

SOUTH BEACH HARBOR RULES AND REGULATIONS



SAN FRANCISCO PORT COMMISSION

SOUTH BEACH HARBOR RULES AND REGULATIONS

**ELAINE FORBES
EXECUTIVE DIRECTOR**

**EFFECTIVE JANUARY 1, 2026
PORT COMMISSION RESOLUTION NO. 15-37, AS AMENDED BY PORT
COMMISSION RESOLUTION NO. 25-84**

**GAIL GILMAN, PRESIDENT
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WILLIE ADAMS, COMMISSIONER
STEVEN LEE, COMMISSIONER
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SOUTH BEACH HARBOR RULES AND REGULATIONS

1. DEFINITIONS

Whenever any of the following words are used in these Rules and Regulations or in a License agreement or permit, they mean the following:

“Berth” or “Berths” means a berth, slip or mooring in the South Beach Harbor including an assigned dock box within the Harbor. The word “berthing” shall be construed accordingly.

“charter vessel” means any vessel carrying passengers for hire.

“City” means the City and County of San Francisco.

“Commission” means the San Francisco Port Commission.

“day” or “days” means calendar days.

“Fee” means any fee or charge listed on the Fee Schedule.

“Fee Schedule” means the schedule of Fees, rates and charges adopted by the Commission and amended from time to time.

“habitual late payer” means an Owner that has not timely paid berthing Fees three (3) times in a three (3) year period.

“Harbor” means South Beach Harbor at Pier 40 and all facilities and improvements therein and entrances thereto including without limitation, the Pier 40 shed building and parking areas.

“Harbormaster” means the Harbormaster of the South Beach Harbor as appointed by the Port Maritime Director.

“Hot Work” means any activity generating a naked flame, spark or hot gas, and includes the use of BBQs and other cooking apparatus on the deck of a vessel.

“Invitees” means all crew, visitors, guests, agents, contractors, employees, hired personnel and other invitees while at the Harbor.

“Laws” means any present or future law, ordinance, judicial decision, rule, regulation or requirement of any federal, state, local or regional governmental entity with jurisdiction over the Harbor or activities therein. “Laws” includes the requirements of the San Francisco Port Code as to the South Beach Harbor Public Access Pier and South Beach Park.

“License” means the agreement under which an Owner is granted the right for a vessel to use a berth in the Harbor.

“Licensee” means the individual named in a License.

“Maritime Director” means the Deputy Director, Maritime, of the Port of San Francisco.

“Minimally toxic cleaning materials” means any substance or mixture of substances that has an acute aquatic toxicity value corresponding to a concentration greater than 10 parts per million and does not produce byproducts with an acute toxicity value less than 10 parts per million.

“Minimize” means to reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best marine practice.

“Owner” means the registered owner of a vessel and shall include a Licensee when such Owner has a License and a Partnership and each member thereof when such Partnership owns a vessel.

“Partnership” means a general or limited partnership, limited liability company, corporation, joint venture or other such legal entity.

“person” means any person, including an Owner, using the Harbor.

“Phosphate-free” means cleaning materials that contain, by weight, 0.5 percent or less of phosphates or derivatives of phosphates.

“Port” means the Port of San Francisco.

“Temporary” shall mean a person berthing a vessel at the Harbor for a maximum period of six (6) months.

“Transfer” means to or attempt to give, sell, sublease, assign, transfer or otherwise permanently or temporarily voluntarily or involuntarily relinquish a right to use a berth including a Transfer of an ownership right in a vessel if the use of the berth is part of the Transfer.

“Transfer Fee” means the Fee charged to transfer a License as set forth in the Fee Schedule.

“Transient” shall mean a person berthing a vessel at the Harbor for a period of fourteen (14) consecutive days or less.

“USCG” means the United States Coast Guard.

“vessel” means any vessel or watercraft in, entering or departing the Harbor.

2. APPLICABILITY OF RULES AND REGULATIONS

These Rules and Regulations apply to all persons entering and using the Harbor, including without limitation all Licensees, Owners, and their Invitees.

In the event of any conflict or inconsistency between the Rules and Regulations and the terms and conditions of a License, the License will control.

Port reserves the right at any time and from time to time to change or rescind any one or more or all of these Rules and Regulations or to make such other and further Rules and Regulations as the Port determines are in the best interest of the Port, the environment and/or the Harbor. Such revised or new rules shall be binding upon all users of the Harbor.

3. HARBORMASTER AUTHORITY

A. The Harbormaster shall have full authority to operate the Harbor and to interpret and enforce these Rules and Regulations, as amended from time to time by Port. Violation of these Rules and Regulations may be cause for removal of persons, vessels or vehicles from the Harbor, revoking or terminating a License, parking permit or other authorization or taking other actions determined to be necessary or appropriate by the Harbormaster. Unless otherwise specified in these Rules and Regulations, all actions of the Harbormaster shall be in his or her sole discretion.

B. Every person, vessel and vehicle entering the Harbor shall immediately become subject to the authority and direction of the Harbormaster. The Harbormaster shall have the right to board any vessel in the Harbor for the purpose of administering and enforcing these Rules and Regulations.

C. The Harbormaster may board, enter, move or carry out emergency work on a vessel for safety or operational reasons without prior notice and at the Owner’s expense. If Harbor personnel must perform such services after-hours, the after-hours services rates will apply.

D. The Harbormaster shall have the right to refuse entry into the Harbor of any vessel which in the Harbormaster’s opinion is derelict, unseaworthy and/or of inappropriate size. Every vessel shall be berthed in the space assigned by the Harbormaster.

E. The Harbormaster shall have the right to reassign berths when there is a vacancy to obtain optimum utilization of Harbor facilities or to accommodate new or existing Licensees including Transient and Temporary Licensees that are in good standing and desire to relocate within the Harbor.

F. The Harbormaster shall have the right to move or cause to be moved any vessel to (1) ensure the proper operation, maintenance and repair of the Harbor; (2) as required for the safety and protection of persons or property; and (3) temporarily for a special event, such as a vessel show. If practicable, the Harbormaster will provide notice before moving a vessel.

G. The Harbormaster shall have the right, at Owner's expense, to secure, move or remove any vessel that is in violation of a License or these Rules and Regulations and the Owner has failed to cure the default during the cure period, if any. If practicable, the Harbormaster will provide notice before moving a vessel.

H. Each Owner hereby appoints the Harbormaster as his or her agent for designating a place of storage and safekeeping at the Owner's expense in the event that the Harbormaster moves the vessel to a location outside of the Harbor. The cost of removal and transportation to and from the storage facility shall be paid by Owner.

I. If at any time the Harbor is so badly damaged or affected by an event beyond the Port's reasonable control such that the Harbor can no longer provide berthing or other services, the Harbormaster shall have the right to terminate a license or other permission to use the Harbor and cancel services by providing reasonable notice.

4. GENERAL CONDITIONS; RELEASE

A. All persons enter and use the Harbor at their own risk and in doing so acknowledge and accept these Rules and Regulations.

B. Port shall not be liable for any death, injury, theft, loss or damage, including to vehicles or vessels, arising from a person's use of the Harbor. Port assumes no risk on account of fire, acts of nature, conditions of the sea, theft, or damages of any kind to vessels or vehicles using the Harbor.

C. Port is not under any general duty to provide a safety, weather, or security watch for the benefit of any person, vessel or vehicle and any liability or responsibility of Port for these contingencies is expressly released and waived by the users of the Harbor.

D. Port shall not be liable for claims relating to lack of or inadequate security, including for Port's own negligence, even in the event that Port provides some security services. Port does not warrant that unauthorized persons will not board vessels in the Harbor.

E. As a condition of using the Harbor, all persons entering the Harbor waive any and all claims against the City and Port arising from his or her use of the Harbor for any cause arising at any time, including without limitation all claims arising from the joint or concurrent, active or passive, negligence of the City or Port, but excluding any intentionally harmful acts committed solely by Port or City. Neither the Port, City, nor any of its officers or employees shall be liable and Owner waives all claims for damage to persons and/or property sustained by an Owner resulting from the movement of his/her vessel.

5. GENERAL PROHIBITED ACTIVITIES

Unauthorized berthing in the Harbor is prohibited.

No person shall bring into or berth within the Harbor any vessel of any kind whatsoever which is so unseaworthy or in such a badly deteriorated condition that it may cause damage to docks, floats or other vessels or which may become a menace to navigation. The Harbormaster shall determine the seaworthiness of the vessel.

Except for entering the water to clean or maintain the bottom of a vessel or for purposes of water safety training with advance notice to the Harbormaster, no person may swim, bathe, or wade in any portion of the Harbor.

Fishing, crabbing, and the cleaning of fish on the gangplanks, docks and floats is strictly prohibited within the Harbor. All fish caught outside the Harbor must be disposed of within twenty-four (24) hours from the time of catching. No person shall throw fish overboard at the dock or from a vessel within the Harbor.

Hot Work is strictly prohibited. Grills and other cooking equipment are prohibited on dock surfaces.

Spray painting is strictly prohibited.

Except for Transients, no person may live aboard any vessel berthed in the Harbor. This prohibition shall not prevent the use of vessels in the Harbor for eating and sleeping purposes for a period not to exceed three (3) calendar days in any one week period or a maximum total of seven (7) calendar days in any thirty (30) calendar day period, provided that the Owner give the Harbormaster prior notice.

The discharge of any sewage into the waters of the Harbor is prohibited. No person shall operate or berth in the Harbor any vessel equipped with a toilet unless such toilet is sealed or otherwise rendered inoperable or designed so that no human excreta can be discharged into the waters of the Harbor.

No person shall throw, discharge or deposit from any vessel or from the shore or float any refuse matter of any kind whatsoever into or upon the waters of the Harbor, or in, on or upon the banks, walls, sidewalks, or beaches of any waters within the boundaries of the Harbor area. All garbage, recycling and composting must be deposited in receptacles furnished by the Port for that purpose or removed from the Harbor area.

No person shall dump or discharge oil, spirits, inflammable liquid, or the contents of holding tanks, or contaminated bilge water into the Harbor.

Solicitation of patronage in the Harbor is prohibited. No person shall row, propel, navigate or maintain any boat or float in the Harbor for the purpose of advertising.

No person shall roller skate, skateboard, ride motorcycles, ride self-balancing or hover boards, or ride electric unicycles on the docks and gangways within the Harbor.

No person shall operate a commercial or business activity, including a hotel “Bed & Breakfast” “Air BnB” or similar facility or a charter service, unless the Port has first granted approval in writing through a lease or other agreement.

6. APPLICATION; LICENSE; BERTHING ASSIGNMENT

A. Owners are responsible for ensuring accurate and current information in the application and license process. The address for the Owner shown in the Statement of Ownership or License will be the legal point of contact for all official communications. Owner must notify the Harbormaster in writing immediately upon a change in address. Invoices, notices of violation, Wait List notifications about available berths and other information will be sent to this address by certified mail with a return receipt requested. Owner is required to provide an electronic mailing address as a secondary point of contact. It is the Owner’s responsibility to ensure accuracy of records on file in a timely manner. The Port is not responsible for lost or misdirected mail due to incorrect information.

B. Berthing slips are classified by size. There are three classes of licenses in the Harbor:

- (1). Berthing license for a term of five (5) years, which shall expire if not renewed in accordance with the terms of the License.
- (2). Transient berthing license for a maximum term of up to fourteen (14) days.
- (3) Temporary berthing license for a maximum term of up to six (6) months.

The Harbormaster may use vacant berths and other Harbor facilities with temporarily vacated berths for Transient and Temporary berth assignments. No more than thirty berths of the Harbor, excluding temporarily vacated berths, shall be used for Transient and Temporary berthing.

C. License Required. No person shall berth a vessel in the Harbor without having secured a License. Only an individual natural person who provides proof of ownership of the vessel on a Statement of Ownership form provided by the Harbormaster shall be eligible for a License. The Statement of Ownership shall name the spouse or

registered domestic partner of an individual owner and multiple owners as detailed below. Unless otherwise allowed by the Harbormaster, each individual may only have one (1) License.

D. Requesting a License. Applications for berthing in the Harbor shall be made to the Harbormaster on a form furnished by the Harbormaster. Applications may be granted or denied in the Harbormaster's discretion. The applicant shall include the vessel survey with the initial application. The applicant and all Owners with an interest in the vessel shall provide their California Boater ID Card and a photo ID with the berthing application.

E. Multiple Owners; Partnerships.

(1) No License will be issued in the name of a Partnership. A License for a vessel which is owned by a Partnership will be issued only to an individual natural person whose interest in the vessel (whether by virtue of an interest in the Partnership, ownership of stock of a corporation, or otherwise) is documented to the satisfaction of the Harbormaster. An application for a License for a vessel which is owned by a Partnership shall include a Statement of Ownership designating the preferred individual to be named on the License (subject to the Harbormaster's approval), list all other individual Owners with an interest in the vessel and must be signed by all persons listed on the Statement of Ownership. A copy of the Partnership agreement must be submitted with the Statement of Ownership. The individual named on the License should remain actively involved with the vessel, be the agent for the Partnership in all dealings with the Harbor, receive and pay all billings and sign all agreements on behalf of the Partnership. However, each Owner shall be jointly and severally liable to Port for all obligations and liabilities under a License. No more than three (3) individual natural persons can be listed on the Statement of Ownership (including the preferred Licensee).

Exception: A Partnership that can document that it has four (4) individual natural partners at the time these Rules and Regulations were first adopted may include the four (4) partners on a Statement of Ownership, but, if for any reason the fourth partner leaves the Partnership, he or she cannot be replaced and the Partnership will be limited to three (3) individuals.

(2) New bona fide partners may be added to the Statement of Ownership (up to 3 including the Licensee) with the prior consent of the Harbormaster and a copy of the Partnership agreement, provided that at least one of the partners listed on the Statement of Ownership must have been listed as an owner of the vessel for three consecutive years and one of the owners retains a 50.1% ownership interest in the vessel. If no partners remain with a tenure of three or more years, the License will automatically terminate. This rule also applies to a License issued to a single individual as follows. If an individual on a License enters into a Partnership, he or she may add new bona fide partners to the Statement of Ownership (up to 3 including the Licensee) with the prior consent of the Harbormaster and a copy of the Partnership agreement, provided that the at least one individual on the License has been listed on the License for the previous three years. No Owner may become the Licensee unless the Owner has been listed on the Statement of Ownership for the three years prior to the request to change the Licensee. If no Owners remain with three or more years of ownership, the License will automatically terminate.

(3) Within thirty (30) days of notification by the Harbormaster, any Partnership that has an existing license issued in the Partnerships' name must submit for approval by the Harbormaster a fully executed Statement of Ownership designating an individual natural person to be the Licensee consistent with these Rules and Regulations. Failure to comply will result in automatic termination of the existing license.

F. Changes to Statement of Ownership. A Licensee must notify the Harbormaster immediately of any change to the information provided in the Statement of Ownership. If the change results in a Transfer, the rules regarding Transfers in Section 7 will apply.

G. Only the vessel listed on the License shall be berthed in the space assigned by the Harbormaster. Only one vessel of any kind is allowed in any berth.

H. Owners must purchase a card key or key fob to obtain access to Harbor facilities.

7. TRANSFER PROHIBITED

A. Transfer of License Prohibited. A Licensee shall not Transfer a License or other right to use a berth in the Harbor except to the extent and on the terms and conditions provided in these Rules and Regulations. Any other purported Transfer shall have no force or effect and the License shall be automatically revoked as of the date of the purported Transfer without further notice or action by Port.

B. Exceptions. The following Transfers are permitted upon the express written consent of the Harbormaster and payment or waiver of the Transfer Fee. The Harbormaster will deny a Transfer of any License if the Licensee is not in good standing.

1. Spouse or Registered Domestic Partner. At least ten (10) days before any proposed Transfer under this Section, Licensee must provide notice to the Harbormaster and proof of marriage or proof of registered domestic partnership and any other information, documentation, or evidence that the Harbormaster requests to enable Port to evaluate the Transfer. The Transfer Fee is waived for such Transfers.

2. Death of a Licensee with a Spouse or Registered Domestic Partner at Time of Death. Not later than thirty (30) days after the date established on the death certificate as the date of death of the Licensee, the administrator or executor of the estate of the Licensee or the Licensee's surviving spouse or registered domestic partner shall notify the Harbormaster in writing of the death of the Licensee. The notification of the Harbormaster shall also state whether the spouse or legally registered domestic partner seeks Transfer of the License. Transfer of the License to the surviving spouse or registered domestic partner will be approved by the Harbormaster only if (a) the surviving spouse or registered domestic partner can satisfactorily demonstrate an equity ownership interest in the vessel, and (b) either proof of marriage or proof of registration of the domestic partnership to the Licensee at the time of the Licensee's death is provided to the Harbormaster. If notification is not received by the Harbormaster within the 30-day period, the License shall be deemed to be automatically terminated sixty (60) days after the date established on the death certificate as the date of death of the Licensee, and the surviving spouse, registered domestic partner or estate of the deceased Licensee shall remove the vessel from the Harbor on or before such date. The terms and conditions of the License will continue to apply, including the payment of Fees, until the vessel is removed from the Harbor.

If Licensee's surviving spouse or registered domestic partner provides the required notice, but either (a) does not seek a Transfer or (b) seeks a Transfer but does not qualify for a Transfer, then the License shall automatically terminate sixty (60) days after the date established on the death certificate as the date of death of the Licensee and the surviving spouse or registered domestic partner shall have 60 days to remove the vessel from the Harbor. The terms and conditions of the License will continue to apply, including the payment of Fees, until the vessel is removed from the Harbor.

The Transfer Fee is waived for Transfers under this Section.

This rule applies to the surviving spouse of an original partner in a Partnership listed in the initial Statement of Ownership.

3. Transfer of License Between Partners in a Partnership. A License may be Transferred to any one of the individual partners listed in the Statement of Ownership on file with the Harbormaster, if requested by the existing Licensee, provided that (i) the transferee has been listed on the Statement of Ownership for at least three (3) consecutive years prior to the request for transfer, (ii) the Harbormaster, in his or her reasonable discretion, is satisfied with transferee's financial condition after conducting a credit check, (iii) the transferee has provided the Harbormaster a copy of the transferee's photo id, (iv) Licensee provides at least thirty (30) days prior written notice to Port, (v) Licensee provides any additional information, documentation, or evidence that Port requests to enable Port to evaluate the Transfer request, (vi) Licensee pays the Transfer Fee, and (vii) the transferee owns a 50.1% ownership interest in the vessel.

8. TERMINATION BY LICENSEE

A Licensee may terminate his or her License at any time by written notice to the Harbormaster at least fifteen (15) calendar days in advance of the effective date of the termination. Fees will continue to apply until the vessel leaves the Harbor.

9. RELEASE OF ASSIGNED BERTH

A Licensee shall notify the Harbormaster in writing of the exact date of vacation of an assigned berth at least fifteen (15) calendar days in advance of the effective date of release. Fees will continue to apply until the vessel leaves the Harbor.

10. ABSENCE FROM BERTH

A Licensee's absence from the assigned berth for a period of six (6) consecutive months shall result in automatic termination of a License, unless such absence was approved in advance in writing by the Harbormaster either due to a temporary vacating of the berth or otherwise in the Harbormaster's discretion.

11. WAIT LIST

The Harbormaster shall create and maintain a "Wait List" which shall govern the distribution of berths at the Harbor when an appropriate berth becomes available. Persons on the Wait List are subject to the same requirements as applicants under Section 6. There is one single Wait List that is divided into categories according to slip length. Berth assignments from the Wait List will be made by the Harbormaster as follows:

A. Assignment of Berths. Only individual natural persons can be on the Waitlist. All berth assignments will be based on seniority (defined as the earliest chronological application date) on the Wait List. An applicant may choose to pass up a berth assignment three (3) times if he/she wishes and retain his or her seniority on the Wait List.

B. Applying to the Wait List. An applicant to the Wait List is required to designate a maximum of two categories of berth sizes for which he or she seeks a License. A separate application is required for each berth size category.

C. Fees. Each Owner on the Wait List must pay an annual Fee in the amount shown on the Fee Schedule to remain on the Wait List. Failure to pay the Fees when due will result in removal from the Wait List. Fees are non-refundable/non-transferable and they are not applicable to other Fees due upon issuance of a License.

D. Procedure for Berth Assignment from Wait List. As berths become available, the Harbormaster will offer the berth to the most senior person on the Wait List for that berth's size by certified mail to the applicant's address on file. Only the individual on the Wait List will be eligible for a berth (which may include that individual's partners in a partnership under the rule set forth in Section 7). The offer of a berth assignment must be accepted in writing to the Harbormaster within fifteen (15) days of the date the notice was mailed. If the applicant declines or if acceptance is not received within the 15-day period, the Harbormaster will offer the berth to the next most senior person on the Wait List within the berth size category and each applicant in turn until the berth is either accepted by an applicant or declined by all applicants for that berth size category.

E. Execution of Licensee. An applicant selected from the Wait List must execute a License and bring his or her vessel into the Harbor within thirty (30) calendar days of being assigned a berth. Once a License is executed, the applicant will be removed from the Waitlist. Failure to meet the requirements necessary to enter into a License or to bring the vessel into the Harbor as required by these Rules and Regulations will be considered a declined offer and the Harbormaster will notify the next person on the Wait List.

12. FEES; TAXES

A. All charges and fees shall be payable in accordance with the Fee Schedule which may be updated by the Port Commission from time to time with at least thirty (30) days' prior notice

B. Berthing Fees shall be paid on or before the first day of each month without prior demand and without any deduction, setoff or counterclaim whatsoever. Except as provided below, if the Commencement Date of a License is not on the first day of the month, the berthing Fee will be prorated based on a 30-day month. A full month's berthing Fee is due for all or a portion of the final month of use; there shall be no prorating of the Fee for the final month.

C. Use of the Harbor may create a possessory interest subject to property taxation and an Owner may be subject to the payment of taxes levied on such interest. Owners shall pay all taxes levied against any possessory interest right

or against a vessel. The assessment of a possessory interest tax on the use or occupancy of a berth on public property does not imply or confer property rights.

13. NON-PAYMENT OF FEES

- A. No person shall remove or cause to be removed from the Harbor any vessel for which Fees are delinquent without paying in full all such delinquent Fees.
- B. Berthing Fees are delinquent fifteen (15) calendar days after the due date. Three such delinquencies in a one (1) year period shall result in a Licensee becoming a “habitual late payer.” In addition to other remedies for late payment, the Harbormaster may automatically terminate the License of any habitual late payer on the occasion of any subsequent delinquencies in payment of Fees.
- C. If any check for a payment due to the Harbor is returned without payment for any reason, Owner shall pay, as an additional charge, a returned check Fee in the amount established in the Fee Schedule and the outstanding payment shall be subject to all other delinquency Fees.
- D. Owners shall pay Port all costs and expenses reasonably incurred by Port including, but not limited to, attorney’s fees in collecting sums due from Owners under these Rules and Regulations or in enforcing any terms of these Rules and Regulations.

14. MARITIME LIEN; SALE OF VESSEL

A. In accordance with the provisions of Division 3, Chapter 2, of the California Harbors and Navigation Code, the charges for berthing Fees, services rendered or supplies furnished in excess of Fifty Dollars (\$50.00) are liens upon a vessel, and when these are delinquent fifty (50) calendar days or more, an action may be brought against the Owner and/or Licensee to enforce payment of the lien by the Harbormaster, and the vessel with all its appurtenances and furnishings may be attached as security for the satisfaction of any judgment that may be recovered in the action. Unless the outstanding amounts due are satisfied, the Port may sell the vessel, all of its appurtenances and furnishings at public auction and apply the proceeds to the arrearage in accordance with the Harbors and Navigation Code.

B. The Harbormaster will use the following process to recover amounts due:

(1) The Harbormaster will provide ninety (90) days’ notice to the Owner by certified mail (the “**Disposal Notice**”). If the Owner fails to pay all amounts due, and, if applicable, fails to remove his or her vessel from the Harbor, then the Harbormaster may sell the vessel at public auction at any time following the expiration of the 90-day period.

(2) Within thirty (30) days of serving a Disposal Notice, the Harbormaster will advertise his or her intention to dispose of the vessel at auction by publishing/posting the Disposal Notice in the following manner: publish in two regional or national daily newspapers; post on a public notice board within the Harbor; post to the superstructure of the vessel; and send by electronic mail to all Owners with email addresses on file.

(3) The Harbormaster shall be entitled to deduct from the proceeds of the auction any outstanding debt and any costs, including reasonable management costs, necessarily incurred by the Harbor or the Harbormaster.

15. USE OF WATER AND ELECTRICITY

A. Fees. Charges for usage of water and electricity in usual and ordinary amounts are included in berthing Fees for the Harbor. Usage beyond such usual and ordinary amounts and excessive use of electricity for heating, cooling and other purposes is prohibited, unless authorized in advance by the Harbormaster and included in the Owner’s Fees.

B. Vessel’s Electrical Connections. Owners must ensure that his or her vessel’s connection to the Harbor’s electricity supply is properly and safely fitted and maintained, and that the electricity cables are disconnected from the supply point before being disconnected from the vessel.

C. Continuous Use of Water. Continuous use of water is prohibited except in the event of an emergency. The existence and nature of the emergency shall be reported immediately to the Harbormaster.

D. Water Hosepipes. Owners must ensure that water hosepipes are fitted with spring-loaded nozzles so that the water supply shuts off when the hose is unattended.

16. DOCK BOXES

A. No dock boxes other than the ones supplied by the Harbor will be allowed on docks. All dock boxes are subject to inspection by the Harbormaster. Dock boxes may be used to store miscellaneous boating equipment and must be locked by Owner at all times when not in use. Schedule 2 lists permitted and prohibited items in dock boxes. Owner shall submit a semi-annual list of the contents of each dock box to the Harbormaster. Owner shall also provide such a list to the Harbormaster upon Harbormaster's request at any time. The Harbormaster reserves the right at any time to add to or change the list of permitted and prohibited items.

B. Owner shall keep the dock box locked at all times. Owner shall maintain the interior of the dock box in good condition, free of odoriferous and noxious materials, and shall keep the adjacent areas clean and free of litter and debris. The Harbormaster and his or her authorized agents shall have the right to inspect the dock boxes and their contents without notice at any time for hazardous conditions, safety concerns, and structural and engineering purposes or to determine whether Owner is complying with these Rules and Regulations.

17. VESSEL DOCUMENTATION

A. Every vessel entering the Harbor must be registered and numbered as required by the USCG or by the Laws of the State of California or the State in which it is registered.

B. An Owner of a vessel entering the Harbor shall provide all information relating to the vessel and the ownership thereof as may reasonably be required by the Harbormaster.

18. VESSEL TRAFFIC WITHIN THE HARBOR

A. All vessels approaching or within the Harbor must be operated in a safe and prudent manner and in no event shall the entrance to the Harbor be blocked.

B. The speed of any vessel within the Harbor shall not exceed five (5) miles per hour and shall create no wake.

C. No vessel shall be operated in the Harbor except for entering or leaving an assigned berth and necessary maneuvering in connection therewith.

19. COMPLIANCE WITH LAWS

All persons using the Harbor shall comply with all applicable Laws with regard to their activities and operations in the Harbor, including without limitation, all requirements relating to the Harbor and all laws regarding water safety, vessel discharges, and operation and maintenance of vessels.

20. MINORS ON DOCKS

No person under the age of sixteen (16) years of age may go, remain, or be upon any of the docks, gangways, floats or vessels in the Harbor, unless such person is accompanied by a responsible adult.

21. ACCIDENT REPORTS

An Owner must immediately provide the Harbormaster with a copy of any report of any accident or injury occurring in the Harbor.

22. UNNECESSARY DISTURBANCE

Owners are responsible for the conduct and actions of his/her crew and other Invitees. Owners shall not use or occupy the Harbor or permit or suffer Owner's Invitees to use or occupy the Harbor in a manner which might reasonably be expected to cause a nuisance or be offensive or objectionable to other occupants or users of the Harbor or interfere with the enjoyment of the Harbor by other patrons (i.e. rude language, threatening behavior, odors). Loud music and noise are prohibited between the hours of 11:00 pm and 7:00 am.

23. INVITEES; CONTRACTORS

A. Invitees. Invitees must be accompanied by an Owner. Owners shall be responsible for the conduct and control of all Invitees.

B. Contractors. The Harbormaster may regulate entry into the Harbor by yacht brokers, contractors, and service personnel, and the Harbormaster may require written authorization from the Owner prior to allowing entry to such persons. All contractors and other service providers shall report to the Harbormaster's Office upon entering the Harbor and again before leaving. Contractors must provide evidence of liability insurance with a reputable insurer for a sum of not less than \$500,000 and worker's compensation coverage (if applicable). Evidence of coverage must be provided to the Harbormaster upon request. All contractors and other service providers are only allowed on Harbor property during normal business hours.

C. The Harbormaster may take reasonable steps to ascertain that persons aboard any vessel are authorized by the Owner to be aboard.

24. GENERAL RULES AND OBLIGATIONS OF THE OWNER

A. Dangerous Conditions. Owners shall immediately notify the Harbormaster of any observed dangerous conditions, including reporting any spill of oil or other chemical, that require attention by Port.

B. Animals. All dogs must be leashed at all times in all public areas in the Harbor. Owners and Owner's Invitees are required to closely supervise their pets while in the Harbor, and particularly on the ramps, docks and fingers. Owners are required to pick up their pets' waste in the interest of public safety and sanitation. All pets are prohibited in the Harbor restrooms.

C. Fire Prevention. Owners must take reasonable measures to minimize the risk of fire aboard Owner's vessel, including but not limited to the following:

1. Owners must store fuel, pyrotechnics, and other flammable materials in a safe manner.
2. Owners must ensure that gas supplies are turned off when not in use.
3. Owners must maintain adequate firefighting equipment aboard per USCG and/or State Laws.

25. CLEAN AND GREEN HARBOR.

Nothing from the vessel is allowed to go into the water. Owners must take reasonable measures to minimize the risk of water pollution, as follows:

1. Owners may not discharge any garbage, including food waste, cigarette butts, bottles, and caps, toilet effluent, dirty bilge water, or other pollutant;
2. Owners must ensure that the bilge contains a bilge oil and fuel absorber. Owner must dispose of used oil absorbents as hazardous waste in accordance with Laws.
3. Owners may not operate bilge pumps unless they are fitted with oil-absorbing pads in the bilge.
4. Owners must store all fuel, paint, chemicals, and other potential pollutants in a safe manner in secure containers within secondary containment on the vessel; review storage of paints and solvents every six (6) months; properly dispose of old unnecessary products; and not store more than two gallons of paint and solvents. Storage of hazardous materials is not allowed in dock boxes.
5. Owners must limit the amount of open solvents or paints on the vessels to one (1) gallon; mix paints and epoxy over a tarp; use a drip pan or drop cloth; and not dispose of paint or solvents in the Harbor waste and recycling receptacles.

6. Owners must use only Minimally-toxic, bio-degradable, and Phosphate-free cleaning materials for deck washdown and above water line hull cleaning. Owners must prevent the introduction of on-deck debris, garbage, residue, and spills into deck washdown and runoff discharges.
7. Owners must dispose of compost, garbage and recycling in the designated places, or remove it from the Harbor.
8. Owners must discharge holding tanks only at the Harbor-designated places. The Harbor will make commercially reasonable efforts to provide temporary alternatives in the event that the designated place is out of service.
9. Owners may not use any dispersants, cleaners, chemicals, or other materials or emulsifiers to conceal oil or fuel spills.
10. Owners must consider whether the use of non-copper based paints adequately meets vessel anti-foulant needs and use less toxic alternatives to the extent practicable and available.

26. MAINTENANCE AND CARE OF VESSEL; ANCHORING OF VESSELS

- A. All vessels shall be berthed and secured with proper care and equipment and such berthing or equipment shall be maintained at all times in seaworthy condition as so determined by the Harbormaster. The Harbormaster may examine any vessel in the Harbor to determine compliance with the standards required by these Rules and Regulations.
- B. Port assumes no responsibility or liability for the safe dockage or maintenance of any vessel. Owners shall be solely responsible for the proper operating condition of their vessel's equipment and for the size and condition of dock lines. Owners must maintain vessel in a safe and seaworthy condition to prevent hazards to other vessels in the Harbor, and to comply with the Rules and Regulations regarding vessel maintenance.
- C. Owners shall be liable for damages caused to other vessels or to the Harbor's docks, pilings, plumbing, wiring and other equipment, machinery or facilities caused by Owner's operations or its vessel. This provision shall apply even in the event of a windstorm or other natural causes.
- D. Owners must ensure that his/her vessel is secured in a seamanlike manner, with adequate lines and fenders to withstand all foreseeable weather and tidal conditions and the proximity of other vessels, and with separate lines for each function (e.g. bow, stern, springs and breast lines). The Harbormaster may dictate the kind of cleats, ropes, fenders, and other measures that must be used on vessels as a condition of use of the Harbor.
- E. Owners must maintain his or her vessel in a clean and tidy condition, and sufficiently seaworthy so that it can leave the berth and Harbor under its own power in all normal weather and sea conditions. Owners must maintain vessels in such a manner that they operate under their own power and can be removed quickly from the Harbor in the event of fire or other emergency.
- F. Owners must conduct a quarterly inspection of his or her vessel. The inspection must ensure that all areas of the vessel are clear of garbage, exposed raw materials, oil, or any other materials that could be discharged into the water. Owners shall check to ensure that all equipment on board the vessel is in proper working condition, including, as applicable, oily water separators, bilges, pumps, generators, and hydraulic systems. Owners shall correct any problems identified during the quarterly inspection and repair or replace damaged parts as soon as possible. Owners shall retain all maintenance records. Maintenance records may be kept electronically or stored in paper form and shall be made available to the Harbormaster upon request.
- G. Owners shall ensure that vessels comply with all statutory requirements and standards dictated by the USCG and the State of California, including registration with the applicable state or national authorities and the USCG, the display of valid registration numbers, and crew qualifications.
- H. Berthing of a vessel the size of which is greater than that of the assigned berth is prohibited. Owners shall ensure that no part of the vessel (i.e. pulpit, anchor, davits, outboard engine, etc.) overhangs the pontoon, jetty or

quay, or extends into the navigational fairways of the Harbor. Vessel length is measured from bow to stern, actual length as it sits in the berth. Vessel length shall not exceed the length of the finger pier. Small tenders and row boats are permitted to be moored, if kept by and for the use of the Owner and berthed within the limits of the assigned berth.

- I. Owners must ensure that while in the Harbor, vessels are controlled by adequately trained and competent person(s) in a seamanlike manner, observing the speed limits, keeping wash to a minimum, and ensuring that no damage, inconvenience, or risk is caused to other persons and vessels, to nearby property or to the Harbor.
- J. In the event that any vessel is not maintained or secured properly, the Harbormaster may supply lines and fittings, or may care for the vessel in such a manner as to prevent damage to the vessel, docks, or floats and/or other vessels at the Owner's expense.
- K. If, in the opinion of the Harbormaster, a vessel is in danger of sinking, the Harbormaster may pump out the water from the vessel at the Owner's expense.
- L. In the event a vessel is wrecked or sunk within the Harbor, it shall be the Owner's responsibility to mark its position and provide for the raising and disposition of such vessel and the Owner assumes all liability for damage to Harbor property or other vessels in the Harbor.
- M. Only minor repairs and maintenance work is allowed while a vessel is in the Harbor; provided that all such work and all materials used in such work are kept within the confines of the vessel itself and the work is not carried on in any manner whatsoever upon floats, gangways or docks. The Harbormaster may order any work to cease if he or she determines that the work may cause a risk of damage, nuisance or a health and safety or environmental hazard.

27. HAZARDOUS OBSTRUCTIONS PROHIBITED: BOARDING PLATFORMS

- A. Floats, gangways, top of dock boxes and the docks shall be kept clear at all times of skiffs, tenders, miscellaneous gear, debris or other hazardous obstructions.
- B. Any condition aboard or around any vessel, float, or gang plank caused by the Owner, which, in the opinion of the Harbormaster constitutes a fire hazard, public health nuisance or danger to public safety shall be corrected or removed immediately to the satisfaction of the Harbormaster. In the event of the refusal or neglect of the Owner to remedy the condition, the Harbormaster will correct or remove the hazard at the Owner's expense.
- C. Boarding platforms or ladders on floats are permitted, subject to the prior approval of the Harbormaster, provided that any platform used for boarding shall not be over eighteen (18) inches in width and not over three (3) feet high, shall be of lightweight construction and shall not exceed the size of the slip by more than one (1) foot. The boarding platform shall not be used for storage.
- D. No person shall build or place in or about the Harbor, any structures, including without limitations walkways, gangplanks, finger floats, rubbing piles or dock boxes. No modifications of dock structures are permitted at any time, without exceptions. This includes flotation systems, containment basins under vessels, fenders, antennas and any other additions.

28. SIGNS.

Owners shall not place, construct or maintain any signage, awning or other exterior decoration or notices on vessels, piles, gangplanks or floats or elsewhere in the Harbor without the Harbormaster's prior written consent. Any sign that Owner is permitted to place, construct or maintain shall comply with all Laws relating thereto, including but not limited to Port's Sign Guidelines, as revised by Port from time to time, and applicable permit requirements.

29. VEHICLE PARKING

- A. Vehicle parking is prohibited except in a marked space or drop off zone or in accordance with a parking permit issued by the Harbormaster under these Rules and Regulations.

B. The Harbormaster may issue parking permits to Owners or other authorized persons using the Harbor to park in designated parking areas while they are at the Harbor under the following conditions:

(1) Upon application by a Licensee on a form designated by the Harbormaster, the Harbormaster may issue one (1) free parking permit per License in the name of the Licensee or a vessel co-owner or spouse or registered domestic partner listed on the Statement of Ownership for use with a vehicle registered in that person's name or one (1) free annual parking permit placard for use with multiple vehicles owned by persons eligible for a parking permit as specified above; provided that each vehicle that uses the placard is registered with the Harbormaster and identified on the placard. The Harbormaster may issue a second annual parking permit or placard to the persons specified above for a fee specified in the Port adopted Fee Schedule paid in advance.

(2) Parking permits must be renewed annually on a schedule and in the manner directed by the Harbormaster.

C. The Harbormaster may issue temporary or daily parking permits to Licensee's Invitees upon application by a Licensee on a form designated by the Harbormaster for such limited time periods as determined by the Harbormaster based on his or her assessment of available space. The Fee for temporary permits are specified in the Port-adopted Fee Schedule.

D. Parking permits are non-transferable and non-refundable.

E. Permits issued to a single vehicle are to be affixed to the left side of the rear bumper. Parking placards for multiple vehicles must be placed on the front dashboard and must be clearly visible from outside the vehicle.

F. Vehicles parked in designated parking areas without valid permits or otherwise in violation of these Rules and Regulations will be subject to citations and fines, towing, revocation of the parking permit and/or loss of future parking privileges. All charges and fines will be the responsibility of the vehicle owner.

G. If deemed necessary by the Harbormaster, the Harbormaster may restrict or limit the use of parking areas on a temporary or permanent basis.

H. A parking permit does not create a bailment of a vehicle. City, Port and the Harbor are not responsible for the safekeeping of vehicles and shall not have any liability for theft or damage to any vehicle in the parking areas.

I. No trailer, caravan or commercial vehicle may be parked at the Harbor.

J. Duplication of parking permit is prohibited and may result in a fee and/or termination of license agreement.

K. Daily parking permits are valid for a single day use and expire at midnight of the date marked.

L. Harbormaster reserves the right to withhold the issuance of an annual parking permit if vessel documents are not compliant with the terms of the license or these rules and regulations.

30. NOTICES

A. Payment of Fees and Notice to Port. Except as otherwise expressly provided, all Fees due and all notices required or permitted by Law, a License or these Rules and Regulations to be made to the Harbor or to Port must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United State Postal Service, delivery charges prepaid.

Port of San Francisco
South Beach Harbor
Pier 40A Harbormaster's Office
San Francisco, California 94107
Attention: Harbormaster

Telephone: (415) 495-4911
Facsimile: (415) 512-1351

B. Notice by Port. Unless a different method is specified in these Rules and Regulations or in a License or by Laws, all notices required to be given by Port or the Harbormaster shall be considered given by depositing the same in the United States mail, postage prepaid, and addressed to Licensee at the last given mailing address on file with the Harbormaster.

C. Receipt of Notice. All notices under these Rules and Regulations or a License shall be deemed to be duly delivered: (a) if delivered, on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) if by overnight delivery, the business day after the business day deposited for overnight delivery.

D. Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

Fee Schedule

South Beach Harbor Port of San Francisco

**REVISED
January 1, 2026**

| Activity | Fee |
|--|--|
| Monthly Berthing Fees* | |
| 26' | \$396.40 |
| 30' | \$463.95 |
| 34' | \$565.27 |
| 38' | \$700.36 |
| 42' | \$805.24 |
| 46' | \$975.59 |
| 50' | \$1,087.88 |
| 60' | \$1,407.84 |
| *These Fees are Effective Through 12/31/2025. On 1/1/2026 and Annually Thereafter, Monthly Berthing Fees will be Increased by the CPI | |
| Transient Fees/Guest Moorage | |
| Transient Berthing Fees – Daily Fee Up to 50 feet | \$1.50/foot – Minimum \$42.00 |
| Transient Berthing Fees – Daily Fee Over 50 feet | \$3.00/foot |
| Up to 3 hours – Hourly Rates Not Available for Event Days. | \$30.00 |
| Temporary Berthing Fees (more than 14 days up to 6 months) | Monthly Berthing Fees Apply |
| Transient Berthing Cancellation Fee | Applies a Charge of 50% of Total Reservation Amount Owed if Canceled Within 24hrs of Scheduled Arrival Date. |

| | |
|--|--|
| Parking | |
| First Annual Parking Permit for Licensees | Included in Berthing Rates |
| Second Annual Parking Permit for Licensees | \$600/year |
| Berth Holder Guest Parking Permit | \$10.00/day |
| Transient Parking Permit | \$20.00/day (Subject to Availability/Restrictions Apply) |
| Contractor/Vendor Parking Permit | \$20.00/day |
| Public Parking Permit | \$20.00/day (Subject to Availability/Restrictions Apply) |
| Annual Parking Permit Replacement Fee | \$600.00 |
| Monthly Public Parking (No Overnight/No Weekend) | \$130.00/Month (Subject to Availability) |
| Friday Night Series Race Crew Permits | \$10.00 |
| Illegal Duplication of Parking Permit | \$300 Fine for Creation, Use or Possession of Duplicated or Counterfeit Parking Permit |
| Waitlist Fee | \$120.00/Year |
| Berth Holder Fees | |
| Internal Move Request Fee | \$100.00/Year |
| Key Card Replacement | \$25.00 |
| Key Fob Replacement | \$27.00 |
| Late Charge for Delinquent Payment | 10% of the Amount Due |
| Returned Check | \$50.00 |
| Licensee Transfer Fee | \$200.00 |
| Environmental Response | \$150.00 |
| | |
| | |

| Harbor Services | |
|---------------------------------------|--|
| New Dock Box Installation | \$550.00 |
| Dock Box Repair/Cleaning from Haz Mat | \$150.00 |
| Sea Lion Deterrent Equipment | Reimbursement of Port Costs for Sea Lion Deterrent Equipment + Labor |
| Dock Line Replacement/Per Line | \$75.00 + Labor |
| Repair Firebox Plumbing | \$75.00 (Minimum) + Labor |
| Repair Plumbing | \$75.00 (Minimum) + Labor |
| Vessel Towing Services | \$150.00 |
| Labor Charges | \$50.00/Hour |
| Pump Out Services | \$100.00 |
| After Hours Services Rate | \$100 (Minimum) + Labor |
| Vessel Chaining | \$50.00 + Labor |
| For Subsequent Incidents | \$150.00 |
| | |
| | |
| Registered Vendor Annual Fee | \$50.00/Year |
| | |
| | |
| Hazardous Materials Disposal | |
| Waste Oil | No Charge |
| Contaminated oil, bilge water | No Charge |
| Monthly Locker Rates | \$100 |
| Locker Security Deposit | One Month Rent |

Exhibit B
City and Port Requirements

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this License are incorporated by reference as though fully set forth in this License. The descriptions below are not comprehensive but are provided for notice purposes only; Licensee is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Licensee understands and agrees that its failure to comply with any provision of this License relating to any such code provision shall be deemed a material breach of this License and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this License shall have the meanings ascribed to them in the cited ordinance.

1. NONDISCRIMINATION.

(a) **Covenant Not to Discriminate.** In the performance of this License, Licensee covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Articles 131 or 132 of Division II of the San Francisco Labor and Employment Code (formerly Chapters 12B and 12C of the Administrative Code) or in retaliation for opposition to any practices forbidden under Articles 131 or 132 of Division II of the Labor and Employment Code against any employee of Licensee, any City and County employee working with Licensee, any applicant for employment with Licensee, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Licensee in the City and County of San Francisco.

(b) **Sublicenses and Other Contracts.** Licensee shall include in all Sublicenses and other contracts relating to the License Area a nondiscrimination clause applicable to such Sublicensee or other contractor in substantially the form of Subsection (a) above. In addition, Licensee shall incorporate by reference in all sublicenses and other contracts the provisions of Sections 131.2(a), 131.2(c) – (k), and 132.3 of the Labor and Employment Code (formerly, Sections 12B.2 (a), 12B.2(c) - (k) and 12C.3 of the Administrative Code) and shall require all sublicensees and other contractors to comply with such provisions.

(c) **Nondiscrimination in Benefits.** Licensee does not as of the date of this License and will not during its Term, in any of its operations in San Francisco or where the work is being performed for the City, 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 (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits 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 131.2 of the Labor and Employment Code.

(d) **CMD Form.** On or prior to the License Commencement Date, Licensee shall execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the CMD.

(e) **Penalties.** Licensee understands that pursuant to Section 131.2(h) of the Labor and Employment Code, a penalty of \$50.00 for each person for each calendar day during

which such person was discriminated against in violation of the provisions of this License may be assessed against Licensee and/or deducted from any payments due Licensee.

2. *REQUIRING HEALTH BENEFITS FOR COVERED EMPLOYEES.*

For each Covered Employee Licensee shall provide the appropriate health benefit set forth in Section 121.3(d) of the HCAO.

2.1. Notwithstanding the above, if Licensee meets the requirements of a "**small business**" by the City pursuant to Section 121.3(e) of the HCAO, it shall have no obligation to comply with Section 22.2(a) above.

2.2. If, within 30 days after receiving written notice of a breach of this License for violating the HCAO, Licensee fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Licensee fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have the remedies set forth in Section 121.5(f). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

2.3. Any Sublicense or Contract regarding services to be performed on the License Area entered into by Licensee shall require the Sublicensee or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Article 121 of Division II of the Labor and Employment Code. Licensee shall notify the Office of Labor Standards Enforcement ("OLSE") when it enters into such a Sublicense or Contract and shall certify to OLSE that it has notified the Sublicensee or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Sublicensee or Contractor through written agreement with such Sublicensee or Contractor. Licensee shall be responsible for ensuring compliance with the HCAO for each Sublicensee, Contractor and Subcontractor performing services on the License Area. If any Sublicensee, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 121.5 of the Labor and Employment Code against Licensee based on the Sublicensee's, Contractor's, or Subcontractor's failure to comply, provided that OLSE has first provided Licensee with notice and an opportunity to cure the violation.

2.4. Licensee shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

2.5. Licensee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

2.6. Licensee shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

2.7. Upon request, Licensee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Sublicensees, Contractors, and Subcontractors.

2.8. Within ten (10) business days of any request, Licensee shall provide the City with access to pertinent records relating to any Licensee's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Licensee at any time during the Term. Licensee agrees to cooperate with City in connection with any such audit.

2.9. If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than \$25,000.00 (or \$50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed \$75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's

contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed \$75,000.00 in the fiscal year.

3. FIRST SOURCE HIRING.

The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Licensee acknowledges receiving and reviewing the First Source Hiring Program materials and requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Licensee acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be default of this License.

4. LOCAL BUSINESS ENTERPRISES.

The Port Commission encourages the participation of local business enterprises ("LBEs") in Licensee's operations. Licensee agrees to consult with CMD to determine appropriate methods for promoting participation by LBEs. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: <http://sfgov.org/cmd/lbe-certification-0>.

5. PROHIBITION AGAINST TOBACCO ADVERTISING; PROHIBITION AGAINST TOBACCO PRODUCT SALES, MANUFACTURE, AND DISTRIBUTION.

Licensee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the License 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, Licensee 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 License Area and such prohibition must be included in all sublicenses or other agreements allowing use of the License 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.

6. PROHIBITION OF ALCOHOLIC BEVERAGES ADVERTISING.

Licensee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the License Area. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall 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, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

7. GRAFFITI REMOVAL.

Licensee agrees to remove all graffiti from the License Area, including from the exterior of the Facility if included within the License Area, within forty-eight (48) hours of the earlier of Licensee's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach

any lease or other agreement that it may have concerning its use of the real property. "Graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this License or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

8. RESTRICTIONS 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. Licensee shall not use or apply or allow the use or application of any pesticides on the License Area, and shall not contract with any party to provide pest abatement or control services to the License Area, without first receiving City's written approval of an integrated pest management plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to the License Area during the term of this License, (ii) describes the steps Licensee 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 Licensee's primary IPM contact person with the City. Licensee shall comply, and shall require all of Licensee's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Licensee were a City department. Among other matters, such 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 Licensee to keep certain records and to report to City all pesticide use by Licensee's staff or contractors. If Licensee or Licensee's contractor will apply pesticides to outdoor areas, Licensee 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 and any such pesticide application shall be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under state Law. 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>.

9. MACBRIDE PRINCIPLES NORTHERN IRELAND.

Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

10. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN.

Port and the City urge Licensee not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the Environment Code, Licensee shall not provide any items to the construction of Alterations, or otherwise in the performance of this License which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Licensee fails to comply in good faith with any of the provisions of Chapter 8 of the Environment Code, Licensee

shall be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

11. PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC.

Licensee may not purchase preservative-treated wood products containing arsenic in the performance of this License unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "**preservative-treated wood containing arsenic**" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Licensee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Licensee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "**saltwater immersion**" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

12. NOTIFICATION OF LIMITATIONS 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 22.12 shall apply. Through its execution of this License, Licensee 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 such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal 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. Licensee 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 one hundred thousand dollars (\$100,000) or more. Licensee further acknowledges that, if applicable, (i) the prohibition on contributions applies to each Licensee; each member of Licensee's board of directors, and Licensee's principal officers, including its chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Licensee; and any subcontractor listed in the Licensee's bid or contract. Additionally, Licensee certifies that if this Section 22.12 applies, Licensee has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract and has provided to City the names of each of the persons required to be informed.

13. SUNSHINE ORDINANCE.

In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

14. CONFLICTS OF INTEREST.

Through its execution of this License, Licensee acknowledges that it is familiar with the provisions of Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and

certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Licensee becomes aware of any such fact during the Term, Licensee shall immediately notify the Port.

15. DRUG-FREE WORKPLACE.

Licensee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C §§ 8101 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

16. PREVAILING WAGES AND WORKING CONDITIONS.

Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Labor and Employment Code Section 101.1.

Licensee will require its Contractors and Subcontractors performing work on any Covered Project at the Premises to pay Prevailing Wages in accordance with the requirements of San Francisco Labor and Employment Code Article 103 and employ Apprentices in accordance with San Francisco Labor and Employment Code Article 104.

Any contract, subcontract, or other type of agreement for the performance of that Covered Project shall (A) require the payment of the highest general Prevailing Rate of Wages as fixed and determined in accordance with San Francisco Labor and Employment Code Section 103.2 to all persons performing labor or work for the Covered Project and employment of Apprentices in accordance with San Francisco Labor and Employment Code Section 104.1, (B) require all records described in San Francisco Labor and Employment Code Section 103.3(e) to be kept and submitted in compliance with the requirements of that subsection, (C) 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 of San Francisco Labor and Employment Code Article 103 and apprenticeship requirements of San Francisco Labor and Employment Code Article 104, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Labor and Employment Code Articles 103 through 106, (D) include the Prevailing Rate of Wages or a statement that copies of the Prevailing Rate of Wages as fixed and determined in accordance with San Francisco Labor and Employment Code Section 103.2 are on file at the job site and available to any interested party on request, and (E) include the following provisions:

- (1) the Contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on the Contractor by the San Francisco Charter or Municipal Code;
- (2) the Contractor agrees that the Labor Standards Enforcement Officer, and the Officer's designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, employee time sheets, inspection logs, Contractor daily logs, payroll records, employee paychecks, employee paystubs, and proof of payment documents;
- (3) the Contractor shall maintain a record in the format prescribed by the Office of Labor Standards Enforcement of sign-in and sign-out showing which employees have been present on the job site;
- (4) the Contractor shall prominently post at each job site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and
- (5) the Labor Standards Enforcement Officer may audit such records of the Contractor or Subcontractor as the Labor Standards Enforcement Officer reasonably deems necessary to

determine compliance with the Prevailing Wage and other labor standards imposed by the San Francisco Charter or Municipal Code.

Failure to comply with any of these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(h), as amended from time to time. Licensee will reasonably cooperate with City in any action or proceeding against a Contractor or Subcontractor that fails to pay the Prevailing Rate of Wages or employ Apprentices as required. Licensee's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable City to seek the remedies specified in accordance with San Francisco Labor and Employment Code Articles 103 through 106 against the breaching party.

17. PUBLIC TRANSIT INFORMATION.

Licensee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Licensee employed on the License Area, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the License Area and encouraging use of such facilities, all at Licensee's sole expense.

18. FOOD SERVICE AND PACKAGING WASTE REDUCTION ORDINANCE.

Licensee 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 Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this License, Licensee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Licensee 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 City will incur based on the violation, established in light of the circumstances existing at the time this License was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Licensee's failure to comply with this provision.

19. CONSIDERATION OF CRIMINAL HISTORY IN HIRING AND EMPLOYMENT DECISIONS.

19.1. Licensee agrees to comply with and be bound by all of the provisions of San Francisco Labor and Employment Code Division II, Article 142 (formerly Administrative Code Chapter 12T) (Criminal History in Hiring and Employment Decisions; "Article 142"), which are hereby incorporated, including the remedies and implementing regulations as may be amended from time to time, with respect to applicants and employees of Licensee who would be or are performing work at the License Area.

19.2. Licensee shall incorporate by reference the provisions of Article 142 in all sublicenses of some or all of the License Area, and shall require all sublicensees to comply with such provisions. Licensee's failure to comply with the obligations in this subsection shall constitute a material breach of this License.

19.3. Licensee and sublicensees 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.

19.4. Licensee and sublicensees 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. Licensee and sublicensees 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.

19.5. Licensee and sublicensees shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Licensee or sublicensee at the License Area, that the Licensee or sublicensee will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Article 142.

19.6. Licensee and sublicensees shall post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the License Area and at other workplaces within San Francisco where interviews for job opportunities at the License Area occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the License Area or other workplace at which it is posted.

19.7. Licensee and sublicensees understand and agree that upon any failure to comply with the requirements of Article 142, the City shall have the right to pursue any rights or remedies available under Article 142 or this License, 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 License.

19.8. If Licensee has any questions about the applicability of Article 142, it may contact Port for additional information. Port may consult with the Director of the Purchasing Department who may also grant a waiver, as set forth in Section 142.8.

20. LOCAL HIRE.

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Labor and Employment Code Division II, Articles 101 and 108 (formerly Administrative Code Section 23.62) (the "Local Hiring Requirements"). Licensee's improvements and alterations under this License are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than \$750,000 per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. Licensee agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Licensee's improvements or alterations, Licensee shall contact City's Office of Economic Workforce and Development ("OEWD") to determine the work is a Covered Project subject to the Local Hiring Requirements.

License shall include, and shall require its sublicensees to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Labor and Employment Code Division II, Articles 101 and 108-Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Licensee shall cooperate, and require its sublicensees to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Licensee's failure to comply with its obligations under this Section shall constitute a material breach of this License. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Labor and Employment Code Division II, Articles 101 and 108-against the breaching party.

21. SAN FRANCISCO BOTTLED WATER ORDINANCE.

Licensee is subject to all applicable provisions of Environment Code Chapter 24 (which are hereby incorporated) prohibiting the sale or distribution of drinking water in specified containers at City-permitted events held on the License Area with attendance of more than 100 people, except as otherwise set forth in Environmental Code Chapter 24.

22. LABOR PEACE AGREEMENT.

The City has adopted a Labor Peace Agreement ordinance ("LPA Ordinance") codified at SF Administrative Code Section 23.70 et seq.) which requires among other things, Employers of Employees working in Excursion Vessel Operations to agree, upon request by their Employees' labor representative, to enter into a Labor Peace Agreement with a union seeking recognition containing specified minimum terms and to engage in mediation and arbitration if the parties are unable to agree on the terms of a Labor Peace Agreement within the specified timeframe and to make certain reports to the Office of Labor Standards and Enforcement ("OLSE"). Licensee shall comply with the requirements of the LPA Ordinance unless it: (i) employs fewer than forty (40) employees in vessel operations; (ii) is signatory to a valid and binding collective bargaining agreement as to the union seeking recognition; or (iii) meets any of the other exemptions in the LPA Ordinance as determined by OLSE. In addition, Licensee shall include, as a material term in any Subcontract the following language: "San Francisco Administrative Code Chapter 23, Article VIII, commencing at Section 23.70, which applies to [Subcontractor], is incorporated herein by reference. To the extent [Subcontractor] employs Employees in Excursion Vessel Operations within the scope of Administrative Code Chapter 23, Article VIII, [Subcontractor] hereby agrees as a material condition of this subcontract to enter into and abide by a Labor Peace Agreement with a Labor Organization or Organizations that represents, or seeks to represent, [Subcontractor's] Employees, if and as required by Article VIII, and to otherwise fully comply with the requirements of that Article."

Licensee's failure to comply with the LPA Ordinance or this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.74 against the breaching party.

23. LICENSEE'S COMPLIANCE WITH CITY BUSINESS AND TAX REGULATIONS CODE.

Licensee 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 Port is required to make to Licensee under this License is withheld, then Port will not be in breach or default under this License, and the Treasurer and Tax Collector will authorize release of any payments withheld under this Section to Licensee, without interest, late fees, penalties, or other charges, upon Licensee coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

24. CONSIDERATION OF SALARY HISTORY.

Licensee shall comply with San Francisco Labor and Employment Code Division II, Article 141 (formerly Administrative Code Chapter 12K), the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Licensee for work that relates to this License or for work to be performed in the City or on City property, Licensee is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Licensee shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Licensee is subject to the enforcement and penalty provisions in Article 141. Information about Article 141 is available on the web at <https://sfgov.org/olse/consideration-salary-history>.