

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This First Amendment to Memorandum of Understanding (this “**First Amendment**”), dated for reference purposes only as of May 8, 2018, is by and between the SAN FRANCISCO ENTERTAINMENT COMMISSION (the “Entertainment Commission”) and the SAN FRANCISCO PORT COMMISSION (“PORT”), both agencies of the City and County of San Francisco.

RECITALS

A. Port and the Entertainment Commission entered into a Memorandum of Understanding (“MOU”), dated May 22, 2007 for reference purposes only (the “**Original MOU**”), to coordinate planning and permitting for cultural, entertainment, athletic and similar events and establishments throughout the City and County of San Francisco (the “City”).

B. On July 18, 2017, the Board of Supervisors of the City and County of San Francisco passed Ordinance File Number 170443 amending the Police Code to recodify and revamp permit types and procedures for outdoor amplified sound by providing for distinct permits for various activities, and establishing fees, strengthening penalties for permit-related and noise violations; and making environment findings.

C. Port and the Entertainment Commission wish to amend the Original MOU to replace the list of permits issued by the Entertainment Commission for amplified sound on Port property to reflect the new types of permits.

D. The Original MOU and this First Amendment shall collectively be referred to as the “**Memorandum of Understanding**” (MOU). All capitalized terms used herein but not otherwise defined shall have the meaning given to them in the Original MOU.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, Port and the Entertainment Commission hereby amend the MOU as follows:

AGREEMENT

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. Section 4.1. is hereby deleted in its entirety and replaced with the following:

Accept applications for permits under the jurisdiction of the Entertainment Commission, including applications for transfer and applications for amendments to active permits, and that concern events held on, and establishments that operate upon property or within facilities under Port jurisdiction, including those permits that are listed in Exhibit A of this MOU attached hereto and made a part hereof. In the event that any other permits are added by City ordinance to the jurisdiction of the Entertainment Commission, the Port and the Entertainment Commission may elect to modify this MOU to include those permits under the terms and conditions of the MOU. Such modification would require approval of the Port Executive Director or Designee.

3. Section 4.3. The following section is added as new Section 4.3:

Port will continue to issue permits and other authorizations for the Port's Fisherman's Wharf Street Performer Program for entertainment related purposes until such time as Port provides written notice to the Entertainment Commission that such permits would be instead issued by the Entertainment Commission pursuant to this MOU.

4. Section 4.4. The following section is added as new Section 4.4:

When a Port Tenant or Port Licensee obtains Entertainment Related Permits from the Entertainment Commission, any inconsistencies between their Entertainment Related Permits and their lease or license with the Port, the terms and conditions of their lease or license with the Port shall prevail.

5. Section 5.1. is hereby deleted in its entirety and replaced with the following:

Prior to the issuance or denial of an Entertainment Related Permit, the Entertainment Commission shall immediately forward a copy of the completed Entertainment Related Permit application to the Deputy Director within the earlier of twenty-four (24) hours of receipt by the Entertainment Commission or by the close of the next business day.

6. Section 5.2(b). is hereby deleted in its entirety and replaced with the following:

Notwithstanding Section 5.2(a), if the Entertainment Related Permit is for amplified sound or an itinerate show, the Entertainment Commission may immediately upon forwarding the application to the Port pursuant to Section 5.1, contact the Deputy Director or designee by telephone to request review of the application, and provide written confirmation of the request to the Deputy Director or designee within 72 hours of making the request. The Port may recommend the 1) approval or 2) denial or 3) approval with conditions the application by telephone call to the Executive Director of the Entertainment Commission, and provide written confirmation of its recommendation to the Executive Director of the Entertainment Commission within 72 hours of the telephone call. Any written confirmation require by this section 5.2(b) may be by e-mail.

7. Section 8.1. is hereby deleted in its entirety and replaced with the following:

Prior to the issuance of or denial of an application to amend an active Entertainment Related Permit, the Entertainment Commission, shall forward a copy of the completed application to the Deputy Director or designee within the later of twenty-four (24) hours or by the close of the next business day.

8. Section 8.5. The following section is added as new Section 8.5:

At the request of Port, the Entertainment Commission shall incorporate Port's Good Neighbor Policy as a condition of any Entertainment Related Permit issued.

9. Section 17. NOTICES is hereby deleted in its entirety and replaced with the following:

Any notice given under this MOU shall be effective only if in writing and delivered in person or by first-class mail or certified mail with return receipt requested or by overnight courier return receipt requested, with postage pre-paid, at the following addresses, or at such other addresses as either the Port or the Entertainment Commission may designate by notice as its new address:

Address for Port:

Deputy Director
Real Estate and Development
Port of San Francisco
Pier 1
San Francisco, CA 94111

Address for Entertainment Commission:

Executive Director
Entertainment Commission
City Hall, Room 12
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

10. *Exhibit A* is hereby deleted in its entirety and replaced with *Exhibit A (Revised)* attached hereto.

11. Entire Agreement. This First Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement.

12. Full Force and Effect. Except as specifically amended herein, the terms and conditions of the Original MOU shall remain in full force and effect.

13. Effective Date. The Effective Date of this First Amendment is May 8, 2018.

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IN WITNESS WHEREOF, Port and the Entertainment Commission execute this First Amendment to Memorandum of Understanding at San Francisco, California, as of the date first written above.

AGREED TO AS WRITTEN ABOVE:
SAN FRANCISCO PORT COMMISSION

AGREED TO AS WRITTEN ABOVE:
SAN FRANCISCO
ENTERTAINMENT COMMISSION

By: Michael J. Martin
Deputy Director
Real Estate and Development

By: _____
Executive Director

Reviewed:
DENNIS J. HERRERA, City Attorney

By: Rona H. Sandler
Deputy City Attorney

Amendment Prepared By: Joyce Chan _____ (initial)

Exhibit A

Permit Name	San Francisco Police Code
Amendment to Permits (minor)	Section 2.26
Amusement Parks	Section 1031.1
Ball or Ring Throwing Games	Section 1021
Billiard and Pool Tables	Section 1037
Circus	Section 1019.1
Extended Hours Premises Permit	Section 1070
Fixed Place Outdoor Amplified Sound Permit	Section 1060.3.2
Itinerant Show	Section 1017
Limited Live Performance Permit	Section 1060.3.1
Masked Balls	Section 1029
Mechanical Amusement Devices	Section 1036
Mechanical Contrivances & Others	Section 1045
One Time Indoor or Outdoor Entertainment Event	Section 1060.29
One Time Outdoor Amplified Sound Permit	Section 1060.29.2
Place of Entertainment	Section 1060.3
Place of Entertainment – Amendment	Section 2.26
Recreational Equipment Vendors	Section 1051
Rodeo Exhibition and Show	Section 1020
Sound Truck Permit	Section 1060.27