

UNDERPINNING and SUBJACENT SUPPORT AGREEMENT

This Agreement is entered into between JCN Developers LLC. or its successors in Interest and Transferees (here in after referred to as “Developer”) and Mercedes Ho & Gregory Gagnon (hereinafter referred to as “Owners”)

RECITALS

Developer intends to construct a building on the lot commonly known as 490 South Van Ness, in the City of San Francisco, State of California, which is adjacent and coterminous to the lot and building commonly known as 25-29 Adair Street, owned by Owners. To perform the excavation, Developer desires to underpin and stabilize the exposed and subjacent foundation of Owner’s building in accordance with Civil Code Section 832 and structural drawings approved by the City and County of San Francisco. _____ Developer will furnish copies of the structural drawings to Owner before commencement of work. Developer requires permission of Owner to underpin, stabilize, and provide subjacent support to the foundation as herein described, and Owner is willing to grant such permission subject to the terms and conditions hereinafter set forth. Authorizing letter attached to be signed upon acceptance.

This agreement is based on Design Drawings provided by Erwin J. O Toole, Civil Engineer, Granite Excavation and Demolition dated December 12th. 2014.

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NOW, THEREFORE, it is agreed as follows;

1. Owner hereby grants permission to Developer and Contractor to enter upon Owner's land and building to perform the underpinning and subjacent foundation support work shown in the structural drawings referred to in the Recitals. Developer agrees that excavation work will be done on weekdays (excluding national holidays) between the hours of 7:00 am. through 5:30 p.m.; provided, that if in the opinion of the Developer and Contractor, a hazardous condition exists or is imminent, Contractor may extend its construction and excavation activities temporarily beyond such hours or days to the extent necessary to correct or mitigate hazardous conditions.

2. Developer will conduct its activities in a manner to minimize disruption to the occupants of Owner's building, including keeping the driveway in front of the building clear, and taking reasonable steps to minimize noise, dust and debris. Before excavation, Developer will take measurements and conduct inspections of Owner's building and will, thereafter, monitor such measurements to determine if unreasonable settlement of Owner's building is occurring.

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3. Developer represents that excavation, piling and shoring work shall be done in a safe and professional manner. Work will be done in accordance with applicable building codes and permitted structural drawings, as modified pursuant to requirements by the Department of Building Inspection.

Monitoring, Prior to any construction activity commencing on site, we propose to have our Surveyor place monitoring points (targets) on the top and 4ft. above grade of your building wall at property line parallel to the 490 South Van Ness property. The surveyor will monitor these targets for vertical and horizontal movement, every 2 weeks for a 6 month duration or until the street level slab is poured on the 490 South Van Ness property. You will notified if there's any movement from the surveyors initial records.

4. Developer further agrees (a) to have its underpinning and shoring engineer monitor the excavation and make field adjustments, as appropriate; (b) to install tie-backs to the length approved by the Department of Building Inspection; and (c) to brace light wells of Owner's building at the coterminous conditions. Before any excavation is completed, Developer shall, as necessary, cause the structural drawings to be revised to conform to clauses (b) and (c) of this paragraph and shall furnish a copy to Owner.

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5. Owner may retain the services of an independent consulting engineer for the purpose of advising Owner from time to time on the project. Developer will cooperate with Owner's consulting engineer, permit him access to the construction site to inspect and observe the work in progress, and permit him to review approved drawings and plans that concern Owner's building. Developer agrees to pay Owners \$5,000.00 for the consulting and review of the shoring design, engineer's reasonable costs and expenses incurred in connection with his services. Developer to pay owner upon signing of this agreement. Remaining balance not paid to the engineer to be retained by Owners.

6. Developer shall promptly notify Owner's consulting engineer if foundation settlement occurs. Developer agrees to inject grout into sand or other soils if, during excavation and shoring, cave-ins of loose sand or soil occur, and, in the reasonable opinion of Contractor's and Owner's engineers, such procedure is a reasonable precaution to protect Owner's building from damage. If Owner's and Developers engineers cannot agree on the necessity of grout injection, they, or Owner and Developer, shall appoint a third engineer, with no affiliation with either of the parties, who is a qualified soils and excavation expert. His recommendations for grout injection shall be binding upon and his expenses shall be borne by Developer. Excavation, at the coterminous property, shall cease pending the appointment and recommendation of such engineer. In the event of damage to Owner's building caused by Developers underpinning activities, neither the failure to inject grout, nor the use of grout injection, shall relieve Developers from liability as provided by this Agreement.

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7. In consideration of the foregoing, Developer agrees to repair any damage to Owner's building caused by the negligent performance of the work that is the subject matter of this Agreement. Developer shall have no obligation to repair, and is not responsible for, pre-existing conditions such as wood rot, water intrusion, mold, subsidence, settlement, or structural inadequacies of Owner's building or foundation, or any damage arising out of, or which not have occurred but for, preexisting conditions in Owner's building or its foundation. Before the commencement of excavation, Developer and Owner agree to inspect Owner's building for cracks and other visible damage. Owner and Developer will then prepare an exhibit to this Agreement confirming the results of the inspection and the damage observed during it, for the purpose of recording the extent of pre-existing damage to Owner's building that was observed through reasonable inspection before commencement of the project work. Owner agrees that Developer is not responsible for, and shall have no liability to repair, any preexisting damage to Owner's building, whether known or concealed, observed or not observed, or whether recorded on said exhibit. Developer shall endeavor to notify Owner if pre-existing conditions are encountered during the course of Contractor's work and shall provide reasonable time for Owner to effect repair of conditions that will not be accessible after Developers activities are completed.

8. Developer to contract and pay for all items requiring special Inspection related to work being performed per this agreement.

9. Shoring Contractor to obtain and pay for the permit once approved.

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10. In further consideration of the foregoing, Developer agrees to defend, hold harmless and indemnify Owner against any claim of bodily injury or death, and/or any claim of property damage asserted by a third party against Owner, caused by the negligent performance of the work that is the subject matter of this Agreement.

11. Developer agrees to maintain, or cause its subcontractors to maintain, liability insurance for claims of bodily injury and property damage with aggregate limits of not less than \$1 million, and worker's compensation insurance as required by law. Upon request, Developer shall furnish copies of Certificates of Insurance on Contractor's and subcontractor's policies to Owner.

12. Any dispute between Owner and Developer arising out of this Agreement, including any dispute over the interpretation of this Agreement, to enforce this Agreement and/or any claim for damages caused by the project work or for alleged breach of this Agreement, shall be submitted to JAMS, at its San Francisco office, for binding arbitration. Binding arbitration shall be conducted pursuant to the provisions of California Code of Civil Procedure sections 1280 through 1288.8. In any such arbitration, the arbitrator shall have no power to award any relief that would not be available in a court of law, to award any fine, exemplary or punitive damages, or to award any equitable relief other than the specific performance of a provision of this Agreement. Each party shall bear its own costs of arbitration, except that the arbitrator may, in the arbitrator's sole discretion, order that the prevailing party be reimbursed any fees and costs billed by JAMS for the services of the arbitrator.

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13. Developer to upsize the rebar reinforcing in the foundation wall of the proposed building adjacent to property line, per detail 3 Sheet S5.1 of the structural drawings dated 1 / 29 / 2015. Developer to provide the Owners a copy of the approved Structural drawings upon issuance.

14. Owner and Developer waive all rights and benefits of section 832 of the California Civil Code to the extent that this Agreement conflicts with the provisions of said statute, in which case the provisions of this Agreement shall prevail. This Agreement shall inure to the benefit of any subsequent owner(s) of Owner's building.

IN WITNESS WHEREOF, this Agreement is executed as of this

30th day of JANUARY, 2015.

490 South Van Ness, Developer;

Check #444 (rec'd 99 1.30.15)
Paid to Mercedes Ho
1/15/2015.

By: Maurice Cusey

Principal, JCN Developers LLC.

25-29 Adair Street Owners:

By: [Signature]

By: [Signature]

Ownership Agreement Between 25-29 Adair St. and 490 South Van Ness


25-29 Adair St. Property Owners,
Mercedes Ho & Gregory Gagnon

To; San Francisco Building Dept.

We are the property owner of the building of 25-29 Adair Street, San Francisco.

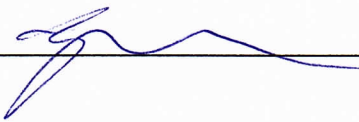
We agree to allow JCN Development LLC. Owners of 490 South Van Ness to place shoring, underpinning and temporary tie backs on our property for the purposes of the required excavation on 490 South Van Ness, per plans dated December 12th 2014 by Erwin J. o Toole, Civil Engineer.

Co. Granite Excavation and Demolition Inc.


_____ Date: 1/30/15

(Signature)
Mercedes Ho

(Print Name)


_____ Date: 01.30.2015

(Signature)
GREG GAGNON

(Print Name)