



Hillcrest Business Association  
 Board of Directors Meeting  
 Public Meeting ~ September 10, 2013, 5pm  
 Joyce Beers Center, 1230 Cleveland Ave., San Diego CA 92103

Agenda

<b>Call to order and introductions</b>	G. Younger	2 minutes
<b>Public comment</b> (1 minute per speaker)		3 minutes
<b>Reports:</b>		
1. President's report	G. Younger	5 minutes
2. Executive Director's report	B. Nicholls	5 minutes
<b>Consent items</b> (action):	G. Younger	2 minutes
1. Approval of minutes (August 2013) <sup>1</sup>		
2. Approval of organizational financials (July 2013) <sup>2</sup>		
<b>Special events items</b>		
1. Review of Pride of Hillcrest Block Party financials (information)	J. Hale	10 minutes
2. Approval to continue Hillcrest trolley program Sunday service (action)	J. Hale	10 minutes
3. <b>Approval of special events contract with McFarlane Promotions (action)</b> <sup>3</sup>	J. Hale	15 minutes
<b>Executive Committee items</b>		
1. Executive Director review (action) (closed session)	G. Younger	10 minutes
2. Executive Director compensation discussion (action)	G. Younger	5 minutes
3. Executive Director search update (information)	B. Nicholls	5 minutes
<b>Beautification Committee items</b>		
1. Committee report (information)	C. Moreno	5 minutes
<b>Marketing Committee items</b>		
1. Committee report (information)	E. Reynoso	5 minutes

Attachments:

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. August 2013 minutes</li> <li>2. July 2013 financials</li> </ol> | <ol style="list-style-type: none"> <li>3. Contract with McFarlane Promotions for 2014 events</li> </ol> |
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## Contracting Agreement

September 11, 2013

This Agreement (the "Agreement") is executed by Hillcrest Business Improvement Association, a California not for profit corporation (hereinafter referred to as "HBA") whose address is 3737 Fifth Avenue San Diego, CA 92103 and McFarlane Promotions (hereinafter referred to as "Consultant"), whose address is 656 Fifth Ave. San Diego, CA 92101. HBA and Consultant are sometimes hereinafter collectively referred to as the "Parties" or individually as a "Party".

Hillcrest Business Association undertakes special events as part of its promotional programs throughout the year and is seeking an event production company to implement elements of these events. The events are as follows:

- Hillcrest Hoedown held on October 12, 2013 on University Ave. in Hillcrest.
- Hillcrest Taste 'n Tinis on December 12, 2013 at locations throughout Hillcrest
- Taste of Hillcrest on April 19, 2014 at locations throughout Hillcrest
- Pride of Hillcrest Block Party on the Friday before the San Diego Pride Parade
- Hillcrest CityFest on August 10, 2014 on Fifth Ave. between University Ave. and Brookes St. in San Diego.

### Services to be provided

Consultant shall manage the event on behalf of the HBA in accordance with the provisions set forth in Attachment #A attached hereto and made a part hereof for all purposes.

### Terms and termination

Either Party may cancel this Agreement at any time after date of signing upon 30 days written notice to the other Party. This agreement has a term of one year.

### Independent contractor status

Consultant is an independent contractor and is not an employee of HBA. Staffing costs relating duties described in Attachment A will be borne by Consultant, including requirements for the provisions of Workers Compensation Insurance and any and all local, state and federal payroll taxes, and any tax liability related to Consultant and their staff.

### Governing law

Contractor shall at all times comply with all applicable laws, statutes, ordinances, and regulations of the City, county, state, and federal governments. Subcontractor shall also comply with all notices issued by the City under the authority of all current or future laws, statutes, ordinances, or regulations.

### Conflict of interest

Contractor shall comply with all federal, state, and local laws, including conflict of interest laws, statutes, ordinances, regulations, and policies of the City related to public contracts and procurement practices to the extent applicable. HBA and Contractor are unaware of any financial or economic interest of any public officer or employee of the City relating to this agreement. Contractor has been made aware of the HBA's Conflict of Interest policy (attachment B).

### Insurance

As required by the City of San Diego, HBA agrees to maintain an insurance policy to cover the CityFest in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate and shall name Consultant as an additional insured.

Consultant shall provide Commercial General Liability [CGL] Insurance, naming HBA and the “The City of San Diego, its elected officials, officers, employees, representatives, and agents” as additionally insured in the amount of \$1,000,000 per occurrence and \$2,000,000 in aggregate. The policy shall be kept in force for the duration of the Term and any extended use. Consultant shall have forty-five (45) days from the execution of this Agreement to obtain said insurance and to provide HBA with proof of insurance. All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements. If City is made a party to any judicial or administrative proceeding to resolve the dispute between HBA and Consultant, Consultant shall defend and indemnify the City as described herein.

Consultant shall provide workers’ compensation insurance, as required by the laws of the State of California for all of Contractor’s employees who are subject to this Agreement, with employers’ liability coverage with a limit of at least one million dollars (\$1,000,000). It is the responsibility of the Consultant to provide proof of workers compensation insurance to the City or to provide the City with any and all necessary documentation to prove Consultant does not require workers compensation Insurance.

Consultant shall defend, indemnify, protect, and hold harmless the City and HBA, their elected officials, departments, officers, employees, representatives, and agents from and against any and all claims asserted, or liability established, for damages or injuries resulting from any workers compensation claim or claim for damages or injuries by any employee or sub-contractor of Consultant.

Fees and Bonuses

The HBA will pay a fee not to exceed \$47,500 (including bonuses) for the events described in attachment A. Attachment A describes the portion of the fee for each event.

The fees will be paid on a monthly basis in the amount of \$3,375 upon receipt of invoice. Invoices shall describe the work applied to each event.

The balance of the fee amount may be paid in the form of a bonus. Contractor shall be eligible to receive bonuses for Hillcrest Taste ‘n Tinis and Pride of Hillcrest Block Party. The bonuses shall be paid for the events in the following way:

Hillcrest Taste ‘n Tinis:

In the circumstance that the event is profitable a bonus may be paid to the consultant. A bonus will be paid within thirty days of receipt of an invoice and report from the Consultant where the report demonstrates that the event was profitable. HBA may waive the requirement for a report. The bonus will be paid from net proceeds from the event with one half paid to the Consultant and one half to the HBA to a maximum bonus payable to Consultant of \$2,000. The HBA will be the beneficiary of the remainder of the proceeds.

Pride of Hillcrest Block Party:

In the circumstance that the event is profitable a bonus may be paid to the consultant. A bonus will be paid within thirty days of receipt of an invoice and report from the Consultant where the report demonstrates that the event was profitable. HBA may waive the requirement for a report. The bonus will be paid from net proceeds from the event with one third paid to the Consultant and two thirds half paid to the HBA to a maximum bonus payable to Consultant of \$5,000. The HBA will be the beneficiary of the remainder of the proceeds.

All bills and invoices from third party contractors will be delivered to HBA within 30 days of the event date. In the case that this does not occur the bills will become the responsibility of the Contractor.

#### Ownership

Hillcrest CityFest, Taste of Hillcrest, Hillcrest Taste 'n Tinis, Hillcrest Farmers Market, Pride of Hillcrest Block Party is, and always has been, the property of the HBA. Ownership includes ownership of the names, HBA retains the exclusive rights to sell any HBA related merchandise and tickets and to conduct promotions for any business relating to Hillcrest and the HBA.

#### Agreements with third parties

HBA and Contractor agree that though there are many third parties related to this agreement, including but not limited to the City of San Diego, State of California, Mr. David Larson and San Diego LGBT Pride, this agreement in no way binds these organizations or modifies any existing or future agreements with those parties.

Contractor shall disclose and provide copies of all agreements with third parties relating the project including rental agreements, service contracts, entertainment agreements, sponsorships, in-kind donations, special payments, and mutual benefit arrangements. Unwritten agreements shall be unacceptable.

#### Marketing, logos and sponsor recognition

Event specific logos shall be used on all promotional and signage elements for the events including banners, signs, advertising and otherwise. Any sponsorship agreements developed by the Contractor shall not create the impression that the event is owned by any third party.

#### Arbitration

If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try in good faith to resolve the dispute by mediation administered by the American Arbitration Association under its rules, before resorting to arbitration. Thereafter, any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be resolved by arbitration administered by the American Arbitration Association in accordance with its Arbitration Rules, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof pursuant to applicable law.

#### No joint venture or partnership

This Agreement shall not be construed or interpreted to create or establish any joint venture or partnership between the parties.

#### Integration

This Agreement supersedes all prior or contemporaneous agreements, understandings, promises, representation, and discussions, whether written or oral, or whether expressed, implied or apparent and are hereby deemed merged into and made a part of this Agreement. The terms of this Agreement are contractual and not merely a

recital. No waiver or modification of any term of this Agreement shall be valid or binding unless in writing and executed by all of the Parties.

Assignment

This Agreement and the rights and obligations accruing to the Parties hereto shall not be assigned or delegated without the consent of the other Party; and such consent shall not be unreasonably withheld. Notwithstanding the foregoing or any other provision contained herein to the contrary, Consultant may assign this Agreement and all rights pertaining thereto and delegate all of his obligations to a third party upon approval of the board of directors of the HBA.

Equal employment and nondiscriminatory provisions

Consultant shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Consultant's activities pursuant to this Agreement, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

Consultant shall comply with City Council Ordinance No.18173 (San Diego Municipal Code sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated into this Agreement.

Consultant is individually responsible to abide by its contents. Consultant shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted.

Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Consultant may be required to comply, and require each of its Subcontractors to comply, with the provisions of the City's Living Wage Ordinance. It is the responsibility of the Consultant to determine if compliance is required. Consultant is required where applicable to comply with the Americans with Disabilities Act, the City of San Diego Drug Free Workplace requirements, and Storm Water Management and Discharge Control Ordinance.

Representations and warranties

Each Party represents and warrants to the other that it has all necessary power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The Agreement has been duly and validly executed and delivered by the Parties and constitutes the valid and binding agreement of that Party, fully enforceable against that Party in accordance with their respective terms. To the best knowledge of each Party, all consents, approvals, orders or authorizations of, or registration, declaring or filing with, any governmental authority in connection with the execution and delivery of the Agreement or the consummation of the transactions contemplated hereby have been obtained.

Supervision

Contractor shall provide supervision adequate to insure that the services rendered pursuant to this agreement are of high quality.

No joint venture or partnership

This agreement shall not be construed or interpreted to create or establish any joint venture or partnership between the parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on \_\_\_\_\_, at \_\_\_\_\_, California.

HILLCREST BUSINESS  
ASSOCIATION

CONSULTANT

By: \_\_\_\_\_

Benjamin Nicholls  
Executive Director, HBA  
ADDRESS:  
3737 Fifth Avenue, #202  
San Diego, CA 92103  
(619) 299-3330 Tel.  
(619) 299-4230 Fax.

By: \_\_\_\_\_

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- Attachment A: Scope of services
- Attachment B: Conflict of interest policy

Attachment A: Scope of Services

**Consultant agrees to the following general provisions:**

- Where possible the consultant agrees to leverage their opportunities relating to producing multiple events so as to obtain preferential pricing for rentals and purchases, media opportunities and joint promotions. Contractor agrees that upon request a leveraging report will be produced to illustrate where these opportunities have been created.
- All marketing and promotional activities must be reviewed and approved by HBA marketing staff.

**Consultant agrees to implement Hillcrest Hoedown including the following activities:**

- Oversee implementation of all day of event logistical elements such as traffic control security, rental equipment, entertainment, set up, staff management and costs, cleaning and breakdown, street closure signs, no parks and barricades, cleaning, rentals, port a potties, sound equipment, staging, generators, and other elements
- Being on site or having an agent on site at all times to deal with any issues
- On-site management services
- Troubleshoot issues during and after the event
- Secure production staff for the day of event
- Tape off all vendor placements prior to the event
- Prepare and distribute thank you letters
- Make recommendations to improve the following year's event
- Assign a spokesperson with all pre-event promotions, print and media

**HBA agrees to execute the following in relation to Hillcrest Hoedown 2013:**

- Manage all pre-event logistics
- Pay any and all pre-approved expenses
- Coordinate and be responsible for handling all financial matters for the event
- Assist with securing volunteers for the day of event

**Consultant agrees to manage Hillcrest Taste 'n Tinis including the following activities:**

- Coordinate restaurant/retail tasting
- Work with the client to establish an event budget
- Create participation letter and form for Hillcrest Taste 'n Tinis and Taste of Hillcrest and solicit participation at the same time. The participant form shall include stipulation for restaurants that sell liquor to participate in Taste 'n Tinis they must agree to allow HBA to host promotional events at their locations. Promotional events may include among other things drink specials provided by the participating location and/or alcohol sampling.
- Send out initial sign up letter and form to participating restaurants and retailers
- Visit restaurants and retailers in person numerous times to sign them up
- Assist in securing restaurants and retailers
- Secure cups and ice for retail locations
- Coordinate staffing and/or security for retail locations
- Coordinate labor for event set up and breakdown
- Mail to McFarlane Promotions Taste mailing list
- Work with graphic designer on all collateral material

- Create and secure all collateral materials including but not limited to; advertising, posters, flyers & tickets
- Placement of promotional material (flyer, poster, etc.) in area restaurants, retail, bars, etc.
- Order rentals for the event
- Create all day of signage
- Hang all day of signage in the participating venues before the event
- Liaison to all participating venues
- Write thank you cards
- Coordinate a de-brief meeting
- Write a media re-cap for sponsors and client
- Manage all tickets sales, disbursements, and accounting
- General event coordination duties as they come up
- Secure liquor sponsor including a minimum of \$3000 cash donation and sufficient product donation

### Television

- Listing on events calendar on screen
  - KUSI - TV
  - KFMB –TV
  - KNSD - TV
  - KGTV – TV
  - FOX 5 – TV
  - San Diego 6 CW – TV
- Will pitch live spots for pre-event & day of coverage
- Pitch weather remote reports from the event
- Act as media liaison, generate & distribute press release, PSA's, media alerts, etc.

### Radio

- Review Radio Contracts
- Create radio promotional dates and times
- Make sure all event information is up on radio websites
- Write PSA for radio commercials
- Disseminate all tickets to participating radio stations for contest giveaways
- Coordinate all the logistics and single banner placements

### Additional PR/Promotion Plan

- Write initial Calendar Notice released to all media
- Write press release
- Media Alert faxed to television stations
- 2nd Media Alert mailed and faxed to television stations
- Placement of promotional material (flyer, poster, etc.) in participating restaurants, retail, bars, etc.
- Personally contact local merchants to support event.
- Opportunity to mail out to McFarlane Promotions 5,000 person Taste Database
- Email out a jpeg to McFarlane Promotions email database of over 12,000 emails. Email list secured over the last 5 years through all of McFarlane Promotions events.



### Web Promotion

- Work with online websites to be sure they get the event featured on website and do a contest giveaway
- Disseminate all tickets to online websites for contest giveaways
- Upload event information to over 100 event web listings

### Social Networking

- Work with current Facebook create to build current friend list
- Work with current Twitter create to build current friend list

### Advertisement

- Will coordinate all advertisement paid and unpaid
- Create a matrix for all advertisements for the graphic designer
- Secure media sponsorship and advertising buys for both print, radio and tv

### **HBA agrees to perform the following in relation to Hillcrest Taste ‘n Tinis:**

- Pay a management fee of \$6,000 in the manor described above under “fees and bonuses”.
- Pay any and all prearranged expenses
- Manage accounting
- Manage on-line and hardcopy ticket sales
- Assist with securing staff and volunteers for the day of
- Assist in securing restaurants and retail locations
- Provide contractor with an up to date list of retailers and restaurant owners/mangers

### **Consultant agrees to manage Taste of Hillcrest including the following activities:**

#### Television

- Listing on events calendar on screen
- Will pitch live spots for pre-event & day of coverage
- Pitch weather remote reports from the event.
- Act as media liaison, generate & distribute press releases, PSAs, media alerts, etc.

#### Radio

- Coordinate to secure radio stations to be the radio sponsor for The Taste of Hillcrest. Radio sponsors will start promotion two weeks out and increase coverage as the event gets closer to the date.

#### Additional PR/promotion plan

- February: initial calendar item release to all media
- February: initial press release
- March : PSA release via fax to radio studios
- April: 1st media alert
- McFarlane Promotions will also offer:
  - Placement of promotional material (flyer, poster, etc.) in Hillcrest restaurants
  - Personally contact local merchants to support event.

#### Logistical services

- Coordinate printing of flyers, tickets, posters, sponsor proposal packages, fact sheets, surveys, maps, parking passes, etc;
- Coordinate with the HBA to create an event format:
  - Sign up participating restaurants
  - Liaison to all participating restaurants
  - Assist HBA in securing media, beverage and financial sponsorships for the event
  - Disseminate information about the event at other local events, at hotels, and downtown residences, prior to the event
  - Day of event coordination
- Coordinate volunteer packets
- Secure shuttle transportation
- Set up registration for day of event
- Answer information questions from the public for the Taste of Hillcrest

**Hillcrest Business Association will perform the following in relation to Taste of Hillcrest:**

- Pay a management fee of \$8,000 in the manor described above under “fees and bonuses”.
- Pay any and all expenses
- Manage on-line and hardcopy ticket sales
- Manage accounting
- If requested provide contractor with an up to date list of retailers and restaurant owners/mangers

**Consultant agrees to manage Pride of Hillcrest Block Party including the following activities:**

- Work with Pride’s logistics coordinator to ensure Friday evening activities fit seamlessly into Saturday morning activities
- Provide all sponsor relations including soliciting sponsor support and finalizing agreements and details including media partnerships and in-kind donations. A minimum sponsorship of \$25,000 in sponsors (cash or in-kind) for the event must be secured.
- Apply for and obtain all required permitting for the event including ABC licensing, City of San Diego Special Event permits, and County of San Diego health permits and provide assistance to government representatives throughout the planning and implementation of the event.
- All logistical elements such as traffic control security, rental equipment, entertainment, set up, staff management and costs, cleaning and breakdown, street closure signs, no parks and barricades, cleaning, rentals, port a potties, sound equipment, staging, generators, and other elements
- Being on site or having an agent on site at all times to deal with any issues
- Negotiating the best deals on all expenses covered by HBA and agreeing to solicit bids on services if so requested by HBA
- Create a logistics budget for the event
- Attend all event committee meetings
- Coordinate with the HBA to create an event format
- Secure all necessary permits and licenses for the event
- Create a map for the event with committee assistance
- Work with entertainment volunteer to coordinate all entertainment
- Send out vendor solicitation letters
- Assist in signing up participating vendors for the event to include non-food vendors and arts and craft and other vendors per the clients request

- Create a parking and traffic plan
- Hire and coordinate all necessary and required security for the event
- Obtain all necessary signs and banners, including those needed for street closures, parking lots, etc.
- Arrange all necessary trash removal if needed
- On-site management services
- Troubleshoot before, during and after the event
- Secure production staff for the day of event
- Tape off all vendor placements prior to the event
- Day of event coordination
- Prepare and distribute thank you letters
- Make recommendations to improve the following year's event

**HBA agrees to execute the following in relation to Pride of Hillcrest Block Party 2013:**

- Pay a management fee of \$10,000 in the manor described above under "fees and bonuses".
- Pay any and all pre-approved expenses
- Assign a spokesperson with all pre-event promotions, print and media
- Coordinate and be responsible for handling all financial matters for the event, including the event itself
- Assist with securing volunteers for the day of
- Manage on-line and hardcopy ticket sales

**Consultant agrees to manage Hillcrest CityFest including the following activities:**

- All logistical elements such as traffic control security, rental equipment, entertainment, set up, staff management and costs, cleaning and breakdown, street closure signs, no parks and barricades, cleaning, rentals, port a potties, sound equipment, staging, generators, and other elements
- Being on site or having an agent on site at all times to deal with any issues
- Negotiating the best deals on all expenses covered by HBA and agreeing to solicit bids on services if so requested by HBA
- Create a logistics budget for the event
- Attend all event committee meetings
- Send out meeting reminder notices
- Coordinate with the HBA to create an event format
- Secure all necessary permits and licenses for the event
- Create a map for the event with committee assistance
- Work with entertainment volunteer to coordinate all entertainment
- Send out vendor solicitation letters
- Assist in signing up participating vendors for the event to include non-food vendors and arts and craft and other vendors per the clients request
- Create a parking and traffic plan
- Hire and coordinate all necessary and required security for the event
- Obtain all necessary signs and banners, including those needed for street closures, parking lots, etc.
- Arrange all necessary trash removal if needed
- On-site management services
- Troubleshoot before, during and after the event
- Secure production staff for the day of event
- Tape off all vendor placements prior to the event

- Day of event coordination
- Prepare and distribute thank you letters
- Make recommendations to improve the following year's event

**HBA agrees to execute the following in relation to Hillcrest CityFest:**

- Pay a management fee of \$7,500 in the manor described above under “fees and bonuses”.
- Pay any and all expenses pre-approved
- Secure sponsors for the event
- Assign a spokesperson with all pre-event promotions, print and media
- Coordinate and be responsible for handling all financial matters for the event, including the event itself
- Assist with securing volunteers for the day of

**Attachment B: conflict of interest policy**

No contract may be entered into by the Hillcrest Business Association if one of its officers, members, directors, committee members, staff members or volunteers has a material financial interest in the contract or transaction, except in the following circumstances:

- (1) the material facts as to the contract or transaction and as to the party's interest are fully disclosed or known to the member, board or committee voting on the matter;
- (2) the contract or transaction is approved by the members, board or committee in good faith, by a vote sufficient without counting the vote of the interested party or parties;
- (3) the interested party or parties abstains from voting on the matter;
- (4) the contract or transaction is just and reasonable to the Hillcrest Business Association at the time it was authorized, approved or ratified;
- (5) the interested party or parties shall not actively participate in the decision about the contract or transaction, except to answer questions or provide a broad explanation;
- (6) the action is recorded in meeting minutes, noting which members voted, how the members voted, and identifying any members who abstained from voting.

A violation of any provision of this policy shall be grounds for removal of the officers, directors, members, committee members, staff members or volunteers from their positions with the HBA. A contract or transaction entered into in violation of this Conflict of Interest Policy shall be void and unenforceable.