

AGENDA ITEM 9
Treasure Island Development Authority
City and County of San Francisco
Meeting of September 13, 2023

Subject: Resolution Approving and Authorizing the Execution of Use Permit No. E- 415 with Ansanelli Productions, Inc., a California corporation for the Production of The TreasureFest (Action Item)

Contact: Jack Nathanson, Special Events and Leasing Manager

Phone: 415-274-0688

BACKGROUND

For nearly 10 years, from 2010-2019, the Marin County Flea Market LLC, a California limited liability company doing business as Treasure Island Flea, now known as Ansanelli Productions, Inc., a California corporation (“Ansanelli Productions”), has produced and operated The Treasure Island Flea Market (“The Flea Market”), now known as TreasureFest (“TreasureFest”), on Treasure Island. TreasureFest was an event held on the last weekend of each month that featured antiques, arts and crafts, an assortment of food and beverages, as well as various types of family entertainment. TreasureFest’s primary location had been the Great Lawn on Treasure Island, eventually moving to the East side of the Island on Avenue N, the Eastern Waterfront on Treasure Island.

TreasureFest had been a permittee in good standing with the Treasure Island Development Authority (the “Authority”) and were great representatives for Treasure Island and the Development Project attracting over 1,000,000 visitors to Treasure Island in the 10 years it operated. Further, TreasureFest was an environmental steward for the Islands, promoting use of public transportation to TreasureFest events, and striving for a goal of zero waste.

Unfortunately, due to the progress of the Development Project, the Authority and TreasureFest agreed to discontinue the event, with the last event occurring on November 24, 2019. This summer, however, Authority staff saw a way forward to resurrect TreasureFest in consultation with Development Project management, and worked together with Ansanelli Productions to find a similar location for TreasureFest to resume on the Eastern Waterfront of Treasure Island.

Under the proposed Use Permit, Ansanelli Productions is requesting a Permit Fee of \$3,000 per month for use of land located at Avenue N from 8th Street to Clipper Cove Way for its production of TreasureFest, along with nonexclusive use of other various other locations on Treasure Island for parking and production staging. This Use Permit is consistent with the previous use permit between Ansanelli Productions and the Authority.

USE PERMIT TERMS AND CONDITIONS

Treasure Island Flea will sign the Authority’s standard form Use Permit document. The salient terms and conditions of the proposed Permit include the following:

Premises: That certain portion of the property commonly known as Avenue N from 8th Street to Clipper Cove Way, and various other locations, all as more particularly shown on Exhibit A, attached hereto.

Term: Commencement Date:
February 24, 2024

Expiration Date: December 29, 2024

Event Schedule: Permittee shall have use of the Premises on the following Saturday and Sunday dates listed below, 5:45A.M.-7:00P.M. Logistical deliveries will be allowed on Thursdays and Fridays prior to the event, and final breakdown will be allowed on Mondays post event:

- February 24-25, 2024
- March 30-31, 2024
- April 27-28, 2024
- May 25-26, 2024
- June 29-30, 2024
- July 27-28, 2024
- August 24-25, 2024
- September 28-29, 2024
- October 26-27, 2024
- November 23-24, 2024
- December 28-29, 2024

Use: Production of the event known as TreasureFest, including the sale of arts, crafts, hand-made items, antiques, food and beverages, only and for no other purpose whatsoever

Permit Fee: Three Thousand Dollars (\$3,000) per weekend

Security Deposit: Six Thousand Dollars (\$6,000)

BUDGET IMPACT

This Use Permit for TreasureFest will provide Fifteen Thousand (\$15,000) Dollars of Special Event Revenue for fiscal year 2023-2024 as well as Fifteen Thousand (\$15,000) Dollars for fiscal year 2024-2025 totaling Thirty Thousand (\$30,000) Dollars.

RECOMMENDATION

Project Staff recommends that the Authority Board of Directors approve the Use Permit with Ansanelli Productions, Inc., a California corporation for the Production of The TreasureFest, and authorize the Treasure Island Director or his designee to execute said Use Permit for the production of TreasureFest on the Eastern Waterfront of Treasure Island.

Exhibit A: Use Permit between the Treasure Island Development Authority and Ansanelli Productions, Inc., a California corporation for the Production of The TreasureFest, including map of Premises and Event Schedule.

Prepared by: Jack Nathanson, Special Events Manager
For: Robert Beck, Treasure Island Director

**P-415
USE PERMIT**

THIS USE PERMIT (this “Permit”) dated for reference only as of July 31, 2023 is made by and between the Treasure Island Development Authority (“Authority”) and Ansanelli Productions, Inc. a California corporation (“Permittee”).

RECITALS

WHEREAS, the Treasure Island Development Authority owns portions of the property known as the Naval Station Treasure Island (the “Property”); and

WHEREAS, Permittee seeks to use a portion of the Property owned by the Authority for the purposes stated herein, subject to the terms and conditions of this Permit.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Authority and Permittee agree as follows:

1. Basic Permit Information

The following is a summary of the basic permit information (the “Basic Permit Information”). Each item below shall be deemed to incorporate all of the terms of this Permit pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of the Permit, the more specific provision shall control.

Authority:	TREASURE ISLAND DEVELOPMENT AUTHORITY, a California nonprofit public benefit corporation
Permittee:	Ansanelli Productions, Inc. a California corporation (“Permittee”).
Permit Area (Section 2):	That certain portion of the property commonly known as Avenue N from 8 th Street to Clipper Cove Way, and various other locations, all as more particularly shown on <u>Exhibit A</u> , attached hereto.
Structural Report (Section 5):	None
Permitted Use (Section 6):	Production of the event known as TreasureFest, including the sale of arts, crafts, hand-made items, antiques, food and beverages, only and for no other purpose whatsoever

Parking Rights (Section 7):

No more than Five Hundred (500) vehicles are permitted to park at the Premises for the event. All vehicles must be parked within the Premises as shown on Exhibit A, at all times

Permit Fees (Section 11):

Three Thousand Dollars (\$3,000.00)

Term (Section 12):

Commencement Date:
February 24, 2024

Expiration Date:
December 29, 2024

Permittee shall be allowed use of the Premises on the dates and time period listed on the Use Schedule, attached as Exhibit H.

Utilities (Section 19):

Not Applicable

Additional Permittee Requirements:

This Use Permit is issued only upon compliance with the following requirements, subject to review by the Authority and the applicable City and County of San Francisco permitting departments:

- Proof of issuance of all event-specific permits required by San Francisco Fire Department, San Francisco Entertainment Commission, Department of Public Health, Department of Emergency Management California Department of Alcoholic Beverage Control, and San Francisco Bay Conservation Development Commission relating to open flame, hazardous materials, amplified sound, medical plan, food and alcohol service and shoreline access.
- Submittal to the Authority of a Waste Reduction Plan for the event.

Insurance Limits (Section 21):

Worker's Compensation Insurance - statutory amounts

Employers' Liability Coverage with limits of not less than \$1,000,000 for each accident or occurrence.

Comprehensive or Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence, \$2,000,000 aggregate for bodily injury, property damage, contractual liability, personal injury, products and completed operations.

Comprehensive or Business Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage.

Address for Notices (Section 26):

Authority:

Treasure Island Development Authority
One Avenue of the Palms
2nd Floor
Treasure Island
San Francisco, CA 94130
Attn.: Jack Nathanson
Special Events Manager
Phone No.: (415) 274-0688
Fax No.: (415) 274-0299

Permittee:

Ansanelli Productions, Inc.
176 Wild Horse Valley Drive
Novato, CA 94947
Attn: Charles Ansanelli
Phone: 415-898-0245
Fax: 415-898-0035

Security Deposit (Section 33):

Six Thousand Dollars (\$6,000.00)

2. License of Permit Area. Authority confers to Permittee a revocable, personal, non-exclusive and non-possessory license to enter upon and use the Permit Area described in the Basic Permit Information for the limited purpose and subject to the terms, conditions and restrictions set forth below.

This Permit does not constitute a grant to Permittee of any ownership, leasehold, easement or other property interest or estate in the Permit Area. Authority is acting only in its proprietary capacity in granting the license given to Permittee under this Permit. Permittee acknowledges that (i) such grant is effective only insofar as Authority's rights in the Permit Area; and (ii) Permittee must separately obtain all regulatory approvals of Authority, the City and County of San Francisco ("**City**") or any other applicable governmental entity necessary for

the Permitted Uses. Permittee shall bear all costs or expenses of any kind in connection with its use of the Permit Area or any other Property.

3. Inspection of Permit Area. Permittee represents and warrants that Permittee has conducted a thorough and diligent inspection and investigation, either independently or through its officers, directors, employees, agents, affiliates, subsidiaries, Permittees and contractors, and their respective heirs, legal representatives, successors and assigns, and each of them (“**Permittee's Agents**”), of the Permit Area and the suitability of the Permit Area for Permittee’s intended use. Permittee is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Permit Area are suitable for its operations and intended uses.

4. As Is; Disclaimer of Representations. Permittee acknowledges and agrees that the Permit Area are being licensed and accepted in their “AS IS, WITH ALL FAULTS” condition, without representation or warranty of any kind, and subject to all applicable laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Permit Area, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties (“**Laws**”), governing the use, occupancy, management, operation and possession of the Permit Area. Without limiting the foregoing, this Permit is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Permit Area, or any portion thereof, whether or not of record. Permittee acknowledges and agrees that neither Authority nor any of its officers, directors, employees, agents, affiliates, subsidiaries, Permittees and contractors, and their respective heirs, legal representatives, successors and assigns (“**Authority’s Agents**”) have made, and Authority hereby disclaims, any representations or warranties, express or implied, concerning (i) title or survey matters affecting the Permit Area, (ii) the physical, geological, seismological or environmental condition of the Permit Area, (iii) the quality, nature or adequacy of any utilities serving the Permit Area, (iv) the feasibility, cost or legality of constructing any Alterations on the Permit Area if required for Permittee's use and permitted under this Permit, (v) the safety of the Permit Area, whether for the use of Permittee or any other person, including Permittee’s Agents or Permittee’s clients, customers, vendors, invitees, guests, members, Permittees, assignees or permittees (“**Permittee’s Invitees**”), or (vi) any other matter whatsoever relating to the Permit Area or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

5. Seismic Report and Structural Report. Without limiting Section 4 above, Permittee expressly acknowledges for itself and Permittee’s Agents that it received and read that certain report dated August 1995, entitled “*Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions,*” prepared for the Office of Military Base Conversion, Department of City Planning, and the former Redevelopment Agency of the City and County of San Francisco (the “**Seismic Report**”), a copy of the cover page of which is attached hereto as Exhibit B. Permittee has had an adequate opportunity to review the Seismic Report with expert consultants of its own choosing. The Seismic Report, among other matters, describes the conditions of the soils on Treasure Island and points out that in the area of the Property where the Permit Area is located, an earthquake of magnitude 7 or greater is likely to cause the ground under and around the Permit Area to spread laterally to a distance of ten (10) or more feet and/or result in other risks. In that event, there is a significant risk that buildings and any other structures or improvements located on or about the Permit Area may fail structurally and collapse. Permittee further expressly acknowledges for itself and Permittee’s Agents that it received and read that certain Structural Report identified in the Basic Permit Information, a copy of which is attached hereto as Exhibit C (the “**Structural Report**”).

6. Use of Permit Area. Permittee may enter and use the Permit Area for the sole purpose described in the Basic Permit Information. Permittee shall not use, and Permittee shall prohibit Permittee's Agents and Permittee's Permittees from using, the Permit Area for any activities other than the Permitted Uses. Permittee agrees that, by way of example only and without limitation, the following uses of the Permit Area by Permittee, or any of Permittee's Agents or Permittee's Invitees, or any other person claiming by or through Permittee, are inconsistent with the limited purpose of this Permit and are strictly prohibited as provided below:

6.1 Hazardous Material. Permittee shall not cause, nor shall Permittee allow any of Permittee's Agents or Permittee's Invitees to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Permit Area, or transported to or from the Permit Area without the prior written consent of Authority. Permittee shall immediately notify Authority 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 shall further comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event that Permittee or Permittee's Agents or Permittee's Invitees cause a release of Hazardous Material, Permittee shall, without cost to Authority and in accordance with all laws and regulations, return the Permit Area to the condition immediately prior to the release. In connection therewith, Permittee shall afford Authority 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. For purposes hereof, "**Hazardous Material**" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter 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" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*, or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such 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 shall include 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.

6.2 Nuisances. Permittee shall 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 Authority, to the owners or occupants of neighboring property or to the public.

6.3 Damage. Permittee shall not do anything about the Permit Area that could cause damage to the Permit Area or any Authority property.

6.4 Well Protection

(a) **Standard Requirements:** Authority has adopted a Well Protection Plan for protection of soil vapor and groundwater wells associated with the Navy environmental cleanup program [a copy will be provided by staff on request]. Permittee is responsible for compliance with the Well Protection Plan for any well located within the Permit Area. Permittee must keep

wells within the Permit Area visible and accessible at all times. Visibility is defined as no equipment, vehicles, soil, fill material, or other objects or structures placed over top of the well or within a five-foot radius from the center of the well. Accessibility is defined as a five-foot wide path to the well that is free of obstacles. Accessibility must be maintained to support observation and sampling of the well by the Authority and its agents and regulators. For wells located in indoor, unoccupied spaces, Permittee must keep the building locked to the public to limit access. Any bollards protecting wells must be kept in good condition and free of damage. Permittee shall avoid vehicle operation over existing wells to limit damage.

Permittee must report any well damage to wells within the Permit Area to Authority within 24 hours. Damage is defined as broken or cracked well lid, broken or cracked well collar, or broken or cracked concrete associated with well construction. Permittee is informed that the Navy or Authority may enter the Permit Area to observe or sample wells.

(b) **Building Demolition:** If Permittee demolishes a building containing interior wells, the Permittee will notify Authority who will notify the Department of Toxic Substances Control (DTSC) of demolition no later than 30 days prior to the start of demolition activities. Permittee will notify demolition contractors of the presence of wells within the building before beginning demolition and the need to protect the wells during demolition in accordance with the Well Protection Plan. During demolition activities, wells within the building must be covered by a five-foot by five-foot trench steel plate of 0.25-inch minimum thickness painted a bright color prior to demolition activities. Contractors will keep the plate in place through placement of asphalt around the perimeter of the plate or through implementation of other methods that mitigate movement of the plate. The plate will remain in place atop the well through completion of demolition. Exterior wells within 50 feet of the external walls must be protected by surrounding the well with chain link fencing during demolition.

The Permittee will instruct demolition contractors to leave the building slab intact where possible. If the building slab is required to be demolished during building demolition, slab demolition will be conducted following demolition of above-slab building components. An 8-foot by 8-foot box section of slab centered around each well will be saw-cut and the slab within the 8 by 8 foot box will be removed using hand tools only. Following slab demolition by hand, metal sleeves extending 2-3 feet above the ground surface will be placed to fit around the well covers and brightly painted. Additional protective measures detailed in previous section (Standard Requirements) will also be evaluated for implementation following building demolition. Following completion of demolition activities, the structural integrity and condition of the wells will be evaluated by visual inspection and tagging the depth of the well. If wells have sustained damage to the point at which the well can no longer serve its purpose, the impacted wells must be properly decommissioned and reinstalled.

Wells located within buildings proposed for demolition that are deemed no longer essential by the Navy, DTSC, and the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) must be properly decommissioned prior to the start of demolition activities. If the condition of the building in which the wells are located cannot support well decommissioning due to access restraints or health and safety hazards, steel plates will be placed over the wells as described above. In this case, well decommissioning shall be completed following completion of demolition.

(c) **Subsurface/Utility Excavation:** Permittee is required to obtain a dig permit before any excavation or soil handling activities within the Permit Area. If Permittee completes subsurface excavation activities in proximity to wells, a minimum of five feet between the edge of the well cover and the wall of the excavation must be maintained. Before the start of work, contractors will be made aware of all wells and protective measures, ensuring the five foot protective area and that equipment, haul trucks, and stockpiles are not stationed atop of wells. Excavation equipment is prohibited from accessing the excavation from the side with a well

located five feet from the edge of the excavation. Additional protective measures detailed in the Standard Requirements section will also be evaluated for implementation during subsurface excavation.

Following completion of excavation activities, contractors will assess the structural integrity and condition of wells within five feet of the excavation by visual inspection and tagging the depth of the well. If wells have sustained damage to the point at which the well can no longer serve its purpose, the impacted wells must be properly decommissioned and reinstalled.

If the scope of work requires excavation within the five-foot minimum separation distance, the well will require abandonment prior to commencement of excavation and reinstallation, if needed, following completion of work.

(d) **Staged Soil Management:** Authority has adopted a Contingency Plan for environmental management on former Navy properties [a copy will be provided by staff on request]. Permittee is responsible for compliance with the Contingency Plan within the Permit Area. Permittee may not stockpile or manage soil, fill materials, or construction debris that may be impacted by environmental contaminants. If Permittee (or a party acting by or through Permittee) fails to comply with this requirement, Permittee will be responsible, at no cost to Authority, for corrective action to address the stockpile in the manner prescribed in the Contingency Plan.

In accordance with plans approved by Authority, Permittee may temporarily stockpile construction debris (asphalt, concrete, brick, rock, lumber, etc.) as long as the debris is not mixed with soil, does not exhibit visual or olfactory indicators of contamination, and is not staged on lands currently subject to a Covenant to Restrict Use of Property (“CRUP”) or other environmental controls. Permittee will place such stockpiles on plastic sheeting and cover the temporary stockpile in plastic sheeting and sand wattles surrounded by bright cones.

Permittee will immediately report to Authority any illegal dumping of soil or other material within the Permit Area, unauthorized visitors or suspicious hauling vehicles. Authority requests that Permittees leasing space within Navy environmental cleanup Site 24 maintain security cameras and make video recording available to Authority upon request in the event of illegal dumping.

(e) **Import Soils and Fill Material:** Permittee is advised that the import of soil or fill materials within the Permit Area is prohibited unless performed in strict accordance with a process approved and overseen by the DTSC. Provisions of this process include analytical testing of any soil or fill material for potential environmental contaminants and comparison of results of allowable concentrations for import fill. If import of soils or fill materials are needed, Permittee will notify Authority for assistance performing the required sampling.

(f) **Accidental Fuel Spills:** Permittee will report all spills of fuels or other potentially hazardous liquids to the California Office of Emergency Services State Warning Center and the Unified Program Agency or 911 and to Authority. Authority will notify DTSC and Regional Water Board within 48 hours of discovery.

In the event of a spill within the Permit Area, Permittee will contain or remove the spill source. Permittee will use roll-off bins or 55-gallon drums to control standing liquid. Absorbent material and pumping will be implemented by Permittee for active leaks. If removal of impacted soils is required due to a spill, Permittee will obtain a USA ticket and dig permit 72 hours before remediation activities and will perform the soil remediation in accordance with the Contingency Plan.

(g) **Vapor Intrusion Assessment:** Permittee is advised that recorded environmental land use covenants and restrictions on some properties may require periodic indoor air sampling by Authority to confirm acceptable indoor air quality. Permittee will provide reasonable access to Authority to perform this sampling if and when required.

(h) **Site Reconnaissance:** In accordance with the Contingency Plan, Authority is required periodically to perform a site reconnaissance of leased spaces to observe general environmental conditions and confirm that environmental best practices are being utilized. Permittee will notify Authority if they observe any potential environmental contaminations issues, such as insufficient protection of groundwater and soil gas monitoring wells, handling of hazardous materials, or poor environmental housekeeping.

7. Disclosure of Special Flood Hazard Areas On November 2, 2015, the Federal Emergency Management Agency (“**FEMA**”) issued a preliminary Flood Insurance Rate Map (“**FIRM**”) that identifies Special Flood Hazard Areas along City’s shoreline, with designations of “Zone A” (areas subject to coastal flooding) and “Zone V” (areas subject to coastal flooding and hazards that accompany wave action). The affected City property includes Treasure and Yerba Buena Islands, among other areas. FEMA expects to finalize the FIRM in mid-2020, which may have significant impacts for developing new structures and reconstructing or repairing existing structures in the identified areas. Accordingly, the Permit Area may be subject to flooding, but the extent of any potential flooding is not known, and Permittee expressly acknowledges and accepts this risk. FEMA provides status information on its mapping process here: <http://arcg.is/OP8mjD>.

8. Parking. Permittee shall be allowed to park up to the number of vehicles set forth in the Basic Permit Information in the area designated for parking on Exhibit A attached hereto. To the extent practicable, Permittee shall use its best efforts to encourage the use of public transportation, ride-sharing, the use of shuttle busses or other pooled-means of transportation to and from the Permit Area. Information about public transportation servicing former Naval Station Treasure Island is attached to this Permit as Exhibit G. Further public transportation information is also available on-line at <http://www.511.org>.

9. Resource Conservation and Sustainability. Authority is committed to managing the Permit Area in as sustainable a manner as possible. In addition to Permittee's compliance with the requirements of Section 32 below, Permittee shall use its best efforts to conduct its operations in accordance with sustainable practices and shall conduct its operations in accordance with all applicable environmental laws.

Chapter 12.7 of the California Public Resources Code codified at Section 42648 *et seq.* and the San Francisco Environment Code require all operators of large events to maximize recycling and minimize waste in order to achieve high rates of landfill diversion. If Permittee's use of the Permit Area will host over 1,000 people, Permittee shall comply with the following requirements not later than thirty (30) days prior to the scheduled event:

- A. Submit a recycling and waste reduction plan to the Treasure Island Event Coordinator.
- B. Provide proof of attendance at an event recycling workshop or hire an approved event recycling crew. Contact the SF Department of the Environment’s recycling program at 355-3754 for more information on workshops and approved recycling services.

- C. Submit proof of recycling, trash and composting (if applicable) collection services. Proof of service can be obtained from the permitted refuse hauler, Golden Gate Disposal and Recycling (www.sfrecycling.com or 330-1300).

Fish and Game Code Section 5652 makes it unlawful to deposit, pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird. Permittee shall comply with the provisions of this Section, including but not limited to, prohibiting the release of balloons or any other material that is consistent with this provision.

10. Subject to Authority and City Uses. Notwithstanding anything to the contrary in this Permit, Permittee's right to use the Permit Area hereunder shall be subject and subordinate to Authority and City's uses of the Permit Area for municipal purposes. In addition, Permittee acknowledges that the Property contains a variety of different event venues and outdoor public spaces and it is common for numerous events to be held at various venues on the Property on the same day.

11. Alterations. Except as otherwise expressly provided herein, Permittee shall not construct or place any temporary or permanent structures, improvements or signs in, on, under or about the Permit Area, nor shall Permittee make any alterations, installations or additions ("**Alterations**") to any of the existing structures, improvements or signs on the Permit Area, unless Permittee first obtains Authority's prior written consent, which Authority may give or withhold in its sole and absolute discretion. Subject to Authority's consent as provided above, any permitted Alterations shall be done at Permittee's sole expense (i) in strict accordance with plans and specifications approved in advance by Authority in writing, (ii) by duly licensed and bonded contractors approved by Authority, (iii) in a good and professional manner, (iv) in strict compliance with all applicable laws and regulations, and (v) subject to all other conditions that Authority may reasonably impose. Upon termination of this Permit, Permittee shall remove all Alterations constructed or affixed to the Permit Area by or on behalf of Permittee and repair, at its sole cost and expense, any damage to the Permit Area caused by the installation or removal of such Alterations.

Without limiting the generality of the foregoing, Permittee acknowledges and agrees that, no Alterations may be made to any improvements on the Permit Area (i) which will affect the historic characteristics of the improvements or modify the appearance of the exterior of the improvements without Authority's prior written consent, or (ii) if such Alterations would preclude qualifying the improvements for inclusion on the National Register for Historic Places.

12. Permit Fee. Permittee shall pay to Authority a one-time non-refundable permit fee in the amount set forth in the Basic Permit Information for its use of the Permit Area as provided hereunder. Such fee is payable at such time as Permittee signs and delivers this Permit to Authority. Within five (5) days after demand therefor, Permittee shall pay all applicable City departments for the costs incurred by those departments in providing the use of City employees, equipment, property and facilities in connection with this Permit.

13. Term of Permit; Revocability. The privilege conferred to Permittee pursuant to this Permit shall commence on Commencement Date and Time set forth in the Basic Permit Information and shall automatically expire on the Expiration Date and Time set forth in the Basic Permit Information, unless amended in writing or sooner terminated or revoked pursuant to the terms hereof. Without limiting any of its rights hereunder, Authority may revoke this

Permit at any time prior to the Expiration Date and Time, without cause and without any obligation to pay any consideration to Permittee.

14. Compliance with Laws.

(a) **General.** Permittee shall, at its expense, conduct and cause to be conducted all activities on the Permit Area allowed hereunder in a safe and reasonable manner and in compliance with all laws, regulations, ordinances and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act) whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. Such laws shall include, but are not limited to, local, state and federal laws prohibiting discrimination in employment and public accommodations and regulating the posting of signs on public property. Permittee shall, 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 hereunder. Permittee understands and agrees that Authority 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. Permittee further understands and agrees that no approval by Authority for purposes of this Permit shall be deemed to constitute approval of any federal, state, Authority or other local regulatory authority with jurisdiction, and nothing herein shall limit Permittee's obligation to obtain all such regulatory approvals at Permittee's sole cost or limit in any way Authority's exercise of its police powers. Without limiting the foregoing, before beginning any work in the Permit Area and/or using the Permit Area, Permittee at its sole cost and expense shall obtain any and all permits, licenses and approvals (collectively, "**approvals**") of all regulatory agencies and other third parties that are required to commence and complete the permitted work and use the Permit Area including, but not limited to, approvals required by the San Francisco Fire Department (e.g. General Assembly, Tent, Open Flame, Propane, etc.), the San Francisco Police Department (e.g., alcohol consumption and/or sales), the San Francisco Entertainment Commission (e.g., Loudspeaker, Itinerant Show, etc.), San Francisco Department of Building Inspection (e.g., electrical), the San Francisco Department of Health, and the California Department of Alcoholic Beverage Control (e.g., alcohol consumption and/or sales). Upon request, Permittee shall provide copies of all such approvals to Authority prior to Permittee's use of the Permit Area.

(b) **Qualified to Do Business.** Permittee understands that each person engaging in business within the City, as determined under San Francisco Business and Revenue and Tax Code section 6.2-12, shall apply to the San Francisco Tax Collector for a registration certificate, using the form provided by the Tax Collector, and pay any applicable taxes. In addition, foreign and out of state businesses must qualify with the California Secretary of State before transacting business in the State, as set forth in the California Corporations Code. Permittee agrees to comply with these requirements.

15. Security. In addition to the Permit Fee described in Section 12 above, Permittee shall provide the security, police and medical support services described on Exhibit D, attached hereto, at its sole cost and expense.

16. Rules and Regulations. In connection with the Permittee's use hereunder, Permittee shall comply with the Rules and Regulations attached hereto as Exhibit E. Authority reserves the right, in its sole discretion, to change such Rules and Regulations as necessary to promote or protect the public safety, health or convenience. Authority shall give Permittee reasonable prior notice of such changes; provided, however, that no such prior notice shall be required in emergency situations.

17. Surrender; No Holding Over. Upon the expiration of this Permit, Permittee shall surrender the Permit Area in the same condition as received, free from hazards and clear of all debris. At such time, Permittee shall remove all of its property from the Permit Area permitted hereunder, and shall repair, at its cost, any damage to the Permit Area caused by such removal. Permittee's obligations under this Section shall survive any termination of this Permit.

If Permittee fails to surrender the Permit Area to Authority upon the expiration or earlier termination of this Permit as required by this Section, Permittee shall indemnify, protect, defend and hold harmless forever (“**Indemnify**”) Authority against all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs (“**Losses**”) resulting therefrom, including, without limitation, Losses made by a succeeding permittee resulting from Permittee's failure to surrender the Permit Area. Permittee shall have no right to hold over without the prior written consent of Authority, which consent may be withheld in Permittee's sole and absolute discretion. If Permittee holds over the Permit Area or any part thereof after expiration or earlier termination of this Permit, such holding over shall be terminable upon written notice by Permittee, and the Permit Fee shall be increased to two hundred percent (200%) of the Permit Fee in effect immediately prior to such holding over, calculated on a per diem basis, and such holdover shall otherwise be on all the other terms and conditions of this Permit. This Section shall not be construed as Authority's permission for Permittee to hold over. Acceptance of any holdover Permit Fee by Authority following expiration or termination of this Permit shall not constitute an extension or renewal of this Permit.

18. Repair of Damage. If requested by Authority, Permittee shall promptly, at its sole cost and expense, repair any and all damage to the Permit Area and any personal property located thereon caused by Permittee or Permittee's Agents or Invitees. Permittee shall obtain Authority's prior written approval of any party to be used by Permittee to conduct such repair work. Alternatively, Authority may make such repairs or behalf of Permittee at Permittee's sole cost and expense. If Permittee damages Authority facilities or any personal property, the final repair costs owed by Permittee shall be determined by Authority in its sole and absolute discretion, and shall be paid by Permittee within five (5) days after Permittee's demand therefor. Permittee's obligations under this Section shall survive the cancellation, expiration or termination of this Permit.

19. Public Safety. Permittee agrees to conduct the Permitted Uses at all times in a safe and prudent manner with full regard to the public safety and to observe all applicable regulations and requests of Authority and other government agencies responsible for public safety.

20. Utilities. Authority has no responsibility or liability of any kind with respect to any utilities that may be on, in or under the Permit Area. Permittee shall locate any such utilities and protect them from damage arising out of Permittee's activities. Permittee shall be solely responsible for arranging and paying for all utilities necessary in connection with the Permitted Uses as set forth in the Basic Permit Information. Any such payment shall be due and payable within five (5) days after demand therefor.

21. Release and Waiver of Claims; Indemnification.

21.1. Release and Waiver of Claims. Permittee, on behalf of itself and Permittee's Agents, covenants and agrees that the Authority shall not be responsible for or liable to Permittee for, and, to the fullest extent allowed by any Laws, Permittee hereby waives all rights against the Authority and releases them from, any and all Losses, including, but not limited to,

incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Permit Area, from any cause whatsoever, including without limitation, partial or complete collapse of the buildings thereon due to an earthquake or subsidence, except only to the extent such Losses are caused exclusively by the gross negligence or willful misconduct of the Authority (except as provided in Section 21.1(a) below). Without limiting the generality of the foregoing:

(a) Without limiting any other waiver contained herein, Permittee on behalf of itself and its successors and assigns, hereby waives its right to recover from, and forever RELEASES, WAIVES AND DISCHARGES, the Authority from any and all Losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the Authority's decision to allow Permittee to use the Permit Area, regardless of whether or not such decision is or may be determined to be an act of gross negligence or willful misconduct of the Authority.

(b) Permittee covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Authority any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this Section 21.1.

(c) In executing these waivers and releases, Permittee has not relied upon any representation or statement other than as expressly set forth herein.

(d) Permittee has made such investigation of the facts pertaining to these waivers and releases as it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Permittee regardless of any claims of mistake.

(e) **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.

21.2. Acknowledgment. Permittee acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Permittee realizes and acknowledges that it has agreed upon this Permit in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Permit.

21.3. Permittee's Indemnity. Permittee, on behalf of itself and Permittee's Agents, shall Indemnify the Authority from and against any and all Losses, expressly including but not limited to, any Losses arising out of a partial or complete collapse of any building located on the Permit Area due to an earthquake or subsidence, incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any damage to or destruction of any property owned by or in the custody of Permittee or Permittee's Agents or Permittee's Invitees; (b) any accident, injury to or death of a person, including, without limitation, Permittee's Agents and Permittee's

Invitees, howsoever or by whomsoever caused, occurring in, on or about the Permit Area; (c) any default by Permittee in the observation or performance of any of the terms, covenants or conditions of this Permit to be observed or performed on Permittee's part; (d) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Permittee, Permittee's Agents or Permittee's Invitees or any person or entity claiming through or under any of them, of the Permit Area or any Alterations; (e) the condition of the Permit Area; (f) any construction or other work undertaken by Permittee on or about the Permit Area whether before or during the Term of this Permit; or (g) any acts, omissions or negligence of Permittee, Permittee's Agents or Permittee's Invitees, or of any trespassers, in, on or about the Permit Area or any alterations; except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Permit and further except only to the extent such Losses are caused by the gross negligence and intentional wrongful acts and omissions of the Authority. Notwithstanding the foregoing, Permittee's obligations to indemnify the Authority under this Section 21.3 shall remain in full force and effect regardless of whether or not the Authority' decision to permit the Permit Area to the Permittee, given the seismic condition of the property, is or may be determined to be an act of gross negligence or willful misconduct of the Authority. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Authority's costs of investigating any Loss. Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend Authority from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Permittee by Authority and continues at all times thereafter. Permittee's obligations under this Section shall survive the expiration or sooner termination of this Permit. Notwithstanding anything contained herein, to the extent such Losses are not covered by insurance required herein and subject to this Section 21.3, Permittee shall have no obligation to repair, restore or reconstruct the Permit Area (or to pay for the same) in the event the Permit Area are damaged or destroyed by an earthquake or subsidence or by any other uninsured casualty.

22. Insurance

22.1. Permittee's Insurance. Permittee shall procure and maintain throughout the Term of this Permit and pay the cost thereof the following insurance:

(a) If Permittee has employees, Worker's Compensation Insurance in statutory amounts, with Employers' Liability Coverage with limits of not less than the amount set forth in the Basic Permit Information; and

(b) Comprehensive or Commercial General Liability Insurance with limits not less than the amount set forth in the Basic Permit Information, including coverage for Contractual Liability, Host Liquor Liability, Personal Injury, Advertising Liability, Independent Contractors, Explosion, Collapse and Underground (XCU), Broad Form Property Damage, Products Liability, Completed Operations and Sudden and Accidental Pollution; and

(c) Comprehensive or Business Automobile Liability Insurance with limits not less than the amount set forth in the Basic Permit Information, including coverage for owned, non-owned and hired automobiles, if applicable, which insurance shall be required if any automobiles or any other motor vehicles are operated in connection with Permittee's activity on, in and around the Permit Area; and

(d) Such other insurance as required by law or as the City's Risk Manager may require.

22.2. Claims Made Policy. Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Permit, and, without lapse, for two (2) years beyond the expiration of this Permit, to the effect that, should occurrences during the Term give rise to claims made after expiration of this Permit, such claims shall be covered by such claims-made policies.

22.3. Annual Aggregate Limit. Should any of the required insurance be 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 such annual aggregate limit, such annual aggregate limit shall be not less than double the occurrence limits specified above.

22.4. Additional Insureds. Liability policies shall be endorsed to name as additional insureds the "Treasure Island Development Authority, City and County of San Francisco, and their officers, directors, employees and agents" (Insurance Certificate with Endorsement for such additional insureds).

22.5. Payment of Premiums. Permittee shall pay all the premiums for maintaining all required insurance.

22.6. Waiver of Subrogation Rights. Notwithstanding anything to the contrary contained herein, Authority and Permittee (each a "**Waiving Party**") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Permit Area or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party, to the extent such loss or damage is covered by insurance which is required to be purchased by the Waiving Party under this Permit or is actually covered by insurance obtained by the Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Permit Area; provided, the failure to obtain any such endorsement shall not affect the above waiver.

22.7. General Insurance Matters

(a) All insurance policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to Authority at the address for Notices specified in the Basic Permit Information.

(b) All insurance policies shall be endorsed to provide that such insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and that insurance applies separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

(c) Before commencement of activities under this Permit, certificates of insurance and brokers' endorsements, in form and with insurers acceptable to Authority, shall be furnished to Authority, along with complete copies of policies if requested by Authority.

(d) All insurance policies required to be maintained by Permittee hereunder shall be issued by an insurance company or companies reasonably acceptable to Authority with an AM Best rating of not less than A-VIII and authorized to do business in the State of California.

22.8. No Limitation on Indemnities. Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations herein or any of Permittee's other obligations or liabilities under this Permit.

22.9. Lapse of Insurance. Notwithstanding anything to the contrary in this Permit, Authority may elect in Authority's sole and absolute discretion to terminate this Permit upon the lapse of any required insurance coverage by written notice to Permittee.

22.10. Permittee's Personal Property. Permittee shall be responsible, at its expense, for separately insuring Permittee's Personal Property.

23. No Assignment. This Permit is personal to Permittee and shall not be assigned, conveyed or otherwise transferred by Permittee under any circumstances.

24. No Joint Venture or Partnership; Independent Contractor. This Permit does not create a partnership or joint venture between Authority and Permittee. Permittee shall be solely responsible for all matters relating to the payment of its employees, including, without limitation, compliance with any federal, state or local law and all other regulations governing such matters.

25. Impossibility of Performance. If, for any reason, an unforeseen event occurs which is beyond the control of Authority or Permittee, including, but not limited to, fire, casualty or labor strike, which event renders impossible the fulfillment of any term of this Permit, Permittee and Authority shall have no right to nor claim for damages against the other.

26. Possessory Interest Taxes; Payment of Taxes. Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest under applicable law. Permittee agrees to pay taxes of any kind, including possessory interest taxes, if any, that may be lawfully assessed on Permittee's interest under this Permit or use of the Permit Area pursuant hereto and to pay any other taxes, excises, licenses, permit charges, possessory interest taxes, or assessments based on Permittee's usage of the Permit Area that may be imposed upon Permittee by applicable law.

27. Notices. Except as otherwise provided herein, any notices given under this Permit shall be addressed to the Authority and Permittee at the addresses set forth in the Basic Permit Information. Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Mail, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight carrier, if next business day delivery is required, (c) upon the date personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first class mail on such date.

28. MacBride Principles -Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated herein 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.

29. Non-Discrimination

29.1 Covenant Not to Discriminate. In the performance of this Permit, Permittee covenants and agrees not to discriminate on the basis of any fact or perception of a person's race, color, creed, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, height, weight or acquired immune deficiency (AIDS) or HIV syndrome against any employee of, any City or Authority employee working with, or applicant for employment with, Permittee, in any of Permittee's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Permittee.

29.2 Subcontracts. Permittee shall include in all subcontracts relating to the Permit Area a non-discrimination clause applicable to such subcontractor in substantially the form of Section 29.1 above. In addition, Permittee shall 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 shall require all subcontractors to comply with such provisions. Permittee's failure to comply with the obligations in this Section shall constitute a material breach of this Permit.

29.3 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 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 such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

29.4 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 herein. Permittee shall comply fully with and be bound by all of the provisions that apply to this Permit under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Permittee understands that pursuant to 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 such 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.

30. Tropical Hardwoods and Virgin Redwood. 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 Sections 802(b) and 803(b) of the San Francisco Environment Code. Permittee agrees that, except as permitted by the application of Sections 802(b) and 803(b), Permittee shall not use or incorporate any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of this Permit.

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 permits 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. For purposes of this section, “alcoholic beverage” is defined as set forth in California Business and Professions Code section 23004 and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. 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. 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 said provision, and agrees that if Permittee becomes aware of any such fact during the term of this Permit, Permittee shall immediately notify Authority.

34. Food Service and Packaging Waste Reduction Ordinance. Permittee agrees to 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, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Permit as though fully set forth herein. This provision is a material term of this Permit. By entering into this Permit, Permittee agrees that if it breaches this provision, Authority will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting Authority's other rights and remedies, Permittee agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that Authority will incur based on the violation, established in light of the circumstances existing at the time this Permit was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by Authority because of Permittee's failure to comply with this provision.

35. Security Deposit. Permittee shall pay to Authority upon execution of this Permit a security deposit in the amount set forth in the Basic Permit Information as security for the faithful performance of all terms, covenants and conditions of this Permit. Permittee agrees that Authority may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Permit Area caused by Permittee, Permittee's Agents or Permittee's Invitees, or any failure of Permittee to perform any other terms, covenants or conditions contained in this Permit, without waiving any of Authority's other rights and remedies hereunder or at law or in equity. Authority's obligations with respect to the security deposit are solely that of debtor and not trustee. Authority shall not be required to keep the security deposit separate from its general funds, and Permittee shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Permittee's liability for the performance of any of its obligations under this Permit. To the extent that Authority is not entitled to retain or apply the security deposit pursuant to this Section, Authority shall return such security deposit to Permittee within forty-five (45) days of

the termination of this Permit, or such longer period as is reasonably necessary for Authority to confirm Permittee's compliance with the requirements of this Permit.

36. Notification of Prohibition on Contributions. If this License is subject to the approval by City's Board of Supervisors, Mayor, or other elected official, the provisions of this Section shall apply. Through its execution of this Permit, Permittee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City or a state agency on whose board an appointee of a City elective officer serves, for the selling or leasing of any land or building to or from the City or a state agency whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer,, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such 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 individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Permittee further acknowledges that the **(i)** prohibition on contributions applies to each prospective party to the contract; each member of Permittee's board of directors; Permittee's chairperson, 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 bid or 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 contract, the City department with whom Permittee is contracting is obligated to submit to the Ethics Commission the parties to the contract and any subcontractor. Additionally, Permittee certifies that Permittee has informed each of the persons described in the preceding sentence of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

37. Intellectual Property; Music Broadcasting Rights. Permittee shall be solely responsible for obtaining any necessary clearances or permissions for the use of intellectual property, including, but not limited to musical or other performance rights. (Note to Permittee: To obtain the appropriate music performance license, you may contact the BMI Licensing Executive toll free at 1-877-264-2137 Monday – Friday, 9-5 p.m. (Central Time) and the American Society of Composers, Authors and Publishers ("**ASCAP**") at 1-800-505-4052 Monday – Friday, 9-5 p.m. (Eastern Time)).

38. TIHDI Job Broker. Permittee shall comply with the requirements of the TIHDI Work Force Hiring Plan attached hereto as Exhibit F.

39. Prevailing Wages and Working Conditions.

39.1 Public Works. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Permittee shall 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 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 agrees to cooperate with the Authority in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

39.2 Public Works Contracting. Permittee shall include, and shall require its Contractors and Subcontractors (regardless of tier), to include the Prevailing Wage Requirements and the agreement to cooperate in Authority enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the Authority, 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 shall constitute a material breach of this Permit. A Contractor’s or Subcontractor’s failure to comply with this Section will enable the Authority to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, see www.sfgov.org/olse or call the City’s Office of Labor Standards Enforcement at 415-554-6235.

39.3 Prevailing Wages for Certain Activities. Permittee shall pay, and shall require its subpermittees, and contractors and subcontractors (regardless of tier) to pay, prevailing wages, including fringe benefits or the matching equivalents thereof, to persons performing services for the following activity 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 Trade Show and Special Event (as defined in Section 21C.8), and 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). If Permittee, or its subpermittees, contractors, and subcontractors fail to comply with the applicable obligations in San Francisco Administrative Code Chapter 21C, Authority shall have all available remedies set forth in Chapter 21C and the remedies set forth in this Permit. Authority may inspect and/or audit any workplace, job site, books and records pertaining to the applicable services and may interview any individual who provides, or has provided, such services. Permittee shall provide to Authority (and to require any subpermittee, contractor or subcontractor who maintains such records to provide to Authority) immediate access to all workers’ time sheets, payroll records, and paychecks for inspection on request to the extent they relate to such services.

40. Criminal History in Hiring and Employment Decisions.

(a) 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.

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

(c) Permittee and subpermittees shall 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.

(d) Permittee and subpermittees shall 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 subpermittees shall 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.

(e) Permittee and subpermittees shall 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 subpermittee at the Permit Area, that the Permittee or subpermittee will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Permittee and subpermittees shall 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 shall 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.

(g) Permittee and subpermittees understand and agree that upon any failure to comply with the requirements of Chapter 12T, the Authority shall 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.

(h) If Permittee has any questions about the applicability of Chapter 12T, it may contact the Authority for additional information. The Authority 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.

41. Local Hiring Requirements for Special Events. Unless exempt, Permittee must comply with all applicable provisions of the San Francisco Local Hiring Policy for Construction set forth in San Francisco Administrative Code §6.22(G) (the "**Local Hiring Policy**") in the performance of construction activities during the set-up, execution and strike of Events of four (4) or more consecutive or non-consecutive days. Before starting any Construction Work for Special Events covered under the Local Hiring Policy, Event Sponsor shall contact the City's Office of Economic Workforce and Development ("**OEWD**") to verify the Local Hiring Policy requirements that apply to the Special Event, and Event Sponsor shall comply with all such requirements. Failure to comply with the obligations in this subsection shall constitute a material breach and may subject Event Sponsor to the consequences of noncompliance specified in the Local Hiring Policy, including but not limited to penalties.

(a) For construction work on events covered by the Local Hiring Policy that exceed \$440,000, a budget of construction activities must be submitted with this application for review by OEWD.

(b) Contractors shall comply with the applicable mandatory participation levels for Project Work Hours performed by Local Residents, Disadvantaged Workers, and Apprentices as set forth in Section 6.22(G)(4).

(c) Contractors shall comply with applicable recordkeeping and reporting requirements and shall cooperate in City inspections and audits for compliance with the Local Hiring Policy, including allowing access to employees of its contractors and subcontractors and other witnesses at the Permit Area.

42. San Francisco Packaged Water Ordinance. Permittee agrees to comply with San Francisco Environment Code Chapter 24 (“**Chapter 24**”). Permittee shall not sell, provide or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement 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 Agreement and the Director of the City’s Department of the Environment may impose administrative fines as set forth in Chapter 24.

43. Vending Machines: Nutritional Standards and Calorie Labeling Requirements. Permittee shall not install or permit any vending machine on the Permit Area without the prior written consent of the TIDA Director. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the “**Nutritional Standards Requirements**”). Permittee agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Permit Area or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Permit. Without limiting Authority’s other rights and remedies under this Permit, Authority shall have the right to require the immediate removal of any vending machine on the Permit Area that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Permit Area is encouraged to ensure that at least 25% of Meals offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code Section 4.9-1(e), as may be amended.

44. All-Gender Toilet Facilities. If applicable, Permittee shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this Section. If Permittee has any question about applicability or compliance, Permittee should contact the [Director of Property] for guidance.

45. General Provisions. (a) This Permit may be amended or modified only by a writing signed by Authority and Permittee. (b) No waiver by any party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties

and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. **(d)** The section and other headings of this Permit are for convenience of reference only and shall be disregarded in the interpretation of this Permit. **(e)** Time is of the essence. **(f)** This Permit shall be governed by and construed in accordance with 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. **(g)** If Permittee consists of more than one person then the obligations of each person shall be joint and several. **(h)** Permittee may not record this Permit or any memorandum hereof. **(i)** Subject to the prohibition against assignments or other transfers by Permittee hereunder, this Permit shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns. **(j)** Any sale or conveyance of the property burdened by this Permit by Authority shall automatically revoke this Permit. **(k)** This Permit may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[Remainder of page left intentionally blank]

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

PERMITTEE:

Ansanelli Productions, Inc., a California corporation

By: _____

Name: _____

Title: _____

AUTHORITY:

TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____

Robert P. Beck
Treasure Island Director

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

Permit Prepared By Jack Nathanson, Special Events Manager _____

(Initial)

EXHIBIT A

Permit Area

EXHIBIT B

“Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions,” prepared for the Office of Military Base Conversion, Department of City Planning, and the Redevelopment Agency of the City and County of San Francisco – August, 1995

EXHIBIT C

Structural Report

**(If for outdoor space or facility without structural report,
list “None”)**

EXHIBIT D

Security

EXHIBIT E

Rules and Regulations

EXHIBIT F

TIHDI Job Broker Program

EXHIBIT G

Public Transportation Information

EXHIBIT H

Event Schedule

Permittee shall have use of the Premises on the following Saturday and Sunday dates listed below, 5:45A.M.-7:00P.M. Logistical deliveries will be allowed on Thursdays and Fridays prior to the event, and final breakdown will be allowed on Mondays post event:

February 24-25, 2024

March 30-31, 2024

April 27-28, 2024

May 25-26, 2024

June 29-30, 2024

July 27-28, 2024

August 24-25, 2024

September 28-29, 2024

October 26-27, 2024

November 23-24, 2024

December 28-29, 2024

1 [Use Permit with TreasureFest]

2 **Resolution Approving and Authorizing the Execution of Use Permit No. E- 415 with**
3 **Ansanelli Productions, Inc., a California corporation for the Production of The**
4 **TreasureFest.**

5 WHEREAS, Former Naval Station Treasure Island is a former military base located on
6 Treasure Island and Yerba Buena Island (together, the "Base"); and,

7 WHEREAS, The Base was selected for closure and disposition by the Base
8 Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its
9 subsequent amendments; and,

10 WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended
11 Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter
12 1333 of the Statutes of 1968 (the "Act"), the California Legislature (i) designated the Treasure
13 Island Development Authority (the "Authority") as a redevelopment agency under California
14 redevelopment law with authority over the Base upon approval of the City's Board of
15 Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands
16 Trust, vested in the Authority the authority to administer the public trust for commerce,
17 navigation and fisheries as to such property; and,

18 WHEREAS, The Board of Supervisors approved the designation of the Authority as a
19 redevelopment agency for Treasure Island in 1997; and,

20 WHEREAS, On January 24, 2012, the Board of Supervisors rescinded designation of
21 the Authority as the redevelopment agency for Treasure Island under California Community
22 Redevelopment Law in Resolution No. 11-12; and that such rescission does not affect
23 Authority's status as the Local Reuse Authority for Treasure Island or the Tidelands Trust
24 trustee for the portions of Treasure Island subject to the Tidelands Trust, or any of the other
25 powers or authority; and,

1 WHEREAS, For nearly 10 years, from 2010-2019, the Marin County Flea Market LLC,
2 a California limited liability company doing business as Treasure Island Flea, now known as
3 Ansanelli Productions, Inc., a California corporation (“Ansanelli Productions”), has produced
4 and operated The Treasure Island Flea Market (“The Flea Market”), now known as
5 TreasureFest (“TreasureFest”), on Treasure Island; and,

6 WHEREAS, TreasureFest was an event held on the last weekend of each month that
7 featured antiques, arts and crafts, an assortment of food and beverages, as well as various
8 types of family entertainment located initially at the Great Lawn then moving to the Eastern
9 Waterfront of Treasure Island on Avenue N; and,

10 WHEREAS, TreasureFest had been a permittee in good standing with the Authority,
11 wonderful ambassador for Treasure Island and Development Project attracting over 1,000,000
12 visitors to the Island each year it existed, and was an environmental steward promoting use of
13 public transportation to TreasureFest events, and striving for a goal of zero waste; and,

14 WHEREAS, Unfortunately, due to the progress of the Development Project, the
15 Authority and TreasureFest agreed to discontinue the event, with the last event occurring on
16 November 24, 2019; and,

17 WHEREAS, In July and August, Authority staff saw a way forward to resurrect
18 TreasureFest in consultation with Development Project management, and worked together
19 with Ansanelli Productions to find a similar location for TreasureFest to resume on the Eastern
20 Waterfront of Treasure Island; and,

21 WHEREAS, Under the proposed Use Permit, Ansanelli Productions is requesting a
22 Permit Fee of \$3,000.00 per month for use of land located at Avenue N from 8th Street to
23 Clipper Cove Way for its production of TreasureFest, along with nonexclusive use of other
24 various other locations on Treasure Island for parking and production staging; and,

25

1 WHEREAS, Permittee shall have use of the Premises on the following Saturday and
2 Sunday from 5:45 A.M.-7:00 P.M with Logistical deliveries allowed on Thursdays and Fridays
3 prior to the event and final breakdown allowed on Mondays post event for the following Event
4 Dates - February 24-25, 2024, March 30-31, 2024, April 27-28, 2024, May 25-26, 2024, June
5 29-30, 2024, July 27-28, 2024, August 24-25, 2024, September 28-29, 2024, October 26-27,
6 2024, November 23-24, 2024, and December 28-29, 2024; and,

7 WHEREAS, This Use Permit is consistent with the previous use permit between
8 Ansanelli Productions and the Authority; now, therefore, be it

9 RESOLVED, That the Board of Directors hereby approves the proposed Use Permit
10 No. E- 415 with Ansanelli Productions, Inc., a California corporation for the Production of The
11 TreasureFest, and authorizes the Treasure Island Director or his designee to execute said
12 Use Permit in substantially the form attached hereto as Exhibit A; and be it

13 FURTHER RESOLVED, That the Board of Directors hereby finds that (i) entering into
14 the Use Permit will serve the goals of the Authority and the public interests of the City, and (ii)
15 the terms and conditions of the Use Permit are economically reasonable; and be it

16 FURTHER RESOLVED, That the Board of Directors hereby authorizes the Treasure
17 Island Director to execute and perform the Authority's obligations under the Use Permit, and
18 to enter into any additions, amendments or other modifications to the Use Permit that the
19 Treasure Island Director determines in consultation with the City Attorney are in the best
20 interests of the Authority, that do not materially increase the obligations or liabilities of the
21 Authority, that do not materially reduce the rights of the Authority, or are necessary or
22 advisable to complete the preparation and approval of the Agreement, such determination to
23 be conclusively evidenced by the execution and delivery by the Treasure Island Director of the
24 documents and any amendments thereto.

25

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on September 13, 2023.

Mark Dunlop, Secretary