

EXHIBIT Q

Form of Permit to Enter

[ATTACHED]

PERMIT TO ENTER

THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic (“**Agency**”) grants to _____ (“**Permittee**”), a non-exclusive permit to enter upon certain Agency-owned or -leased real property (hereinafter referred to as the “**Permit Area**”), located at _____ upon the terms, covenants and conditions hereinafter set forth in this Permit to Enter (“**Permit**”).

1. Permit Area: The Permit Area is more particularly shown on Attachment A hereto and made a part hereof. The Permit is non-exclusive and is subject to the rights of ingress and egress by the Agency and others, who are authorized to access portions of the Permit Area.

2. Interim Use: The Permittee shall use the Permit Area to

[describe permitted activities] which is described elsewhere herein as the “**Interim Use.**” No uses other than those specifically stated herein are authorized hereby.

3. Time of Entry: Entry may commence, once the Permit is fully executed, on _____, at 8:00 a.m. Entry shall terminate on _____, at 5:00 p.m., unless earlier terminated by the Agency’s Executive Director under Section 11 hereof or earlier terminated by Permittee by cessation of activities/operations, or unless such time is extended by the Executive Director.

4. Compensation to Agency: Permittee shall pay compensation to the Agency:

YES

NO

If yes is checked, Permittee shall pay the Agency:

One cent (\$ 0.01) per square foot per day for duration of the permit to enter or

\$ _____ per day pursuant to Section 9 *Reduction or Waiver of Use Fee* of the Agency’s Permit to Enter Policy.

(Executive Director’s initials authorizing fee reduction/waiver). _____
initials

5. Indemnification:

a. **General Indemnification:** Permittee shall defend, hold harmless and indemnify the Agency, the City and County of San Francisco (the “City”) and/or their respective commissioners, members, officers, agents and employees of and from any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, actions, causes of action and liabilities of every kind, nature and description directly or indirectly, arising out of or connected with this Permit and any of the Permittee’s operations or activities related thereto, and excluding the willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified or held harmless, and excluding any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, action, causes of action or liabilities of any kind arising

out of any Release (as defined in Section 6f below) or threatened release of any Hazardous Substance (as defined in Section 6d below), pollutant, or contaminant, or any condition of pollution, contamination, or nuisance which shall be governed exclusively by the provisions of Section 6c below. This section does not apply to contracts for construction design services provided by a design professional, as defined in California Civil Code Section 2782.8

b. Indemnification By Design Professionals: This section applies to any design professional as defined in California Civil Code Section 2782.8 who is or will provide professional services as part of, collateral to, or affecting this Permit with the Permittee (“Design Professional”). Each Design Professional who will provide design services shall defend, hold harmless and indemnify the Agency, the City and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional. It is expressly agreed and understood that the duty of indemnification pursuant to this section is to be interpreted broadly to the greatest extent permitted by law, including but not limited to California Civil Code Section 2782.8.

c. No Mechanics’ Liens: Permittee shall not permit any mechanics' or other liens to be levied against the Permit Area for any labor or material furnished to Permittee or claimed to have been furnished to Permittee or to Permittee's agents or contractors in connection with the Interim Use and Permittee shall hold the Agency free and harmless from any and all cost or expense connected with or arising from the Interim Use.

6. Hazardous Material Acknowledgement and Indemnification:

a. Hazardous Material Acknowledgement: Permittee recognizes that, in entering upon the Permit Area and performing the Interim Use under this Permit, its employees, invitees, subpermittees and subcontractors may be working with, or be exposed to substances or conditions which are toxic or otherwise hazardous. Permittee acknowledges that the Agency is relying on the Permittee to identify and evaluate the potential risks involved and to take all appropriate precautions to avoid such risks to its employees, invitees, subpermittees and subcontractors. Permittee agrees that it is assuming full responsibility for ascertaining the existence of such risks, evaluating their significance, implementing appropriate safety precautions for its employees, invitees, subpermittees and subcontractors and making the decision on how (and whether) to enter upon the Permit Area and carry out the Interim Use, with due regard to such risks and appropriate safety precautions.

b. Proper Disposal of Hazardous Materials: Permittee assumes sole responsibility for managing, removing and properly disposing of any waste produced during or in connection with Permittee’s entry and/or Interim Use of the Permit Area including, without limitation, preparing and executing any manifest or other documentation required for or associated with the removal, transportation and disposal of hazardous substances to the extent required in connection with the Permittee’s activities hereunder.

c. Toxics Indemnification: Permittee shall defend, hold harmless and indemnify the Agency, the City, and their respective commissioners, members, officers, agents

and employees from and against any and all claims, demands, actions, causes of action or suits (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees of every kind, nature and description, resulting from any release or threatened release of a hazardous substance, pollutant, or contaminant, or any condition of pollution, contamination, or nuisance in the vicinity of the Permit Area or in ground or surface waters associated with or in the vicinity of the Permit Area to the extent that such release or threatened release, or condition is directly created or aggravated by the Interim Use undertaken by Permittee pursuant to this Permit or by any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to be performed or observed by the Permittee, including but not limited to any violation of any Environmental Law (as defined in Section 6e below); provided, however, that Permittee shall have no liability, nor any obligation to defend, hold harmless or indemnify any person for any claim, action, loss, cost, liability, expense or damage resulting from the discovery or disclosure of any pre-existing condition on or in the vicinity of the Permit Area; and provided further that Permittee shall be held to a standard of care no higher than the standard of care applicable to environmental and geotechnical professionals in San Francisco.

d. Hazardous Substances: For purposes of this Permit, the term "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U. S. C. Section 9601(14), and in addition shall include, without limitation, petroleum, (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs" or "PCB"), PCB-containing materials, all hazardous substances identified at California Health & Safety Code Sections 25316 and 25281(d), all chemicals listed pursuant to California Health & Safety Code Section 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under applicable state or local law.

e. Environmental Laws: For purposes of this Permit, the term "Environmental Laws" shall include but not be limited to all federal, state and local laws, regulations, ordinances, and judicial and administrative directives, orders and decrees dealing with or pertaining to solid or hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee and community right-to-know requirements, related to the Interim Use.

f. Release: For purposes of this Permit, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance or pollutant or contaminant).

g. Soils Investigation: If the Interim Use under Section 2 of this Permit includes any soils investigations, then Permittee warrants as follows:

(1) If any soils investigation permitted hereby involves the drilling of holes having a diameter dimension that could create a safety hazard for persons, said holes shall during any drilling operations be carefully safeguarded and shall upon the completion of said

drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling.

(2) The Agency has no responsibility or liability of any kind or character with respect to any utilities that may be located in or on the Permit Area. Permittee has the sole responsibility to locate the same and to protect the same from damage. Permittee shall be solely responsible for any damage to utilities or damage resulting from any damaged utilities. Prior to the start of the Interim Use, the Permittee is advised to contact Underground Services Alert for assistance in locating existing utilities at (800) 642-2444. Any utility conduit or pipe encountered in excavations not identified by Underground Services Alert shall be brought to the attention of the Agency's Engineer immediately.

(3) All soils test data and reports prepared based thereon, obtained from these activities shall be provided to the Agency upon request and the Agency may use said data for whatever purposes it deems appropriate, including making it available to others for use in connection with any development. Such data, reports and Agency use shall be without any charge to the Agency.

(4) Any hole drilled shall, if not refilled and compacted at the end of each day's operation, be carefully safeguarded and secured after the completion of each day's work, as shall the drilling work area and any equipment if left on the Permit Area.

7. Insurance: Permittee shall procure and maintain coverage for the duration of the Permit, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of Interim Use by the Permittee, its agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the Permittee.

a. **Minimum Scope of Insurance:** Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).

(2) Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

(4) Professional Liability Insurance appropriate to the Contractor's profession covering all negligent acts, errors and omissions.

b. **Minimum Limits of Insurance:** Permittee shall maintain limits no less than:

(1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form

with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease.

(4) Professional Liability Insurance: \$1,000,000 per claim and in the annual aggregate. If the Contractor's Professional Liability Insurance is "claims made" coverage, these minimum limits shall be maintained by the Contractor for no less than three (3) years beyond completion of the Interim Use.

c. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the Agency, the City and their respective Commissioners, officers, agents and employees; or the Permittee shall provide a financial guarantee satisfactory to the Agency guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions:

(1) The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) The Agency, the City and their respective Commissioners, officers, agents and employees are to be covered as insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Permittee; and liability arising out of the Interim Use performed by or on behalf of the Permittee.

(ii) For any claims related to this Permit, the Permittee's insurance coverage shall be primary insurance as respects to the Agency, the City and their respective Commissioners, officers, agents and employees. Any insurance or self-insurance maintained by the Agency, the City and their respective Commissioners, officers, agents and employees shall be excess of the Permittee's insurance and shall not contribute with it.

(iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, the City and their respective Commissioners, officers, agents or employees.

(2) Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the Agency, the City and their respective Commissioners, officers, agents and employees for losses arising from the Interim Use performed by the Permittee or for the Agency.

(3) All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

e. Acceptability of Insurers: Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise approved by the Agency's Risk Manager in writing.

f. Verification of Coverage: Permittee shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that Insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Agency. All certificates and endorsements are to be received and approved by the Agency before the Interim Use commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

g. Subpermittee: Permittee shall include all subpermittees as insureds under its policies or shall require each subpermittees to furnish separate insurance certificates and endorsements. All coverages for subpermittees shall be subject to all the requirements stated herein.

8. "As Is", Maintenance, Restoration, Vacating: The Permit Area is accepted "AS IS" and entry upon the Permit Area by Permittee is an acknowledgment by Permittee that all dangerous places and defects in said Permit Area are known to it and are to be made secure and kept in such secure condition by Permittee. Permittee shall maintain the Permit Area so that it will not be unsafe, unsightly or unsanitary. Upon termination of the Permit, Permittee shall vacate the Permit Area and remove any and all personal property located thereon and restore the Permit Area to its condition at the time of entry. The Agency shall have the right without notice to dispose of any property left by Permittee after it has vacated the Permit Area. Agency makes no representations or warranties, express or implied, with respect to the environmental condition of the Permit Area or the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), or compliance with any Environmental Laws, and gives no indemnification, express or implied, for any costs of liabilities arising out of or related to the presence, discharge, migration or Release or threatened Release of the Hazardous Substance in or from the Permit Area.

9. Compliance With Laws:

a. Compliance with all Laws: All activities and operations of the Permittee and/or its agents, contractors or employees or authorized entries under this Permit shall be in full compliance with all applicable laws and regulations of the federal, state and local governments, including but not limited to mitigation measures, if any, which are attached hereto and made a part hereof as if set forth in full.

b. **Nondiscrimination:** The Permittee herein covenants for himself or herself and for all persons claiming in or through him or her that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, gender identity, marital or domestic partner status, disability (including AIDS or HIV status), national origin or ancestry in the use, occupancy or enjoyment of the Permit Area.

10. Security of Permit Area: There is an existing fence with gates around the Permit Area: Yes No

If “Yes” is checked above, Permittee shall maintain said fence in good condition and repair any damage caused by Permittee or as a result of the Interim Use. Permittee may relocate the fence as needed, provided that the fence is restored to its original condition upon termination of the permit. During the term of the permit, the Permittee shall keep the Permit Area secure at all times.

11. Early Termination: This Permit may be terminated by the Agency in its sole discretion upon 24 hours' notice. Posting at the Permit Area shall be sufficient notice.

12. Entry under Permittee Authority: The Permit granted Permittee for the Permitted Activities/Operations as defined in Section 2 shall mean and include all subpermittees, agents and employees of the Permittee. In this regard, Permittee assumes all responsibility for the safety of all persons and property and any contents placed in the Permit Area pursuant to this Permit. All Interim Use performed in the Permit Area and all persons entering the Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of the Permittee.

13. Governing Law: This Permit shall be governed by and interpreted under the laws of the State of California.

14. Attorneys' Fees: In any action or proceeding arising out of this Permit, the prevailing party shall be entitled to reasonable attorneys' fees and costs. For purposes of this Permit, the reasonable fees of attorneys of either party shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the attorney's services for either party were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the San Francisco City Attorney's Office.

15. Supplementary Provisions:

a. Is additional insurance required? Yes No

Additional Insurance: If “Yes” is checked above, Permittee shall obtain additional insurance consisting of insurance protecting against loss or damage to real and personal property caused by fire, water, theft, vandalism, malicious mischief or windstorm, and any other causes contained in standard policies of insurance. Permittee shall supply such insurance in an amount of not less than the replacement value of the buildings and improvements on the Permit Area, evidenced by

a policy of insurance and/or certificate attached hereto in the form and on the terms specified above and with the Agency and the City as additional insured.

b. Is a fence and gate required? Yes No

Fence and Gate: If “Yes” is checked above, the Permittee shall, at its expense, erect a fence (with gate) securing the Permit Area before entry on the Permit Area and shall maintain said fence and gate in good condition and repair during the Time of Entry as defined in Section 3. Said fence and gate erected by Permittee shall constitute the personal property of Permittee.

c. Is security personnel required? Yes No

Security Personnel: If “Yes” is checked above, Permittee shall provide necessary security personnel at its own expense to prevent unauthorized entry into Permit Area during:

Daytime: Yes No Nighttime: Yes No

d. Will subpermittees use the Permit Area? Yes No

Subpermittees: If “Yes” is checked above, each Subpermittee shall execute this Permit by which execution each such Subpermittee agrees to all of the terms, covenants and conditions hereof. However, Subpermittees may be covered under Permittee’s insurance in lieu of obtaining and maintaining separate insurance pursuant to Section 7(g). As additional Subpermittees are identified for various aspects of the Interim Use hereunder, they shall execute this Permit, if still valid, or a new permit to enter, before entering the Permit Area or commencing operations therein.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in triplicate as of the _____ day of _____, 2008.

PERMITTEE

[type of business entity]

By: _____

Name
Position

**REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO,**
a public body, corporate and politic

APPROVED AS TO FORM:

By: _____

Amy Lee
Deputy Executive Director
Finance and Administration

By: _____

James B. Morales
Agency General Counsel