



**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS**

STREET ENCROACHMENT AGREEMENT

WITNESSETH

In consideration of the adoption by the Board of Supervisors of the City and County of San Francisco of Resolution No. _____ at its meeting of _____, a true copy of which is attached hereto marked Exhibit A, and by this reference incorporated herein, and subject to all the terms, conditions and restrictions of this Agreement, also by reference incorporated herein, Permittee agrees that in accordance with this agreement and Exhibit A:

1. The permitted encroachment shall constitute a revocable license and shall be assignable or transferable by Permittee to the owners association for the property, whether separate from or together with any interest of Permittee.

Upon revocation the undersigned Permittee, subsequent owners, or their heirs and assignees will within 30 days remove or cause to be removed the encroachment and all materials used in connection with its construction, without expense to the City and County of San Francisco, and shall restore the area to a condition satisfactory to the Department of Public Works.

2. The occupancy, construction and maintenance of the encroachment shall be in the location and as specified by the plans submitted, revised, approved and filed in the Department of Public Works. The Permittee, by acceptance of this permit, acknowledges its responsibility to comply with all requirements of the occupancy, construction and maintenance of the encroachment as specified in Public Works Code Section 786 and with the sidewalk maintenance requirements specified in Public Works Code Section 706.
3. The Permittee shall verify the locations of City and public service utility company facilities that may be affected by the work authorized by this permit and shall assume all responsibility for any damage to such facilities due to the work. The permittee shall make satisfactory arrangements and payments for any necessary temporary relocation of City and public utility company facilities.
4. In consideration of this Permit being issued for the work described in the application, Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.

Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, Permittee or its subcontractors, or the offices, agents or employees of either, while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligations arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

Permittee shall obtain and maintain through the terms of this Permit insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any work done under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.

5. Permittee will, at its own expense, maintain in full force and effect an insurance policy or policies issued by insurers with ratings comparable to A-VIII, or higher that are authorized to do business in the State of California, and that are satisfactory to the City. Approval of the insurance by City shall not relieve or decrease Permittee's liability hereunder.

Permittee must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages: Workers' Compensation, in statutory amounts, with Employer's Liability limits not less than \$1,000,000 each accident, injury, or illness; and Commercial General Liability Insurance with Limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage, including contractual liability, personal injury, products and completed operations; and Commercial Automobile Liability insurance with limits not less than \$1,000,000 each occurrence combined single limit or bodily injury and

property damage, including owned, non-owned and hired auto coverage as applicable. Said policies shall include the City and County of San Francisco and its officers and employees jointly and severally as additional insured and shall apply as primary insurance and shall stipulate that no other insurance affected by the City and County of San Francisco will be called on to contribute to a loss covered hereunder.

All policies shall be endorsed to provide thirty (30) days advance written notice to the City of reduction, nonrenewal or material changes in coverages or cancellation of coverages for any reason. Notices shall be sent to the Department of Public Works, Bureau of Street Use and Mapping, 1155 Market Street, 3rd Floor, San Francisco, CA, 94103. The permission granted by said resolution shall automatically terminate upon the termination of such insurance. Upon such termination, Permittee shall restore the right-of-way, without expense to the City.

6. The Permittee shall obtain a building permit at the Central Permit Bureau, 1660 Mission Street for the construction or alteration of any building.
7. The Permittee shall contact the DPW Street Inspection Section (415) 554-7149, at least 72 hours prior to starting work to arrange an inspection schedule.
8. The Permittee acknowledge its responsibility to notify any successor owners of the existence of the encroachment and the successor owner's obligation to obtain a permit from the Department of Public Works 60 days in advance of any pending sale of the Permittee's adjacent property. The Permittee's obligation to remove the encroachment and restore the right-of-way to a condition satisfactory to the Department of Public Works shall survive the revocation, expiration or termination of this permit or sale of Permittee's adjacent property.
9. The Permittee's right to use City property, as set forth in this permit is appurtenant to the property described as: 401 Grove St. San Francisco CA 94102
Block 0808, LOT 036
_____ The provisions of the permit shall bind all subsequent purchasers and owners of the described property. The Permittee shall have the right to assign or transfer this Agreement and the permit to the 300 Ivy Owners Association, which is the owners association for the condominium project at the property.

Subsequent purchasers and owners shall be subject to the revocation and termination provisions set forth in this permit.

10. The Permittee or subsequent owners recognize and understand that this permit may create a possessory interest subject to property taxation and that the Permittee or subsequent owner or owners may be subject to the payment of such taxes.
11. The Permittee or subsequent owner or owners recognize the recordation of this permit.

All of the provisions of this agreement shall be deemed provisions of said resolution. All of the provisions of said resolution shall be deemed provisions of this agreement.

In witness whereof the undersigned Permittee(s) have executed this agreement this 27th day of January, 2014.

Ivy Grove Partners, LLC

BY: A E Costello Managing Director

STATE OF CALIFORNIA)
) SS
COUNTY OF San Francisco)

On 1/27/14 before me, F. Anne Michel Notary Public in and for said County and State, personally appeared A. Elizabeth Costello personally known to me (or proven to me on the name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by this by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

(NOTARY STAMP OR SEAL)

F. Anne Michel

Notary Public in and for said
County and State

