

MEMORANDUM

May 3, 2018

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Victor Makras
Hon. Doreen Woo Ho

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of the First Amendment to the Memorandum of Understanding with the San Francisco Entertainment Commission to delegate the issuance of newly revamped entertainment related permits to the Entertainment Commission for such activities on Port property

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution

EXECUTIVE SUMMARY

The proposed First Amendment to the Memorandum of Understanding (MOU) between the Port and the San Francisco Entertainment Commission ("Entertainment Commission") regarding issuance and administration of entertainment related permits would amend the MOU with the Entertainment Commission to: (1) replace the list of permits issued by the Entertainment Commission for amplified sound on Port property, (2) reflect the new types of permits, (3) incorporate new amplified sound regulation, (4) establish new permit fees and (5) revise other terms and conditions. This MOU was adopted pursuant to Port Commission Resolution 07-39. Modifications of this type to the MOU require the approval of the Port Commission.

BACKGROUND

In 2000, the Civil Grand Jury recommended that the City and County of San Francisco create a new commission to assume the issuance and administration of entertainment permits from the San Francisco Police Department (the "Police Department").

In November of 2002, San Francisco voters approved an amendment to the City Charter creating the Entertainment Commission. The San Francisco Board of Supervisors adopted amendments to the San Francisco Administrative Code (“Administrative Code”) Chapter 90 providing the Entertainment Commission with the authority to assume all responsibilities from the Police Department for the issuance and administration of entertainment related permits. In July 2003, the Entertainment Commission assumed responsibility for the issuance and administration of the following permits (“Entertainment Related Permits”):

- loudspeaker permits
- itinerant show permits
- dance hall keeper permits
- place of entertainment permits
- extended hours premises permits
- amusement park permits
- mechanical amusement devices permits
- billiard and pool table permits
- arcades and recreational equipment permits

Section 90.4(k) of the Administrative Code authorizes the Entertainment Commission to assume the powers of the Port Commission with respect to issuance, restrictions, and administration of Entertainment Related Permits on Port property only with the approval of the Port Commission.

In 2004, the Port delegated the authority to the Entertainment Commission to exercise its powers and perform its duties within the jurisdiction of the Port under Section 90.4(k) of the Administrative Code through a one-year Memorandum of Understanding with the Entertainment Commission (“2004 MOU”) pursuant to Port Commission action, Resolution 04-53.

In 2007, the Port entered into a new MOU (“2013 MOU”) with the Entertainment Commission pursuant to Port Commission Resolution 07-39. Since the inception, the Port and the Entertainment Commission have developed and enjoyed an exemplary working relationship. The Entertainment Commission has a staff of seven (7). Our mutual efforts have enabled the Port to respond expeditiously to demands by the entertainment community for the use of Port property and allowed the Entertainment Commission to better achieve their goals of promoting and regulating responsible entertainment through permitting, education and advocacy.

In July 2017, the San Francisco Board of Supervisors and the Mayor passed Ordinance No. 163-17 (File 170443) to amend SF Police Code Article 15.1 Section 1060 to change the permitting scheme around outdoor amplified sound and one-time events. These changes are intended to improve the Entertainment Commission’s ability to approve, monitor, and provide enforcement for these uses and activities. The Entertainment Commission implemented the new permit scheme on February 1, 2018.

Changes include:

- Revamping Entertainment Related Permits, including creation of a One Time Event Permit
- Phase out the Loudspeaker Permit
- New Amplified Sound Regulation
- New Permit Fee Restructuring

The 2013 MOU provides that, 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 the MOU to include those permits. Such modification would require the approval of the Port Commission.

MOU TERMS

Material terms and conditions of the First Amendment to the 2013 MOU include the following:

- Future modification of permit types would require approval of the Port Executive Director or her designee.
- For the Port's Fisherman's Wharf Street Performers Program, Port reserves the right to issue its own license for entertainment related purposes.
- When Port tenants or licensees obtain entertainment related permits from the Entertainment Commission, in the case of any inconsistencies between their permit(s) and Port lease or license, the terms and provisions of their Port lease or license shall prevail.
- Timeframe for expedited permit review will change from 24 hours to 72 hours.
- At the request of the Port, the Entertainment Commission will incorporate the Port's Good Neighbor Policy into permits.
- Effective Date of May 8, 2018.
- Exhibit A has been replaced to incorporate new permit types:
 - Extended Hours Premises Permit
 - Fixed Place Outdoor Amplified Sound Permit
 - Limited Live Performance Permit
 - One Time Indoor or Outdoor Entertainment Event
 - One Time Outdoor Amplified Sound Permit
 - Sound Truck Permit

OUTREACH

The Entertainment Commission completed outreach with event producers, venue owners and community groups to increase the awareness and clarity of changes regarding Entertainment Related Permits. In addition to an e-mail bulletin, the Entertainment Commission also held several informational meetings for community groups and interested parties. Port also issued an email-bulletin to all Port tenants and

Community Advisory Committees (CACs) to inform them of the new Entertainment Related Permits.

RECOMMENDATION

Port staff recommends approval of Resolution 18-28 authorizing the Port Executive Director, or her designee, to execute the First Amendment to the Memorandum of Understanding with the San Francisco Entertainment Commission to: (1) replace the list of permits issued by the Entertainment Commission for amplified sound on Port property, (2) reflect the new types of permits, (3) incorporate new amplified sound regulation, (4) establish new permit fees and (5) revise other terms and conditions described above.

Prepared by: Joyce Chan
Property Manager

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

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 18-28

WHEREAS, Section B3.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and

WHEREAS, as provided by Section 90.4(1) of the S.F. Administrative Code, in 2007, the Port Commission delegated to the Entertainment Commission the issuance of entertainment-related permits for Port property under a month to month Memorandum of Understanding (“MOU”) by Port Commission Resolution No. 07-39; and

WHEREAS, the MOU provides that, 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 the MOU to include those permits by action of the Port Commission; and

WHEREAS, in July 2017, the Board of Supervisors of the City and County of San Francisco passed Ordinance No. 163-17 (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 enacting other changes to improve the Entertainment Commission’s ability to approve, monitor, and provide enforcement for these uses and activities; and

WHEREAS, Port and the Entertainment Commission wish to amend the 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 and to make other changes; now therefore be it

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director, or her designee, to enter into the First Amendment to the MOU effective May 8, 2018, to replace the list of permits issued by the Entertainment Commission for amplified sound on Port property to reflect the new types of permits, and make other changes as described in the Memorandum to the Port Commission dated May 3, 2018; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director of the Port, or her designee, to enter into any amendments or modifications to the MOU that the Executive Director determines are in the best interests of the Port, do not materially decrease the benefits to or materially increase the obligations or liabilities of the

Port, and are in compliance with all applicable laws and are necessary and advisable to effectuate the purpose and intent of the MOU, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 8, 2018.

Secretary