

TAYLOR  
McCORMACK &  
FRAME 

ATTORNEYS AT LAW

André G. Duchette, Esquire  
ADuchette@TMFAttorneys.com

November 27, 2017

Barbara Barhydt  
Development Review Services Manager  
Planning Division  
389 Congress Street, 4<sup>th</sup> FL  
Portland, ME 04101

**HAND DELIVERED**


Re: 60 Munjoy Street, Portland, ME

Dear Barbara,

Enclosed please find for your records the Recorded Revocable License for Maintenance of Encroachments on City Streets for the above referenced property.

As always, please let me know if you have any questions.

Sincerely,



André G. Duchette

AGD/sd  
Enc.

## REVOCABLE LICENSE FOR MAINTENANCE OF ENCROACHMENTS ON CITY STREETS

This Revocable License For Maintenance Of Encroachments On City Streets (hereinafter "License") is granted by the City of Portland (hereinafter, "City") to Ten Ten Holdings, LLC, a Maine limited liability company with a mailing address of 29 Atlantic Street, Portland, Maine (hereinafter, "Owner") for the Owner's installation and maintenance of a stairway entry and gabled roof canopy (collectively, the "Encroachments") over certain real property owned by the City located at 60 Munjoy Street, Portland, Maine as depicted on the plan entitled New Site Plan, prepared by Caleb Johnson Architects, a copy of which is attached hereto as Exhibit A and incorporated herein by reference (the "Plan"). The area occupied by the Encroachments is referred to herein as (the "Licensed Area"), which is adjacent to property owned by the Owner, which property is more particularly described in Exhibit B, attached hereto and incorporated herein ("Owner's Property"). The installation and maintenance of the Encroachments shall be governed by the terms of this License.

1. Owner is hereby permitted to bring upon the Licensed Area and areas adjacent thereto workers, materials and machinery necessary to install and maintain the Encroachments over the Licensed Area as shown on Exhibit A.
2. Owner is hereby permitted to occupy the Licensed Area only for the purpose of carrying out the installation and maintenance of the canopy pursuant to the terms of this License and in accordance with the Plan. Such work shall not substantially interfere with the City's use and maintenance of the Licensed Area.
3. All work performed upon and use of the Licensed Area for the purposes set forth herein shall be at Owner's sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the City's property adjacent to the Licensed Areas related to the conduct of any work related to this License. Owner agrees at its sole expense to restore any portion of the Licensed Areas and adjacent City property effected by work conducted by Owner under this License to substantially the same condition that it was in prior to such work or as close to that condition as is reasonably practicable. Owner, its successors and assigns, shall defend, indemnify and hold the City, its officers, agents, and employees harmless from any and all claims, including but not limited to claims for damage to City property and reasonable attorney's fees, which arise out of Owner's use, or the use of Owner's contractors, of the City's property as described above during the term of the License. The Owner's obligation to defend, indemnify and hold the City harmless shall survive termination or revocation of this License.
4. Owner shall be responsible for the proper maintenance of the Encroachments. In the event of damage to the Encroachments and/or the Licensed Area, Owner shall promptly repair/restore the same. Prior to such repair/restoration, Owner shall notify the City (in writing and by telephone) at least forty-eight hours before it plans to conduct such repair

or restoration and shall work with City staff on the closure, if needed, of any City streets in the vicinity of the property in order to conduct such repair/restoration.

5. Owner shall procure and maintain throughout the term of this License comprehensive general liability insurance in the minimum amount of Four Hundred Thousand Dollars (\$400,000) (or the amount stated in the Maine Tort Claims Act, as may be amended from time to time) per occurrence for bodily injury, death, or property damage covering its activities hereunder and naming the City as an additional insured thereon. In addition, Owner shall provide evidence of Workers' Compensation insurance in the statutory amount to the extent it may be required by law. Certificates evidencing such policy shall be delivered to the City and shall provide the City with no less than thirty (30) days prior notice of cancellation or non-renewal. All insurance coverage required herein shall include coverage of all Owners' contractors and subcontractors.
6. Owner, by execution of this License, hereby agrees to assume responsibility for any and all claims and/or damage to persons or property arising out of or in any way related to Owner's exercise of the rights granted by this License, and does hereby forever waive, release, relinquish, remise, indemnify and discharge the City, its agents, employees, successors and assigns from and against any and all losses, costs or expenses (including reasonable attorneys' fees), damages, demands, liabilities, claims, actions, causes of action, suits, or judgments (collectively, "Claims") whatsoever of every name and nature, in law and in equity, including without limitation those related in any manner to any accident or injury to, or death of, any person, or any damage to property occurring on, in or in the vicinity of the area covered by this License, arising out of the presence in and use by the Owner of the area covered by this License.
7. This License is assignable to any subsequent owners, including any condominium association, of the Owner's Property. In the event of such assignment, Owner shall notify the City of such assignment no less than 10 days prior to the effective date of such assignment.
8. This License, and all of the rights and obligations herein, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
9. The City may revoke this License six (6) months after receipt by the Owner of written notice that an Event of Revocation (as defined below) has occurred, identifying such Event of Revocation, provided that such Event of Revocation is not cured within six (6) months after Owner's receipt of such notice, except as set forth in subsection c) below. "Event of Revocation" shall mean:
  - a) Owner's non-compliance with any of the terms of this Agreement
  - b) the building shown on the Plan fails to be constructed substantially in accordance with the Plan or any amendments thereto;

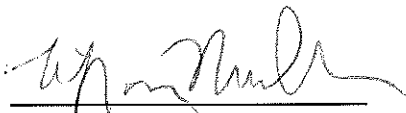
- c) the building as shown on the Plan is destroyed, removed or otherwise thereafter ceases to exist on Owner's property and construction to rebuild said building has not begun within twelve (12) months of said destruction or removal, or
- d) failure to maintain insurance as required under Section 5 above, and such failure is not remedied within thirty (30) days after written notice thereof.

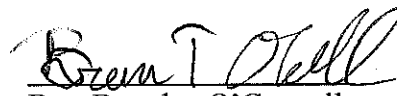
10. Any notice of an Event of Revocation delivered pursuant to Section 9 of this License must be sent by certified mail, return receipt requested to the Owner at the address first set forth above, or at such other address as the Owner may provide to the City in writing from time to time.

11. Notwithstanding any other provision herein, in the event that a notice of an Event of Revocation is delivered to Owner, any mortgagee of Owner's property shall be entitled to cure the matter set forth in such notice within the time frames set forth in Section 9 hereof, and the City agrees to accept such performance by any such mortgagee of Owner's obligations hereunder.

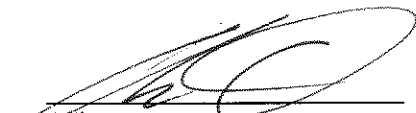
IN WITNESS WHEREOF, the City of Portland has caused this License to be executed by Brendan O'Connell, its Finance Director thereunto duly authorized, and Ten Ten Holdings, LLC\_ has caused this License to be executed by Susan Grisanti, its Manager thereunto duly authorized, as of the day and year first written above.

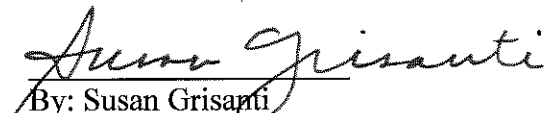
**CITY OF PORTLAND**

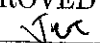
  
 \_\_\_\_\_  
 Witness

  
 \_\_\_\_\_  
 By: Brendan O'Connell  
 Its Finance Director

**TEN TEN HOLDINGS, LLC**

  
 \_\_\_\_\_  
 Witness

  
 \_\_\_\_\_  
 By: Susan Grisanti  
 Its Manager

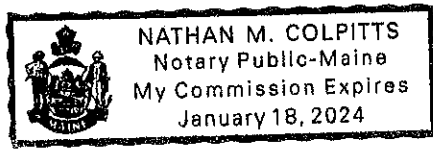
APPROVED AS TO FORM:  
  
 \_\_\_\_\_  
 CORPORATION COUNSEL'S OFFICE

STATE OF MAINE  
CUMBERLAND, ss.

November 3, 2017

Then personally appeared the above-named Brendan O'Connell, Finance Director of the City of Portland, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of Portland.

Before me,



[Signature]  
Notary Public/Attorney at Law

STATE OF MAINE  
CUMBERLAND, ss.

October 27, 2017

Then personally appeared the above-named Susan Grisanti, Manager of Ten Ten Holdings, LLC Portland, Maine, as aforesaid, and acknowledged the foregoing to be his free act and deed in his said capacity, and the free act and deed of said limited liability company.

Before me,

[Signature: Sarah E. Dunne]  
~~Attorney-at-Law~~/Notary Public

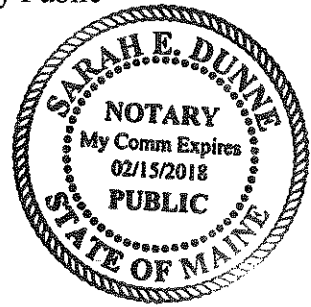


EXHIBIT A

(See Attached Plan)



**EXHIBIT B**

A certain lot or parcel of land with the buildings thereon, situated on Munjoy Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

BEGINNING at the intersection of the westerly side of Munjoy Street with the northerly side of Wilson Street; thence running westerly by the northerly side of Wilson Street 60 feet to land formerly of Enos Soule; northwesterly by Soule land 50 feet; thence northwesterly by land formerly of Boyd 60 feet, more or less to Munjoy Street; thence southerly by said Munjoy Street 50 feet to the point of beginning.

Received  
Recorded Register of Deeds  
Nov 07, 2017 03:07:29P  
Cumberland County  
Nancy A. Lane