

RESOLUTION 2016-64

RESOLUTION AUTHORIZING AGREEMENT WITH H.P. PURDON & COMPANY, INC. FOR SPONSORSHIP OF 2016 JULY 4TH BIG BAY BOOM FIREWORKS SHOW IN THE AMOUNT OF \$145,000 IN FUNDING AND A NOT TO EXCEED AMOUNT OF \$50,000 IN DISTRICT SERVICES

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 21 of the Port Act states that the Board of Port Commissioners (BPC) may pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, Section 35 of the Port Act states that the BPC may do all other acts necessary and convenient for the exercise of its powers; and

WHEREAS, the Big Bay Boom Fireworks Show is a patriotic event which has been produced on the 4th of July each year since 2001; and

WHEREAS, the District has provided funding to sponsor the annual Big Bay Boom for approximately the last 15 years; and

WHEREAS, pursuant to its certified regulatory program under the California Environmental Quality Act (CEQA), the California Coastal Commission has determined that the 2016 Big Bay Boom Fireworks Show is exempt from the requirements for a Coastal Development Permit and CEQA; and

WHEREAS, the Regional Water Quality Control Board has determined that the 2016 Big Bay Boom Fireworks Show is subject to and covered by Regional Water Quality Control Board 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; and

WHEREAS, as in the previous years, the proposed agreement includes project features as specified in the Scope of Services, Attachment A, to the sponsorship agreement, and in general and without limitation include:

1. Ensure that the net explosive weight of the 2016 Show does not exceed that of the 2015 Show.
2. Ensure the 2016 Show lasts between 15 and 18 minutes.

3. Implement water quality sampling and informational gathering measures, including the following:
 - a. The area of surface water sampling shall focus on the barges at the Embarcadero and Seaport Village.
 - b. Sampling shall include two sample locations downwind of the barge (collectively, Downwind Sampling) including (a) 25' from the barge and (b) 50' from the barge. Downwind Sampling shall include pre-show sampling in the same locations, post-show samples at each location and quality control/quality assurance samples including one field replicate, one equipment restate blank and one field blank. Quality control/quality assurance samples shall be conducted in the water around each barge location. A total of four samples, one pre-show and one post-show sample at the 25' and 50' distance, for each barge shall be conducted (for a total of eight pre-show and post-show samples between the two barges). The Downwind Sampling shall be taken as soon as the City of San Diego Fire Marshal has determined that it is safe to enter the security zone.
 - c. Sampling shall also include one of the following options:
 - i. Samples shall be taken by Consultants located on the barges and the samples shall be taken immediately next to each of the two barges as soon as the fireworks company/operator has given the all-clear (collectively, On-Barge Sampling). On-Barge Sampling shall include pre-show sampling in the same locations, post-show samples at each location and quality control/quality assurance samples including one field replicate, one equipment restate blank and one field blank. Quality control/quality assurance samples shall be conducted at each of the barges. A total of two samples, one pre-show and one post-show sample, for each barge shall be conducted (for a total of four pre-show and post-show samples between the two barges).
 - ii. Three water sample collection mechanisms shall be erected from each of the two barges (for a total of six) that could collect potential debris at 3 feet, 6 feet and 15 feet from the barge (collectively, Off-Barge Sampling). Each such collection mechanisms used for the Off-Barge Sampling shall (i) have ambient water pumped into them before the show and control the samples taken, (ii) be photographed following the show (approximately 30 minutes later) to identify any floating or sinking debris contained therein, and (iii) be subject to post-event water samples from each collection mechanism. Off-Barge Sampling shall include two samples from each collection mechanism at each barge, including a control and post-show sample (for each collection mechanism) for a total of six samples from each barge (for a total of 12 control and post-show samples between the two barges).

- d. The fully executed contracts for the Downwind Sampling and On-Barge Sampling or Off-Barge Sampling shall be submitted to the District by June 27, 2016. The water sampling Consultant shall provide a written report of the water sampling data by September 30, 2016. The report shall include a recommendation regarding the need for continued water monitoring in future years.
4. Mount two video cameras will on each of the four fireworks barges for the purpose of gathering information about potential debris from the show (collectively, Informational Filming).
5. Conduct California least tern monitoring before, during and after the 2016 Show by a District-approved consultant or through coordination with the San Diego County Regional Airport Authority.
6. As more fully described in the sponsorship agreement, employ the District's standard Best Management Practices specific to firework shows before, during and after the event, including setup safety inspections and multiple clean up measures to gather debris from the water and, as applicable, the shoreline.

WHEREAS, H.P. Purdon & Company, Inc., ("Purdon") is responsible for all event-related costs; provided, however, the District shall reimburse the Purdon the actual reasonable cost of the (a) Informational Filming, (b) the On- Barge Sampling or Off- Barge Sampling, whichever alternative is implemented, and (c) the Downwind Sampling for one of the two barges; and

WHEREAS, staff recommends that the BPC authorize an agreement with Purdon for sponsorship of the 2016 Big Bay Boom Fireworks Show, wherein the District would provide \$145,000 in funding and a not to exceed amount of \$50,000 in District services in exchange for promotional services as set forth in the proposed sponsorship agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

1. That, as a responsible agency under CEQA, the District has considered and relied on the California Coastal Commission's determination that the 2016 Big Bay Boom Fireworks Show is exempt from the requirements for a Coastal Development Permit, as well as CEQA, and the California Regional Water Quality Control Board's determination that the 2016 Big Bay Boom Fireworks Show is subject to and covered by Regional Water Quality Control Board 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.

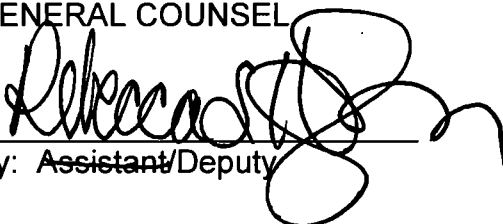
2. That the District further has determined based on substantial evidence in the record that the 2016 Big Bay Boom Fireworks Show is a recurring annual event that will be of the same size and duration as the 2015 Big

Bay Boom Fireworks Show and therefore, will not have any new or more severe effects on the environment than previous shows.

3. That the District further determined based on substantial evidence in the record that the 2016 Big Bay Boom Fireworks Show meets the criteria for a categorical exemption from environmental review pursuant to CEQA Guidelines § 15304 (Class 4, Minor Alterations to Land), CEQA Guidelines § 15311 (Class 11, Accessory Structures), and/or CEQA Guidelines § 15323 (Class 23, Normal Operations of Existing Facilities) and therefore, is exempt from environmental review under CEQA based on the California Coastal Commission's certified regulatory program and these exemptions.

4. Based on the entire record available to the Board of Port Commissioners and the findings set forth in this Resolution, the Executive Director or her designated representative is hereby authorized to enter into the Agreement between San Diego Unified Port District and H.P. Purdon & Company, Inc. dba Big Bay Boom for the Port of San Diego Big Bay Boom July 4th Fireworks Show (Agreement) for the sponsorship of the 2016 Big Bay Boom Fireworks Show in the amount of \$145,000 in funding and a not to exceed amount of \$50,000 in District services; provided, however, as a condition of this approval, H.P. Purdon & Company, Inc. dba Big Bay Boom shall indemnify and hold the District harmless against all third-party legal challenges, claims, lawsuits, proceedings, and the like, including reimbursement of all District attorneys' fees, costs and other expenses incurred by the District, related to the District's approval of (1) the Agreement, (2) California Environmental Quality Act analysis and findings, and (3) other necessary permits and entitlements.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: ~~Assistant~~ Deputy

2016-64

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 10th day of May 2016, by the following vote:

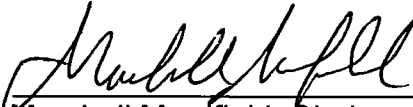
AYES: Bonelli, Castellanos, Malcolm, Merrifield, and Nelson.

NAYS: None.

EXCUSED: Moore and Valderrama.

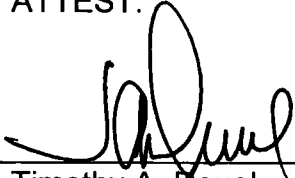
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

(Seal)