

**LICENSE AGREEMENT WITH ICV CONSTRUCTION, INC.**  
**2010 SEASON**

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and ICV CONSTRUCTION, INC., a Vermont Corporation with its offices in Burlington, Vermont (hereinafter ICV or LICENSEE).

WHEREAS, the CITY owns property, including the street, sidewalk and greenbelt in front of the property at 180 Battery St.; and

WHEREAS, J.A. MORRISSEY stated on its application (attached hereto as Exhibit A) that it wishes to encumber the sidewalk area in front of 180 Battery St. totaling approximately 1,272 square feet to erect a construction barrier around its construction site at 180 Battery St.; and

WHEREAS, this application was reviewed and approved by the Department of Public Works attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H:

NOW, THEREFORE, in consideration of the above and the mutual covenants the CITY and ICV enter into the following License Agreement:

**1. TERM**

The term of this license agreement shall commence upon full execution of this Agreement and shall continue until April 30, 2011 or sooner as provided herein.

**2. LOCATION**

LICENSEE may use and encumber the sidewalk area in front of 180 Battery St. totaling approximately 1,272 square feet (hereinafter referred to as the PREMISES) for

the placement of a construction barrier related to the construction project at 180 Battery St. A copy of the approved plan is attached hereto as Exhibit C.

**3. MAINTENANCE**

- a. The PREMISES shall be maintained in accordance with all conditions set by the Department of Public Works attached hereto as Exhibit B.
- b. LICENSEE shall take all reasonable precautions to protect the public from potential hazards resulting from this use.
- c. Licensee will erect proper signage to redirect pedestrians.
- d. Should Licensee fail to maintain the construction barrier or the PREMISES, this License Agreement is revocable on notice by the City of a violation, however, Licensee shall have 7 days to cure the problem if the City is notified in writing within 3 days of its intent to cure.
- e. LICENSEE shall pick up and sweep debris created by its use of the PREMISES. Licensee shall be responsible for the maintenance and upkeep of the construction barrier and any damage to the construction barrier is solely the responsibility of the Licensee.
- f. During the term of this license agreement, the LICENSEE shall not maintain or store any toxic or hazardous waste materials or contaminants upon said premises. The LICENSEE shall defend, indemnify and save the CITY harmless from any claims, causes of actions, penalties, fines or other assessments, or the expense and cost of cleanup arising out of or in connection with said hazardous or toxic materials or contaminants upon said premises caused by the LICENSEE.
- g. Licensee shall be responsible for removing, hauling and properly disposing of accumulated snow on the PREMISES.

**4. LICENSE FEE**

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable to the Burlington City Clerk's Office prior to issuance of said license.

5. **REVOCAATION**

This license Agreement is immediately revocable should LICENSEE discontinue use of the PREMISES. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense all equipment and other materials or obstructions placed on the PREMISES. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

6. **INSURANCE**

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance which shall include the provision that the CITY is named as an additional insured and shall be given 30 days written notification prior to cancellation of such insurance. The certificate shall be attached to this Agreement as Exhibit D.

c. It is the responsibility of LICENSEE to ensure that a current certificate of insurance are on file with the CITY at all times. **Failure to furnish a current certificate of insurance will result in immediate revocation of this license.**

7. **INDEMNIFICATION**

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the City's right-of-way and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

8. **PERMITS**

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to use of the CITY'S right-of-way.

**9. NUISANCES PROHIBITED**

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit, or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

**10. ASSIGNMENT OF RIGHTS**

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

**11. LIMITATION OF RIGHTS**

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

DATED at Burlington, Vermont this \_\_\_\_\_ day of \_\_\_\_\_,

2010.

CITY OF BURLINGTON

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Bob Kiss, Mayor  
Duly Authorized

ICV CONSTRUCTION, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Duly Authorized