

THIS PRINT COVERS CALENDAR ITEM NO.: 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Streets

BRIEF DESCRIPTION:

Authorizing the Director to execute a license agreement with Friends of Lakeside Village (FOLV), a California unincorporated nonprofit corporation, and San Francisco Parks Alliance (SFPA), a California nonprofit public benefit corporation, to enter and use a surface parking lot under SFMTA jurisdiction and located at 2504 Ocean Avenue San Francisco, as a community-event and play space, for a five-year term.

SUMMARY:

- The San Francisco Municipal Transportation Agency (SFMTA) has jurisdiction over the surface parking lot located at 2504 Ocean Avenue, San Francisco, designated as the Ocean and Junipero Serra Lot. The lot has been underutilized for many years.
- SFMTA began discussions with the District 7 Supervisor's office in January 2019 regarding activating a play space on the underused SFMTA parking lot at Ocean and Junipero Serra.
- Pursuant to discussions with the D7 supervisor's office, relevant city agencies, and the non-profit group Friends of Lakeside Village (FOLV), SFMTA agreed in September 2020 to allow FOLV to establish a non-permanent community play and event space, known as Lakeside Landing, on the Ocean and Junipero Serra lot via a Shared Spaces permit sponsored by a neighboring restaurant.
- To clarify issues such as permitted uses, duration of use, allowable improvements, maintenance, and indemnification, SFMTA worked with FOLV and San Francisco Parks Alliance, FOLV's fiscal sponsor, to develop a license agreement to formalize long-term use of the property as "Lakeside Landing".
- Pursuant to the proposed license, FOLV will be permitted to offset property rental charges by performing regular property maintenance and by making SFMTA-approved improvements that enhance the overall appearance and usability of the parking lot.
- FOLV and its fiscal sponsor, San Francisco Parks Alliance, have requested to limit their indemnification obligation under the license to the amount of their insurance coverage required under the License, which may result in an overall increase in SFMTA's risk exposure.


ENCLOSURES:

1. SFMTAB Resolution
2. License with Friends of Lakeside Village and San Francisco Parks Alliance

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APPROVALS:

DATE

DIRECTOR 

February 28, 2024

SECRETARY 

February 28, 2024

ASSIGNED SFMTAB CALENDAR DATE: March 5, 2024

PURPOSE

Authorizing the Director to execute a license agreement with Friends of Lakeside Village (FOLV), a California unincorporated nonprofit corporation, and San Francisco Parks Alliance (SFPA), a California nonprofit public benefit corporation, to enter and use a surface parking lot under the jurisdiction of the SFMTA and located at 2504 Ocean Avenue, San Francisco, as a community-event and play space, for a five-year term.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action is consistent with the San Francisco Municipal Transportation Agency Strategic Plan:

Goal 3: Improve the quality of life and environment in San Francisco and the region.

This item does not directly address any Transit First Policy Principles, but this action does ensure the economic health in San Francisco to support and facilitate projects that enhance safety and public transportation.

DESCRIPTION

Background

The San Francisco Municipal Transportation Agency (SFMTA) has jurisdiction over the surface parking lot located at 2504 Ocean Avenue, San Francisco, commonly referred to as the Ocean and Junipero Serra Lot (Ocean Lot). The lot has been underutilized for many years, a trend that was made worse during the recent pandemic. Additionally, the neighboring Ocean Avenue commercial district has ample on-street metered parking.

SFMTA staff were approached in January 2019 by representatives of the District 7 Supervisor’s Office and staff at the Planning Department regarding the potential for the Ocean Lot to be used as open space for children’s play and educational activities as well as community events. SFMTA staff agreed to consider how the proposed use could be permitted, albeit with SFMTA maintaining ownership of the property and retaining the right to re-implement a paid-parking use at its sole discretion.

Beginning of Lakeside Landing

When the coronavirus pandemic hit in early 2020, a final agreement had not yet been reached on how to permit the proposed alternate use. In September 2020, the SFMTA allowed the proposed usage, which had come to be known as Lakeside Landing, to initiate as one of the uses allowed under the Shared Spaces permit issued to a restaurant operating immediately adjacent to the parking lot. Shared Spaces is a multi-agency program that allows merchants and community groups to use public spaces (streets, sidewalks, plazas, etc.) for neighborhood, commercial and retail activities. Operating under the neighboring restaurant’s permit allowed Lakeside Landing to get launched. However, after consideration of potential options, it was decided a Shared Spaces permit was not the preferred way for SFMTA to permit ongoing use of the property.

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Lakeside Landing is overseen by Friends of Lakeside Village (FOLV), a nonprofit group of residents and participating businesses in the the Lakeside Village neighborhood, in partnership with FOLV's fiscal sponsor, the San Francisco Parks Alliance (Alliance). FOLV, the Alliance and Supervisor Melgar's staff have collaborated to fund amenities and infrastructure for Lakeside Landing, Supervisor Melgar's office through its discretionary budget and FOLV by securing Community Challenge Grant funds from the city.

Formalizing Ongoing Operation of Lakeside Landing

All parties agree that Lakeside Landing has been an overwhelming success. Therefore, Staff has worked with all parties to develop a license agreement that permits the ongoing use. The proposed license agreement details the permitted uses, license term, allowable improvements, maintenance obligations, indemnification obligations, and related issues. Under the license, FOLV will not be charged a license fee for use of the Ocean Lot in exchange for their commitment to perform regular property maintenance and to make SFMTA-approved improvements that enhance the overall appearance and usability of the Ocean Lot.

The parties opted to enter into a new license agreement because the Shared Spaces permit under which Lakeside Landing has been occupying the Ocean Lot applies to other uses as well. An agreement covering only Lakeside Landing is needed to authorize the ongoing use of the Ocean Lot and to incorporate additional terms and conditions desired by all parties.

A revocable license of the scope and term proposed would not typically be presented to the SFMTA Board of Directors for its consideration. However, in this case, FOLV and the Alliance have requested a modification to the indemnification obligations under the license agreement. Specifically, FOLV and the Alliance would like to limit the scope of their indemnification obligation to the amount of their insurance coverage under the license. Accepting the proposed limitation of their indemnification obligation may increase the SFMTA's liability should an incident occur that includes damages that exceed the amount of insurance carried by the Alliance on behalf of FOLV. Because the proposed license agreement includes the requested limitation to FOLV's and the Alliance's liability, approval by the SFMTA Board of Directors is required.

STAKEHOLDER ENGAGEMENT

Staff worked extensively with Friends of Lakeside Village, the San Francisco Parks Alliance, and staff from Supervisor Melgar's Office on the development of the proposed agreement. All local stakeholders strongly support Lakeside Landing.

ALTERNATIVES CONSIDERED

Staff considered the alternative of reinstating paid, public parking at the lot. Given the strong public support for the initial tenure of Lakeside Landing, the historic low rates of parking at the lot, and the ample metered, on-street parking on neighboring Ocean Avenue, staff does not support returning the lot to a parking use at this time.

FUNDING IMPACT

The funding impact is negligible. The parking lot previously generated about \$1,000 per month in gross revenue, however it also required up to \$1,000 per month in cleaning and maintenance work.

ENVIRONMENTAL REVIEW

On February 16, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the proposed license with Friends of Lakeside Village is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The City Attorney has reviewed this report.

No other approvals are required.

RECOMMENDATION

Staff recommends authorizing the Director to execute a license agreement with Friends of Lakeside Village (FOLV), a California unincorporated nonprofit corporation, and San Francisco Parks Alliance (SFPA), a California nonprofit public benefit corporation, to enter and use a surface parking lot under the jurisdiction of the SFMTA and located at 2504 Ocean Avenue, San Francisco, as a community-event and play space, for a five-year term.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) has jurisdiction over the surface parking lot located at 2504 Ocean Avenue, San Francisco, commonly referred to as the Ocean Lot. The lot has been underutilized for many years; and,

WHEREAS, The SFMTA began discussions with the District 7 Supervisor's office in January 2019 regarding activating a play space on the underused SFMTA parking lot at Ocean and Junipero Serra. Pursuant to discussions with the District 7 Supervisor's office, relevant city agencies, and the non-profit group Friends of Lakeside Village (FOLV), SFMTA agreed in September 2020 to allow FOLV to establish a non-permanent community play and event space, known as Lakeside Landing, on the Ocean lot as part of a Shared Spaces permit sponsored by a neighboring restaurant; and,

WHEREAS, To clarify such issues as permitted uses, license term, allowable improvements, maintenance, and indemnification, SFMTA worked with FOLV and the San Francisco Parks Alliance, FOLV's fiscal sponsor, to develop a license agreement to formalize long-term use of the Ocean Lot as "Lakeside Landing"; and,

WHEREAS, Under the license agreement, FOLV will not be charged a license fee for use of the Ocean Lot in exchange for their commitment to perform regular property maintenance and to make SFMTA-approved improvements that enhance the overall appearance and usability of the Ocean Lot; and,

WHEREAS, FOLV and its fiscal sponsor, San Francisco Parks Alliance, have requested to limit their indemnification obligation under the license to the amount of their insurance coverage under the License, which may result in an overall increase in SFMTA's risk exposure, and approving this limitation requires approval of the SFMTA Board of Directors; and,

WHEREAS, On February 16, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Friends of Lakeside Village License is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now therefore be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute a license agreement with Friends of Lakeside Village the San Francisco Parks Alliance to enter and use a surface parking lot located at 2504 Ocean Avenue and under the jurisdiction of the SFMTA, as a community event and play space, for a five-year term.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of March 5, 2024.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

REVOCABLE PERMIT TO ENTER AND USE PROPERTY

by and between

**CITY AND COUNTY OF SAN FRANCISCO, acting by and through its
MUNICIPAL TRANSPORTATION AGENCY**

and

FRIENDS OF LAKESIDE VILLAGE, Permittee

and

SAN FRANCISCO PARKS ALLIANCE, Fiscal Sponsor

to enter and use property located at
2504 Ocean Avenue,
San Francisco, California

_____, 2024

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CITY AND COUNTY OF SAN FRANCISCO
REVOCABLE PERMIT
TO ENTER AND USE PROPERTY
(2504 Ocean Avenue)

THIS REVOCABLE PERMIT TO ENTER AND USE PROPERTY (this “**Permit**”), dated for reference purposes only as of __, 2024, is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its MUNICIPAL TRANSPORTATION AGENCY (“**City**” or “**SFMTA**”), San Francisco Parks Alliance (“**SFPA**”), a California nonprofit public benefit corporation, and FRIENDS OF LAKESIDE VILLAGE, a California unincorporated nonprofit corporation (“**FOLV**” referred to as “**Permittee**”).

Recitals

- A.** Supervisor Melgar is coordinating with Permittee and SFPA regarding Permittee’s continued use of the surface parking lot located at 2504 Ocean Avenue, San Francisco (the “**Ocean View Lot**”) and under the jurisdiction of the SFMTA.
- B.** Friends of Lakeside Village is the recipient of a Community Challenge Grant (“**CCG**”), administered by the San Francisco City Administrator’s Office, in the amount of \$72,450 for the support of additional family-friendly amenities at the Ocean View Lot including drip irrigation, lighting, stage, mural picnic tables, and children’s play equipment as more specifically described in the inventory list attached hereto as Exhibit B. The CCG follows an initial investment of \$40,000 by Supervisor Melgar’s Office to create a community space for safe gatherings during the COVID-19 pandemic with an investment in tables and chairs, a nature exploration area, and landscaping the periphery of the parking lot. In addition, San Francisco Public Works donated a number of items that were recycled from other City projects, all as more particularly described in the inventory list attached hereto as Exhibit B (the “**Inventory List**”).
- C.** SFPA is a fiscal sponsor of FOLV and agrees to provide the insurance and indemnification required under this Permit on behalf of Permittee.
- D.** SFMTA has agreed to allow FOLV use the Ocean View Lot on a temporary basis, pursuant to the terms and conditions of this permit.

City and Permittee agree as follows:

1. LICENSE

City grants to Permittee a revocable, personal, unassignable, non-exclusive, and non-possessory privilege to enter on and use that certain real property owned by City located at 2504 Ocean Avenue, (Assessor’s Parcel Number Block 7225, Lot 13) in the City and County of San Francisco, more particularly shown in Exhibit A attached to this Permit (the “**Permit Area**”), for the limited purpose and subject to the terms, conditions and restrictions set forth below. This Permit gives Permittee a license only, revocable at any time at the will of City and nothing in this Permit constitutes a grant by City of any ownership, leasehold, easement, or other property interest or estate whatsoever in the Permit Area, or any portion of it. The privilege given to Permittee under this Permit is effective only to the extent of City’s rights in the Permit

Area, and Permittee will obtain any further permission necessary because of any other existing rights affecting the Permit Area.

2. USE OF PERMIT AREA

2.1. Scope of Permitted Use

Permittee may enter and use the Permit Area for the sole purpose of providing family - friendly events and community amenities and for no other purpose whatsoever.

Permittee may provide tables and chairs in the Permit Area (the "**Seating Area**"), for use of the general public. The tables and chairs in the Seating Area must be configured so that there are walkways and sufficient area for pedestrian ingress and egress on either side of the tables and to minimize any potential tripping or other hazards. If Permittee desires to operate any exterior heat lamp in the Seating Area, then Permittee must obtain all required health and safety permits before installing and using any heat lamp and request approval from the City in writing, and include the specifications for the proposed heat lamp and copies of the issued health and safety permits required to use the heat lamp. The Director of Transportation, or their designee, will approve or disapprove the use of the heat lamp in his or her sole discretion. If approved, Permittee must operate any heat lamp in accordance with all required health and safety permits and comply with all operating instructions and safety warnings published by the manufacturer or supplier of the heat lamp.

Permittee may not use the Seating Area in a manner which has been identified in writing as being unsafe by Permittee's insurer or City's Risk Manager or insurer.

Permittee acknowledges that the Seating Area is open to the public.

3. INSTALLATION OF FACILITIES

Permittee may install certain improvements consisting of a small stage (for musical and other family-friendly performances), lighting, children's play equipment, a community garden (including drip irrigation), and a nature exploration area, as described in detail in Exhibit B, and all alterations and improvements approved by the City under this Permit (the "**Improvements**") on the Permit Area only on satisfaction of the following conditions, which are for the sole benefit of City:

3.1. Approval of Plans and Specifications

Permittee will install the Improvements in accordance with plans and specifications approved in advance and in writing by City, it being acknowledged that the SFMTA has approved the improvements currently installed in the Permit Area and more specifically described on Exhibit B.

3.2. Permits and Approvals

Before beginning any work to install any new or additional Improvements within the Permit Area ("**Improvement Work**"), Permittee must obtain all permits, licenses, and approvals of any regulatory agencies required to commence and complete the Improvements (collectively, "**Approvals**"). Promptly after receipt of the Approvals, Permittee will deliver copies of them to

City. Permittee acknowledges that no approval by City under this Permit for purposes of the Improvements will be deemed to constitute the approval of any federal, state, or local regulatory authority with jurisdiction required for the Improvements, and nothing in this Permit will limit Permittee's obligation to obtain all Approvals, at Permittee's sole cost.

3.3. Prevailing Wages and Working Conditions

(a) Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. To the extent retains any contractors or subcontractors to perform work in the Permit Area, Permittee will require its contractors and subcontractors performing (i) labor in connection with a “public work” as defined under California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Permit Area to (1) pay workers performing such work not less than the highest prevailing rate of wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “**Prevailing Wage Requirements**”). Permittee will cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements. For current Prevailing Wage rates, see www.sfgov.org/olse/prevailingwages or call the City’s Office of Labor Standard Enforcement at 415-554-6235.

(b) Permittee will include and will require its contractors and subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or subcontractor in accordance with San Francisco Administrative Code Section 23.61. Permittee’s failure to comply with its obligations under this Section will constitute a material breach of this Permit. A contractor’s or subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

(c) Permittee will also pay, and will require its contractors and subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Permit Area as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

3.4. As-Built Drawings

Promptly after completion of the installation of the Improvements, Permittee will furnish City with a complete copy of final as-built drawings for the Improvements to the extent available.

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3.6. Exercise of Due Care

Permittee will use, and will cause its Agents (as defined in Section Error! Reference source not found. below) to use, due care at all times to avoid any damage or harm to City's property. City has the right to approve and supervise any excavation work.

3.7. Cooperation with City Personnel

Permittee and its Agents will work closely with City personnel to avoid disruption (even if temporary) of City property in, under, on, or about the Permit Area and City uses of the Permit Area. Construction sites must be screened with temporary fencing where possible to reduce visual impact.

3.8. Work Schedule

At least five (5) days before commencing any work on the Permit Area Permittee will notify SFMTA's David Dunham (telephone number: 415-646-4332) of the date such work will commence and the intended schedule.

3.9. Responsibility for Maintenance of Facilities

During the Term, Permittee will be solely responsible for the day-to-day maintenance of all facilities placed in or on the Permit Area in good and safe condition. In the event of a major incident (e.g. flooding, storm-related tree damage), Permittee will immediately contact SFMTA and agree on a plan for how repairs/remediation will be conducted, including who will pay.

3.10. Revocability

Permittee acknowledges that the installation of any facilities in the Permit Area will not in any way limit City's right to revoke this Permit or limit any of City's other rights under this Permit or at law or in equity.

4. RESTRICTIONS ON USE

Permittee acknowledges that the following uses of the Permit Area by Permittee or any other person claiming by or through Permittee are inconsistent with the limited purpose of this Permit and are strictly prohibited. The uses listed below are not exclusive and this Section does not limit the City's authority to specify additional restrictions on the use of the Permit Area, in City's sole discretion.

4.1. Improvements

Except as otherwise expressly provided in this Permit, Permittee may not construct or place any temporary or permanent structures or improvements on the Permit Area, and Permittee will not alter any existing structures or improvements on the Permit Area.

4.2. Dumping

Permittee may not dump or dispose of refuse or other unsightly materials on, in, under, or about the Permit Area.

4.3. Hazardous Material

Permittee will not cause, and Permittee will not allow any of its Agents (as defined in Section **Error! Reference source not found.** below) to cause, any Hazardous Material (as defined below) to be brought on, kept, used, stored, generated, or disposed of in, on, or about the Permit Area, or transported to or from the Permit Area. Permittee will immediately notify City when Permittee learns of or has reason to believe that a release of Hazardous Material has occurred in, on, or about the Permit Area. Permittee will comply with all laws requiring notice of releases or threatened releases to governmental agencies, and will take all action necessary to mitigate the release or minimize the spread of contamination to the extent caused by Permittee or its Agents. If Permittee or its Agents cause a release of Hazardous Material, Permittee will, without cost to City and in accordance with all laws and regulations, restore the Permit Area to the condition immediately before the release. In connection with the release and restoration of the Permit Area, Permittee will give City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise proceeding involving Hazardous Material. “**Hazardous Material**” means material that, because of its quantity, concentration, or physical or chemical characteristics, is at any time deemed by any federal, state, or local governmental authority to pose a present or potential hazard to public health, welfare, or the environment. Hazardous Material includes, without limitation, any material or substance defined as a “hazardous substance, pollutant or contaminant” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., or under California Health & Safety Code Section 25316; a “hazardous waste” listed under California Health & Safety Code Section 25140; any asbestos and asbestos containing materials whether or not those materials are part of the Permit Area or are naturally occurring substances in the Permit Area, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term “**release**” or “**threatened release**” when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under, or about the Permit Area. Notwithstanding anything to the contrary herein, Permittee shall not be responsible for pre-existing Hazardous Materials on or about the Permit Area nor shall Permittee be responsible for Hazardous Materials transported to or from the Permit Area by anyone other than Permittee or its Agents.

4.4. Nuisances

Permittee will not conduct any activities on or about the Permit Area that constitute waste, nuisance, or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises, or lights) to City, to the owners or occupants of neighboring property or to the public.

4.5. Damage

Permittee will not do anything about the Permit Area that will cause damage to any of City's property.

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6. PERMIT FEES

Permittee will not be required to pay any permit fee for the term of this Permit.

7. TERM OF PERMIT; REVOCABILITY

The privilege given to Permittee under this Permit is temporary only and will commence on the execution of this Permit by City, and will expire at 5:00 p.m. on June 30, 2028, unless sooner terminated or extended by the parties as provided herein. Without limiting any of its rights under this Permit, City may at its sole option freely revoke this Permit, upon at least five days advance notice, and at any time before the expiration date, without cause and without any obligation to refund any part of any fee or other charge paid under this Permit or pay any consideration to Permittee. In addition, Permittee may at any time terminate this Permit upon written notice to the City, at no cost or expenses to Permittee, at which time Permittee shall remove all temporary improvements described in Section A of Exhibit B.

If Permittee continues to operate in the Permit Area after the expiration of this Permit with the express consent of City, then Permittee's use will be construed to automatically extend the term of this Permit on a month-to-month basis on the terms and conditions of this Permit, as applicable (for example, except for those pertaining to the term). Any continued use of the Permit Area after the expiration or termination of this Permit without the City's consent will be at a monthly permit fee equal to Five Hundred Dollars (\$500) per month, and will constitute a default by Permittee and entitle City to exercise any or all of its remedies as provided in this Permit and at law, even if City elects to accept one or more payments of the monthly permit fee.

8. INSURANCE

(a) SFPA, on behalf of Permittee, will procure and keep in effect at all times during the term of this Permit, at Permittee's expense, and cause its contractors and subcontractors to maintain at all times during any work or construction activities on the Permit Area insurance as follows:

(i) General Liability Insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent

Permittees, Explosion, Collapse and Underground (XCU), Broad Form Property Damage, Products Liability and Completed Operations;

(ii) [Intentionally Omitted]; and

(iii) Workers' Compensation Insurance with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident.

(iv) [Intentionally Omitted];

(v) Liquor Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence;

(b) All liability policies must provide for the following: (i) name as additional insureds the City and County of San Francisco, its officers, agents, and employees; and (ii) specify that the policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Permit and that insurance applies separately to each insured against whom claim is made or suit is brought. The policies must also provide for severability of interests and that an act or omission of one of the named insureds that would void or otherwise reduce coverage will not reduce or void the coverage as to any insured, and will afford coverage for all claims based on acts, omissions, injury, or damage that occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(c) All insurance policies Permittee is required to maintain must be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, non-renewal, or reduction in coverage to both Permittee and City. Notice to City will be mailed to the address(es) for City set forth in **Section Error! Reference source not found.** below.

(d) Before the commencement date of this Permit, Permittee will deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverages required, together with complete copies of the policies at City's request. If Permittee fails to procure the required insurance, or to deliver the policies or certificates, then City may procure the required insurance for the account of Permittee, and Permittee will pay the cost of those policies will to City within five (5) days after delivery an invoice.

(e) If any of the required insurance is provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in the general annual aggregate limit, then the general aggregate limit must be double the occurrence or claims limits specified above.

(f) If any of the required insurance is provided under a claims made form, then Permittee will maintain that coverage continuously throughout the term of this Permit and, without lapse, for a period of three (3) years beyond the Permit expiration, to the effect that, if any occurrences during the Permit term give rise to claims made after expiration of the Permit, then those claims will be covered by the claims-made policies.

(g) On City's request, Permittee and City will periodically review the limits and types of insurance carried under this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Permittee for risks comparable to those associated with the Permit Area, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by Permittee to conform to the general commercial practice.

(h) Permittee's compliance with the provisions of this Section will in no way relieve or decrease Permittee's indemnification obligations under this Permit or any of Permittee's other obligations under this Permit. Notwithstanding anything to the contrary in this Permit, this Permit will terminate immediately, without notice to Permittee, on the lapse of any required insurance coverage. Permittee will be responsible, at its expense, for separately insuring Permittee's personal property.

9. INTENTIONALLY LEFT BLANK

10. COMPLIANCE WITH LAWS

Permittee will, at its expense, conduct and cause to be conducted all activities on the Permit Area in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances, and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act and any other disability access laws), whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. Permittee will, at its sole expense, procure and maintain in force at all times during its use of the Permit Area any and all business and other licenses or approvals necessary to conduct the activities allowed under this Permit. Permittee understands and agrees that City is entering into this Permit in its capacity as a property owner with a proprietary interest in the Permit Area and not as a regulatory agency with police powers. Nothing in this Permit will limit in any way Permittee's obligation to obtain any required regulatory approvals from City departments, boards, or commissions or other governmental regulatory authorities or limit in any way City's exercise of its police powers.

11. COVENANT TO MAINTAIN PERMIT AREA

In connection with its use of the Permit Area, Permittee will at all times, at its sole cost, maintain the Permit Area in a good, clean, safe, secure, sanitary, and sightly condition.

12. REMOVAL OF IMPROVEMENTS

Without limiting any of City's other rights under this Permit or otherwise, the City may, alter or remove at no cost to Permittee all improvements or other property installed or placed in, on, under, or about the Permit Area by or for Permittee, as may be necessary to avoid any actual or potential interference with any public utilities now or later installed in, on, under, or about the Permit Area, with the maintenance or repair the Permit Area or those utilities, or otherwise with any public trust uses or any other municipal operations or uses by City. In the event of an emergency City may, at its sole option and without notice, alter, remove, or protect at any and all

facilities, improvements, plantings, or other property installed or placed in, on, under, or about the Permit Area by Permittee.

13. SURRENDER

On the expiration of this Permit or within ten (10) days after any other termination of this Permit, Permittee will surrender the Permit Area in the same condition as received, and broom clean, free from hazards, and clear of all debris, and Permittee will remove all of its property from the Permit Area and any signs or any other improvements permitted under this Permit, and will repair, at no cost to City, any damage to the Permit Area caused by that removal. Permittee's obligations under this Section will survive any termination of this Permit. Notwithstanding the foregoing, Permittee shall only be responsible for removing improvements identified in Exhibit B, Section A. Permittee shall not be responsible for removing improvements identified in Exhibit B, Sections B and C.

14. WAIVER OF CLAIMS; WAIVER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES

(a) Neither City nor any of its Agents, or their employees, will be liable for any damage to the property of Permittee, its Agents or Invitees, or their employees, or for any bodily injury or death to any persons, resulting or arising from the condition of the Permit Area or its use by Permittee.

(b) Permittee acknowledges that this Permit is freely revocable by City and in view of that fact, Permittee expressly assumes the risk of making any expenditures in connection with this Permit, even if the expenditures are substantial. Without limiting any indemnification obligations of Permittee or other waivers contained in this Permit and as a material part of the consideration for this Permit, Permittee fully RELEASES, WAIVES, AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its Agents, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, but not limited to, any claim for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, if City exercises its right to revoke or terminate this Permit.

(c) Permittee acknowledges that it will not be a displaced person at the time this Permit is terminated or revoked or expires by its own terms, and Permittee fully RELEASES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its Agents, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws.

Permittee expressly acknowledges and agrees that City would not be willing to give this Permit in the absence of a complete waiver of liability for consequential, special, and incidental damages due to the acts or omissions of City or its Agents, and Permittee expressly assumes all risk with respect thereto. Accordingly, without limiting any indemnification obligations of Permittee or other waivers contained in this Permit and as a material part of the consideration for this Permit, Permittee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential, special, and incidental damages,

and covenants not to sue for such damages, City, its Agents, and all persons acting by, through or under each of them, arising out of this Permit or the uses authorized under this Permit, including, without limitation, any interference with uses conducted by Permittee under this Permit, regardless of the cause, and whether or not due to the negligence or gross negligence of City or its Agents.

(d) In connection with the foregoing releases, Permittee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Permittee acknowledges that the releases contained in this Permit includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Permittee acknowledges that it has agreed to this Permit with full knowledge of this waiver and the effect of this waiver, and, being fully aware of the consequences, Permittee intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained in this Permit will survive any termination of this Permit.

15. REPAIR OF DAMAGE

If any portion of the Permit Area or any property of City located on or about the Permit Area is damaged by Permittee or its Agents or as a result of any activities conducted by Permittee or its Agents, Permittee will immediately, at no cost to City repair any and all the damage and restore the Permit Area or property to its previous condition.

16. SIGNS

Permittee will not place, erect, or maintain any sign, advertisement, banner, or similar object on or about the Permit Area, except for any temporary sign that is necessary for Permittee's use so long as Permittee first obtains City's written consent, which City may give or withhold in its sole discretion.

17. UTILITIES

City has no responsibility or liability of any kind for any utilities that may be on, in, or under the Permit Area. To the extent applicable, Permittee will arrange and pay for any necessary temporary relocation of City and public utility company facilities, subject to the prior written approval by City and any utility companies for any relocation. Permittee will be solely responsible for arranging and paying directly for any utilities or services necessary for its activities; provided, however, that under San Francisco Administrative Code Section 99.3, Permittee will only receive electricity at the Permit Area from the San Francisco Public Utilities Commission (“SFPUC”) unless SFPUC determines that the service is not feasible.

18. CITY'S RIGHT TO CURE PERMITTEE DEFAULTS

If Permittee fails to perform any of its obligations under this Permit, to restore the Permit Area or repair damage, or if Permittee defaults in the performance of any of its other obligations under this Permit, then City may, at its sole option, remedy the failure for Permittee's account and at either Permittee or SFPA's expense by providing Permittee and SFPA with three (3) days' prior written or oral notice of City's intention to cure the default (except that no prior notice will be required in an emergency as determined by City). No actions taken by City will be construed as a waiver of any rights or remedies of City under this Permit or otherwise, and nothing in this Permit will imply any duty of City to do any act that Permittee is obligated to perform. Permittee and/or SFPA will pay to City on demand, all costs, damages, expenses, or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy the default. Permittee and SFPA's obligations under this Section will survive the termination of this Permit.

19. NO COSTS TO CITY

Permittee and/or SFPA will bear all costs or expenses of any kind or nature in connection with its use of the Permit Area, and will keep the Permit Area free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Permit Area by Permittee.

20. INDEMNITY

SFPA, on behalf of Permittee, will indemnify and hold harmless City, its commissions, departments, boards, officers, agents, employees, (collectively, "**Agents**"), and each of them, from and against all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages, and liabilities of any kind (collectively, "**Losses**"), arising in any manner out of (a) any injury to or death of any person or damage to or destruction of any property occurring in, on, or about the Permit Area, or any part of it, whether the person or property of Permittee, its Agents, its invitees, guests, or business visitors (collectively, "**Invitees**"), or third persons, relating in any manner to any use or activity by Permittee; (b) any failure by Permittee to faithfully observe or perform any of the terms, covenants, or conditions of this Permit; or (c) the use of the Permit Area or any activities conducted by Permittee, its Agents, or Invitees; except solely to the extent of Losses resulting directly and solely from the willful misconduct of City or City's authorized representatives. The foregoing indemnity includes, without limitation, reasonable attorneys' and consultants' fees, investigation and remediation costs, and all other reasonable costs and expenses incurred by the indemnified parties, including, without limitation, damages for decrease in the value of the Permit Area and claims for damages or decreases in the value of adjoining property. SFPA specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim that actually or potentially falls within this indemnity provision even if the allegation is or may be groundless, fraudulent, or false, which obligation arises at the time the claim is tendered to Permittee by City and continues at all times thereafter. Permittee's obligations under this Section will survive the expiration or other termination of this Permit.

Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, in no event shall the liability of SFPA exceed the insurance proceeds received by SFPA on account of the insurance required under this Agreement.

21. “AS IS” CONDITION OF PERMIT AREA; DISABILITY ACCESS; DISCLAIMER OF REPRESENTATIONS.

Permittee accepts the Permit Area in its “AS IS” condition, without representation or warranty of any kind by City, its officers, agents, or employees, including, without limitation, the suitability, safety, or duration of availability of the Permit Area or any facilities on the Permit Area for Permittee's use. Without limiting the foregoing, this Permit is made subject to all applicable laws, rules, and ordinances governing the use of the Permit Area, and to any and all covenants, conditions, restrictions, easements, encumbrances, claims of title, and other title matters affecting the Permit Area, whether foreseen or unforeseen, and whether those matters are of record or would be disclosed by an accurate inspection or survey. It is Permittee's sole obligation to conduct an independent investigation of the Permit Area and all matters relating to its use of the Permit Area, including, without limitation, the suitability of the Permit Area for its uses. Permittee, at its own expense, will obtain all permissions or other approvals from any third parties with existing rights as may be necessary for Permittee to make use of the Permit Area in the manner contemplated under this Permit.

Under California Civil Code Section 1938, to the extent applicable to this Permit, Permittee is advised that the Permit Area has not undergone inspection by a Certified Access Specialist (“CASp”) to determine whether it meets all applicable construction-related accessibility requirements. A CASp can inspect the Permit Area and determine if it complies with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Permit Area, City may not prohibit Permittee from obtaining a CASp inspection of the Permit Area for the occupancy or potential occupancy of Permittee if requested by Permittee. City and Permittee will mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Permit Area

22. NO ASSIGNMENT

This Permit is personal to Permittee and may not be assigned, conveyed, or otherwise transferred by Permittee under any circumstances. Any attempt to assign, convey, or otherwise transfer this Permit will be null and void and cause the immediate termination of this Permit.

23. CESSATION OF USE

Permittee will not terminate its activities on the Permit Area without prior written notice to City.

24. NO JOINT VENTURES OR PARTNERSHIP; NO AUTHORIZATION

This Permit does not create a partnership or joint venture between City and Permittee as to any activity conducted by Permittee on, in or relating to the Permit Area. Permittee is not a State actor with respect to any activity conducted by Permittee on, in, or under the Permit Area.

The giving of this Permit by City does not constitute authorization or approval by City of any activity conducted by Permittee on, in, or relating to the Permit Area.

25. MACBRIDE PRINCIPLES - NORTHERN IRELAND

The provisions of San Francisco Administrative Code Section 12F are incorporated into this Permit by this reference and made part of this Permit. By signing this Permit, Permittee confirms that Permittee has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

26. NON-DISCRIMINATION

26.1. Covenant Not to Discriminate

In the performance of this Permit, Permittee will not to discriminate against any employee of, any City employee working with Permittee, or applicant for employment with Permittee, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of those protected classes, or in retaliation for opposition to discrimination against those classes.

26.2. Subcontracts

Permittee will include in all subcontracts relating to the Permit Area a non-discrimination clause applicable to the subcontractor in substantially the form of Subsection **Error! Reference source not found.** above. In addition, Permittee will incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and will require all subcontractors to comply with those provisions. Permittee's failure to comply with the obligations in this Subsection will constitute a material breach of this Permit.

26.3. Non-Discrimination in Benefits

Permittee does not as of the date of this Permit and will not during the term of this Permit, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing the registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

26.4. Condition to Permit

As a condition to this Permit, Permittee will execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the “CMD”). Permittee represents that prior to execution of this Permit, (i) Permittee executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) the CMD approved the form.

26.5. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the use of City property are incorporated in this Section by reference and made a part of this Permit as though fully set forth. Permittee will comply fully with and be bound by all of the provisions that apply to this Permit under those Chapters of the Administrative Code, including but not limited to, the remedies provided in those Chapters. Without limiting the foregoing, Permittee understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which that person was discriminated against in violation of the provisions of this Permit may be assessed against Permittee and/or deducted from any payments due Permittee.

27. TROPICAL HARDWOODS AND VIRGIN REDWOOD BAN

The City and County of San Francisco urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product, except as expressly permitted by the application of San Francisco Environment Code sections 802(b) and 803(b). Permittee will not, except as permitted by the application of sections 802(b) and 803(b), use or incorporate any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product in the performance of this Permit.

28. NOTIFICATION OF PROHIBITION ON CONTRIBUTIONS

Through its execution of this Permit, Permittee acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever the transaction would require the approval by a City elected officer, the board on which that City elected officer serves, or a board on which an appointee of that elected officer serves, from making any campaign contribution to (1) the City elected officer if the contract must be approved by that official, (2) a candidate for the City elective office, or (3) a committee controlled by the elected officer or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for the contract or twelve (12) months after the date the contract is approved. Permittee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same elected officer or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Permittee further acknowledges that (i) the prohibition on contributions applies to each Permittee; each member of Permittee's board of directors, and Permittee's chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Permittee; any subcontractor listed in the

contract; and any committee that is sponsored or controlled by Permittee and (ii) within thirty (30) days of the submission of a proposal for the Permit, the City department with whom Permittee is contracting is obligated to submit to the Ethics Commission the parties to the Permit and any sublicensee. Additionally, Permittee certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the lease, and has provided the names of the persons required to be informed to the City department with whom it is leasing.

29. [INTENTIONALLY OMITTED]

30. RESTRICTION ON THE USE OF PESTICIDES

Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or “**IPM Ordinance**”) describes an integrated pest management (“**IPM**”) policy to be implemented by all City departments. Permittee will not use or apply or allow the use or application of any pesticides on the Permit Area by Permittee or its Agents or contract with any party to provide pest abatement or control services to the Permit Area without first receiving City’s written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Permittee may need to apply to the Permit Area during the term of this Permit, (ii) describes the steps Permittee will take to meet the City’s IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Permittee’s primary IPM contact person with the City. Permittee will comply, and will require all of Permittee’s contractors to comply, with the IPM plan approved by the City and will comply with the requirements of sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Permittee were a City department. Among other matters, those provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City’s Department of the Environment), (c) impose certain notice requirements, and (d) require Permittee to keep certain records and to report to City all pesticide use at the Permit Area by Permittee’s staff or contractors.

If Permittee or Permittee’s contractor will apply pesticides to outdoor areas at the Permit Area, Permittee must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation (“**CDPR**”) and any pesticide application must be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City’s current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

31. PROHIBITION OF TOBACCO SALES AND ADVERTISING

Permittee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Permit Area. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Permittee acknowledges and

agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the Permit Area and such prohibition must be included in all subleases or other agreements allowing use of the Permit Area. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

32. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING

Permittee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Permit Area. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

33. DRUG-FREE WORKPLACE

Permittee acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal law is prohibited on City premises. Permittee agrees that any violation of this prohibition by Permittee, its Agents, or Invitees will be a material breach of this Permit.

34. CONFLICTS OF INTEREST

Through its execution of this Permit, Permittee acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq. and sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of those provisions, and agrees that if Permittee becomes aware of any such fact during the term of this Permit, Permittee will immediately notify the City.

35. FOOD SERVICE AND PACKAGING WASTE REDUCTION

Permittee will comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided in that chapter, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this Permit by reference and made a part of this Permit as though fully set forth. This provision is a material term of this Permit. Permittee acknowledges that Chapter 16 includes monetary penalties for violations of One Hundred Dollars (\$100.00) for the first breach, Two Hundred Dollars (\$200.00) for the second breach in the same year, and Five Hundred Dollars (\$500.00) for subsequent breaches in the same year. Any assessment of those penalties will not limit City's rights under this Permit or otherwise for a breach of this Section, and are in addition to City's rights and remedies under this Permit and at law or in equity.

36. INTENTIONALLY LEFT BLANK

37. SAN FRANCISCO PACKAGED WATER ORDINANCE

Permittee will comply with San Francisco Environment Code Chapter 24 (“**Chapter 24**”). Permittee may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Permit or on City property unless Permittee obtains a waiver from the City’s Department of the Environment. If Permittee violates this requirement, the City may exercise all remedies in this Permit and the Director of the City’s Department of the Environment may impose administrative fines as set forth in Chapter 24.

38. INTENTIONALLY LEFT BLANK

39. CRIMINAL HISTORY INQUIRIES FOR EMPLOYMENT

Unless exempt, Permittee agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; “**Chapter 12 T**”), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Permittee who would be or are performing work at the Permit Area.

(a) Permittee will incorporate by reference the provisions of Chapter 12T in all sublicenses of some or all of the Permit Area, and will require all sublicensees to comply with the provisions. Permittee’s failure to comply with the obligations in this subsection will constitute a material breach of this Permit.

(b) Permittee and sublicensees may not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant’s or potential applicant for employment, or employee’s: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(c) Permittee and sublicensees may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Permittee and sublicensees may not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(d) Permittee and sublicensees will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Permittee or sublicensees at the Permit Area, that the Permittee and sublicensees will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(e) Permittee and sublicensees will post the notice prepared by the Office of Labor Standards Enforcement (“**OLSE**”), available on OLSE’s website, in a conspicuous place at the Permit Area and at other workplaces within San Francisco where interviews for job opportunities at the Permit Area occur. The notice must be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Permit Area or other workplace at which it is posted.

(f) Permittee and sublicensees understand and agree that on any failure to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T or this Permit, including, but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Permit.

(g) If Permittee has any questions about the applicability of Chapter 12T, it may contact the City’s Real Estate Division for additional information. City’s Real Estate Division may consult with the Director of the City’s Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

40. PERMITTEE’S COMPLIANCE WITH CITY BUSINESS AND TAX AND REGULATIONS CODE

Permittee acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Permittee under this Permit is withheld, then City will not be in breach or default under this Permit, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Permittee, without interest, late fees, penalties, or other charges, upon Permittee coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

41. CONSIDERATION OF SALARY HISTORY

Permittee must comply with San Francisco Administrative Code Chapter 12K. For each employment application to Permittee for work of eight (8) or more hours per week at the Permit Area, Permittee must not consider the applicant's current or past salary (a "Salary History") in deciding whether to hire the applicant or what salary to offer the applicant unless the applicant voluntarily discloses that Salary History without prompting. In addition, Permittee must not (1) ask those applicants about their Salary History, (2) refuse to hire, or otherwise disfavor, injure, or retaliate against applicants that do not disclose their Salary History, or (3) disclose a current or former employee's Salary History without that employee's authorization unless it is required by law, publicly available, or subject to a collective bargaining agreement.

42. NOTICES

Except as otherwise expressly provided in this Permit, any notices given under this Permit will be effective only if in writing and given by delivering the notice in person, by

sending it first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City: San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, Suite 800
San Francisco, California 94102
Attn: Rob Malone, Sr. Manager, Off-Street Parking
Re: 2504 Ocean Avenue Permit

Permittee: Friends of Lakeside Village
c/o Kath Tsakalakis
40 Beachmont Drive
San Francisco, CA 94132

With a copy to: San Francisco Parks Alliance

Notices under this Permit will be deemed given two (2) days after the date when it has been mailed if sent by first class, certified or overnight courier, or on the date personal delivery is made. For convenience of the parties, copies of notices may be sent by email, but no notice sent only by email will be deemed given and will not be binding on the parties.

43. SEVERABILITY

If any provision of this Permit or the application of a provision of this Permit to any person, entity, or circumstance is invalid or unenforceable, the remainder of this Permit, or the application of the provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected, and each other provision of this Permit will be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Permit without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Permit.

44. COUNTERPARTS

This Permit may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

45. COOPERATIVE DRAFTING

This Permit has been drafted through a cooperative effort of all parties, and all parties have had an opportunity to have the Permit reviewed and revised by legal counsel. No party will be considered the drafter of this Permit, and no presumption or rule that an ambiguity will be construed against the party drafting the clause will apply to the interpretation or enforcement of this Permit.

46. INTENTIONALLY OMITTED

47. GENERALLY APPLICABLE PROVISIONS

(a) This Permit may be amended or modified only by a writing signed by City and Permittee. (b) No waiver by any party of any of the provisions of this Permit will be effective unless in writing and signed by an officer or other authorized representative, and only to the

extent expressly provided in the written waiver. **(c)** All approvals and determinations of City requested, required, or permitted under this Permit may be made in the sole and absolute discretion of the Director of Transportation or other authorized City official. **(d)** This instrument (including the exhibit(s) attached to this Permit) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged into this Permit. **(e)** The section and other headings of this Permit are for convenience of reference only and will be disregarded in the interpretation of this Permit. **(f)** Time is of the essence. **(g)** This Permit will be governed by California law and the City's Charter. Any legal suit, action, or proceeding arising out of or relating to this Permit shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Permit has been brought in an inconvenient forum. The Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to Federal Court. **(h)** If Permittee consists of more than one person then the obligations of each person will be joint and several. **(i)** Permittee may not record this Permit or any memorandum hereof. **(j)** Subject to the prohibition against assignments or other transfers by Permittee under this Permit, this Permit will be binding on and inure to the benefit of the parties and their respective heirs, representatives, successors, and assigns. **(k)** If City sells or otherwise conveys the property where the Permit Area is located, then this Permit will automatically be revoked. **(l)** All exhibits attached to this Permit are incorporated by reference.

[SIGNATURES ON FOLLOWING PAGE]

Permittee represents and warrants to City that it has read and understands the contents of this Permit and will comply with and be bound by all of its provisions.

PERMITTEE:

FRIENDS OF LAKESIDE VILLAGE, a California
unincorporated association fiscally sponsored by the
San Francisco Parks Alliance

By: _____

Print Name: _____

Its: _____

FISCAL SPONSOR:

SAN FRANCISCO PARKS ALLIANCE, a California non-profit
public benefit corporation

By: _____

Print Name: _____

Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through its

MUNICIPAL TRANSPORTATION AGENCY

By: _____
Jeffrey Tumlin
Director of Transportation

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Stephanie Stuart
Deputy City Attorney

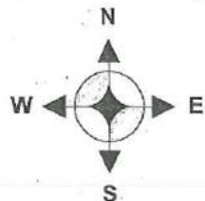
EXHIBIT A

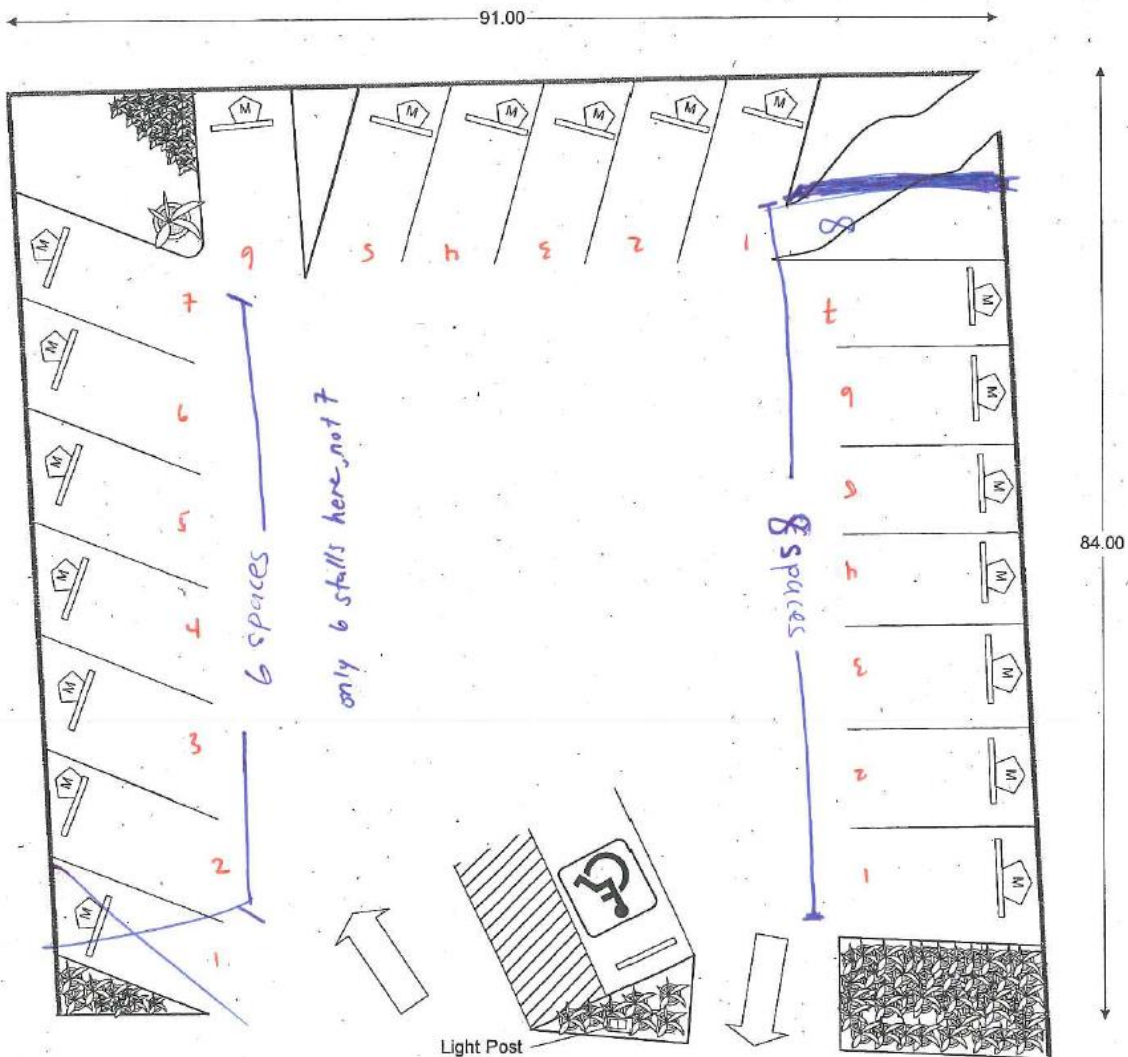
Permit Area



Scale
1 inch = 15 ft

2500 Ocean Avenue





Scale
1 inch = 15 ft

2500 Ocean Avenue

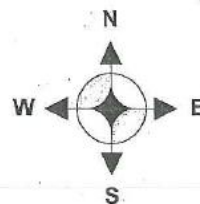


EXHIBIT B

OCEAN AVENUE PARKING LOT INVENTORY OF IMPROVEMENTS

The improvements installed on the Ocean View Lot are temporary. However, some of the installations on the periphery of the Ocean View Lot could be maintained more permanently by SFMTA or any new group responsible. For example:

- Irrigation: To keep the new trees and plants alive that were planted by volunteers, FOLV applied for various grants, fundraised from private donors, and installed a new water meter, backflow device, faucet, and drip irrigation.
- Lighting: To improve community safety and make Ocean Avenue more appealing to families, businesses, and shoppers, FOLV installed string lights and tree lights as part of the project to Light Up The City in 2022.

A. Lakeside Landing includes the following temporary features:

1. Nature Exploration Area in the northwest corner of the lot. The nature exploration area consists of three small concrete blocks repurposed as play tables for kids, boulders, logs, mulch, small wine barrel planters, a large tire, and a small wooden boat for play and picnics.
2. Games and Edible Garden for kids along the Junipero Serra frontage road. The games and edible garden consists of a giant chess board painted onto the asphalt, a custom wooden box for storing giant chess and jenga, three granite blocks used as benches and for checkers, and 3 large planters for the edible garden.
3. Seating for outdoor dining in the center of the parking lot. The seating area consists of café tables and chairs (all folding) and three metal picnic tables with umbrellas.
4. Stage. There is a stage in the southwest corner of the lot that that doubles as a play structure.
5. Planters. FOLV has installed planters around the periphery of the lot, including three large fiberglass planters, to help bring greenery into the parking lot. FOLV has also installed rolling planters to close the entrance and exit of the parking lot to vehicle traffic, while allowing easy access for pedestrians and emergency vehicles.

The following Sections B and C list improvements/items that have been brought to the lot along with the source of such improvements/items and where they could be returned, recycled, or reused.

B. The following items were provided by San Francisco Public works (Public Works); recycled items from Public Works could be returned to their Treasure Island storage lot.

1. Square granite blocks x3 used as benches.
2. Long narrow bench used for seating.
3. Longer narrow granite blocks used to mark the edge of the Nature Exploration Area and ensure the storm drain is kept clear of leaves/ debris.

4. Three (3) concrete blocks used as play tables in the Nature Exploration Area.
 5. Six (6) fiberglass planters; four (4) on each side of the entrance/exit and two (2) in the corners of the lot.
 6. Large tire used as a play structure.
 7. Assortment of boulders and logs used for climbing.
- C. The following items/improvements were funded by Supervisor Myrna Melgar's office, a Community Challenge Grant, and private and corporate donations; recycled items could be reused by other city projects, community groups, or nearby public schools.
1. Café tables and chairs, all folding for easy storage.
 2. Three (3) metal picnic tables with umbrellas.
 3. Four (4) rolling planters used to close the parking lot while still allowing access by pedestrians and emergency vehicles.
 4. Three (3) large edible garden planters on wheels.
 5. Small boat that doubles as a play structure.
 6. Stage that doubles as a play structure for kids (could be salvaged for another park or would have to be destroyed).
 7. "Fish stand" – a small stand used for dramatic play.
 8. Chess box for storing chess pieces, games, toys, and checkers pieces.
 9. Wine barrel planters were recycled from a vineyard; could be moved or destroyed

