay Boom July 4th Fireworks Show (Big Bay Boom) in 2020 (Attachment A), in an amount not to exceed \$190,000 in funding and up to \$140,000 in District services; FY20 expenditures are budgeted.

FISCAL IMPACT:

Funds for this major event sponsorship of \$190,000 are budgeted in the Waterfront Arts & Activation department's FY20 non-personnel expense budget. Waiver of the proposed \$140,000 District services and facilities fees are anticipated to occur during FY21 and will be included in that year's budget, subject to Board approval upon adoption of the budget.

COMPASS STRATEGIC GOALS:

The Big Bay Boom is viewed by an estimated 500,000 people from District tidelands on the waterfront of San Diego Bay, as well as from upland off-tidelands locations, and is viewed via live telecast throughout the region. Big Bay Boom spectators view the festivities from the District's parks

and public spaces along the waterfront and from private and commercial vessels on the 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 is an annual event that will celebrate its 20th year on July 4, 2020. 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, synchronized with themed music broadcast by a local radio partner.

Economic and Promotional Impacts of the Big Bay Boom

The Big Bay Boom generates substantial economic impacts estimated at \$10.1 million in revenue to the region, of which an estimated \$8.2 million is spent on tidelands at District tenant hotels, restaurants, retail enterprises, visitor attractions, and parking facilities. The July 4, 2020 Big Bay Boom will be viewed by approximately 500,000 people, either in person or on live television, generating an estimated \$1.1 million in promotional impact to the District 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.

Sponsorship Considerations to the District

Through the Agreement, H.P. Purdon will provide the District with promotional benefits that include the following:

- Port branding displayed 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 the District as title sponsor of the Big Bay Boom in television and radio spots promoting the event;
- Opportunities for messaging and District participation in a variety of Big Bay Boom-related broadcast media interviews.

Sponsorship Considerations to H.P. Purdon & Company

The District will provide \$190,000 in funding and up to \$140,000 in waived fees for District services that include the following:

- The Waterfront Arts & Activation department working directly with H.P. Purdon, its sub-contractors, and the other affected public agencies to coordinate the District's efforts in

support of the Big Bay Boom;

- San Diego Harbor Police planning and providing for public safety services on land and water throughout the day, in cooperation with federal, state and local agencies;
- General Services providing sanitation, disposal, and cleanup services to accommodate the influx of hundreds of thousands of visitors to San Diego Bay;
- The Marketing & Communications department promoting the Big Bay Boom and disseminating valuable information for people visiting the Bay to be able to navigate the event, using an array of electronic media including the web, social media, and press releases;
- The Development Services and Planning & Green Port departments assisting the event production team with information and interactions with other agencies, as needed, to ensure the event complies with the District Fireworks Ordinance and all other applicable environmental regulations;
- The Maritime Operations department coordinating and providing wharf space to moor the 4 fireworks barges for the loading of fireworks prior to the barges being towed into place on the Bay for the Big Bay Boom.

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 occurring within San Diego Bay and the Imperial Beach oceanfront and requiring a discretionary action by the District, or for those that are operated by District tenants. In addition to the general requirements for fireworks display events, the District Fireworks Ordinance sets out requirements and procedures that are specific to the Big Bay Boom, such as:

- A limit of four barges, located in northern San Diego Bay, displaying fireworks for a 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 will be viewed;
- 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 Regional Water Quality Control Board's (RWQCB) Order No. R9-2011-0022, General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks, NPDES No. CAG999002 (San Diego Water 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 to protect sensitive species and habitat, and of cleanup and removal of debris, rubbish, and trash.

Additionally, the District Fireworks Ordinance requires H.P. Purdon 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 is one of the highlights of summer in the San Diego area, drawing hundreds of thousands of visitors--both local and out-of-town--to San Diego Bay and the waterfront. As San Diego's largest spectator event, the Big Bay Boom generates levels of financial and promotional impact to the District, its tenants, and the region that make partnership in the show a positive investment by the District.

General Counsel's Comments:

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

Environmental Review:

The proposed Board action would renew sponsorship of an annual event that has occurred in San Diego Bay for many years, 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.

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 is a recurring event that has taken place annually for approximately 19 years. The Big Bay Boom would be the same size, duration and in the same location 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. The District has determined none of the six exceptions to the use of a categorical exemption apply to this action (CEQA Guidelines Section 15300.2).

CEQA Guidelines section 15304 (Class 4) applies to minor public or private alterations in the condition of land, water and/or vegetation. Section 15304(e) provides an exemption example for 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 minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities and

includes placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable 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 annual event, which involves the use of fireworks-launching equipment on four barges in San Diego Bay, fits within the exemption for placement of a minor structure, as it is a seasonal or temporary use item and is in generally the same location in an area 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 has been presented annually since 2001 and the annual 4th of July fireworks display is expected to continue in the future, the requirements for “a past history of the facility being used for the same or similar kind of purpose” and a reasonable expectation of the same future use are 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. Additionally, the Big Bay Boom is subject to San Diego Water Board General Permit. adopted in 2011 by the RWQCB and applies to any person discharging pollutant wastes associated with the public display of fireworks that may affect waters of the United States in the San Diego region. The permit provides discharge specifications and best management practices, receiving waters limitations, standard and special provisions, and monitoring and reporting requirements. The application to the RWQCB for coverage under the regional general permit would include a “Fireworks Best Management Practices Plan” for implementation.

The proposed Board action is consistent 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 Board action is consistent with the Public Trust Doctrine.

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 October 7, 2019 CCC issued an exemption (No. 6-19-0310-X) with a determination that the 2020 Big Bay Boom 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.
 2020 Big Bay Boom July 4th Fireworks Show