

1 [Occupancy of the tow-away lane on Kearny Street and the sidewalk and a portion of the right  
2 turn lane on Jackson Street during construction operations at 838 Kearny Street (Assessor's  
3 Block 0195, Lot 013).]

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5 **Resolution granting revocable permission to Herrero Brothers to temporarily close and**  
6 **occupy a portion of the tow-away lane on the east side of Kearny Street between**  
7 **Jackson and Washington Streets; and to temporarily close and occupy the sidewalk**  
8 **and a portion of the right turn lane on the south side of Jackson Street between Kearny**  
9 **Street and Columbus Avenue during construction operations at 838 Kearny Street**  
10 **(Assessor's Block 0195, Lot 013).**

11  
12 WHEREAS, pursuant to Public Works Code Section 724, 724.7 and 724.8, permission  
13 was requested by Herrero Brothers to temporarily close and occupy the tow-away lane on  
14 Kearny Street between Jackson and Washington Streets and the sidewalk and a portion of  
15 the right turn lane on Jackson Street between Kearny Street and Columbus Avenue during  
16 construction operations at 838 Kearny Street; and,

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18 WHEREAS, The right turn lane on Jackson Street shall remain open for the last 40 feet  
19 approaching Columbus Avenue; and,

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21 WHEREAS, The Permittee shall provide and maintain a minimum 5-foot clear  
22 pedestrian path of travel in the tow-away lane on Kearny Street and the right travel lane on  
23 Kearny Street shall remain 12 feet wide; and,

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1           WHEREAS, The southeast corner of Kearny and Jackson Streets shall remain open as  
2 a pedestrian landing; intermittent closures of the corner landing may be allowed on an as  
3 needed basis under a Special Traffic Permit from the Department of Parking & Traffic; and,  
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5           WHEREAS, Said permission to occupy the subject portions of Kearny and Jackson  
6 Streets is granted for one (1) year from date of occupancy; and,  
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8           WHEREAS, The Permittee shall provide flagpersons as necessary; shall place and  
9 maintain reflectors and/or flasher lights at each end of construction barricades; shall provide  
10 and post "Sidewalk Closed/Use Other Side" signs on Jackson Street at Kearny Street and at  
11 Columbus Avenue, and shall provide all other necessary requirements; i.e. additional signs,  
12 equipment, etc. to control pedestrian and vehicular traffic, all to the requirements of the  
13 Department of Public Works (DPW) and the Department of Parking & Traffic (DPT); and,  
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15           WHEREAS, That in consideration of this Permit being issued for the work described in  
16 the application, the Permittee on its behalf and that of any successor or assign, and on behalf  
17 of any lessee, promises and agrees to perform all the terms of this Permit and to comply with  
18 all applicable laws, ordinances and regulations; and,  
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20           WHEREAS, The permittee agrees on its behalf and that of any successor or assign to  
21 hold harmless, defend, and indemnify the City and County of San Francisco, including,  
22 without limitation, each of its commissions, departments, officers, agents, and employees  
23 (hereafter collectively referred to as the "City") from and against any and all losses, liabilities,  
24 expenses, claims, demands, injuries, damages, fines, penalties, costs or judgements  
25 including without limitation, attorneys' fees and costs (collectively, "claims") of any kind

1 allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, the  
2 Permittee or its subcontractors, or the officers, agents, or employees of either, while engaged  
3 in the performance of the work authorized by this Permit, or while in or about the property  
4 subject to this Permit for any reason connected in any way whatsoever with the performance  
5 of the work authorized by this Permit or allegedly resulting directly or indirectly from the  
6 maintenance or installation of any equipment, facilities or structures authorized under this  
7 Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or  
8 employee of either of them, while engaged in the performance of the work authorized by this  
9 Permit, or while in or about the property, for any reason connected with the performance of  
10 the work authorized by this Permit, or arising from liens or claims for services rendered or  
11 labor or materials furnished in or for the performance of the work authorized by this Permit,  
12 (iii) injuries or damages to real or personal property, goodwill, and persons in, upon or in any  
13 way allegedly connected with the work authorized by this Permit from any cause or claims  
14 arising at this time, and (iv) any release or discharge, or threatened release or discharge, of  
15 any hazardous material caused or allowed by Permittee in, under, on, or about the property  
16 subject to this Permit or into the environment. As used herein, "hazardous material" means  
17 any substance, waste or material which, because of its quantity, concentration of physical or  
18 chemical characteristic is deemed by any federal, state or local governmental authority to  
19 pose a present or potential hazard to human health or safety or to the environment; and,  
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21 WHEREAS, The Permittee must hold harmless, indemnify and defend the City  
22 regardless of the alleged negligence of the City or any other party, except on for claims  
23 resulting directly from the sole negligence or willful misconduct of the City. The Permittee  
24 specifically acknowledges and agrees that it has an immediate and independent obligation to  
25 defend the City from any claims which actually or potentially falls within this indemnify

\*\*Department of Public Works\*\*

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1 provision, even if the allegations are or may be groundless, false or fraudulent, which  
2 obligation arises at the time such claim is tendered to Permittee by the City and continues all  
3 times thereafter. Permittee agrees that the indemnification obligations assumed under this  
4 Permit shall survive expiration of the Permit or completion of work; and,

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6 WHEREAS, The Permittee shall obtain and maintain through the terms of this Permit  
7 general liability, automobile liability or worker's compensation insurance as the City deems  
8 necessary to protect the City against claims for damages for personal injury, accidental death  
9 and property damage allegedly arising from any work done under this Permit. Such insurance  
10 shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and  
11 with insurers satisfactory to the City, evidencing all coverage above shall be furnished to the  
12 City before commencing any operations under this Permit, with complete copies of policies  
13 furnished promptly upon City request; and,

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15 WHEREAS, No structure shall be erected or constructed on said sidewalk except as  
16 specifically permitted herein; and,

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18 WHEREAS, The Permittee shall pay a non-refundable fee of \$13,025 for the one-year  
19 duration of said occupancy; and,

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21 WHEREAS, The Permittee shall, upon completion of all construction operations or  
22 upon determination by the Director of Public Works that said sidewalk and street occupancy is  
23 no longer required, restore the street areas to the satisfaction of the Department of Public  
24 Works and reopen the area to public use; and,

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1           WHEREAS, This permission shall expire upon completion of said construction  
2 operations or upon determination by the Director of Public Works that said street occupancy is  
3 no longer required; and,

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5           WHEREAS, That the Permittee shall procure the necessary permits from the Central  
6 Permit Bureau, Department of Building Inspection and/or the Bureau of Street-Use and  
7 Mapping, Department of Public Works and pay the necessary permit and inspection fees prior  
8 to occupying said area; now, therefore, be it

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10           RESOLVED, That pursuant to Public Works Code Section 724, 724.7 and 724.8,  
11 permission revocable at the will of the Board of Supervisors, is hereby granted to Herrero  
12 Brothers to temporarily close and occupy a portion of the tow-away lane on the east side of  
13 Kearny Street between Jackson and Washington Streets; and to temporarily close and occupy  
14 the sidewalk and a portion of the right turn lane on the south side of Jackson Street between  
15 Kearny Street and Columbus Avenue, during construction operations at the aforementioned  
16 location.

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18 RECOMMENDED:  
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20 \_\_\_\_\_  
21 Harlan L. Kelly, Jr.  
22 Deputy Director for Engineering  
23 and City Engineer

APPROVED:  
24  
25 \_\_\_\_\_  
Edwin M. Lee  
Director of Public Works