

**INDEMNIFICATION AND INSURANCE AGREEMENT  
FOR SIDEWALK CAFES, STREET CAFES AND  
PARKLETS IN PUBLIC RIGHT-OF-WAY**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is by and between Kansas City, Missouri, a constitutionally chartered Municipal corporation (**City**), and \_\_\_\_\_, (**Permit Applicant**).

WHEREAS, City has agreed to issue a permit to the Permit Applicant to operate a sidewalk café, street café or parklet in the public right-of-way areas generally located at \_\_\_\_\_ in Kansas City, \_\_\_\_\_ County, Missouri (**Property Area**); and

WHEREAS, City is vested with an interest in rights-of-way located within the Property Area; and

NOW, THEREFORE, City and Permit Applicant do hereby agree as follows:

**Sec. 1. City Obligations.** City agrees to issue a permit for installation, maintenance, repair and replacement of a sidewalk café(s), street café(s) or parklet(s) to be installed on City-owned street rights-of-way within the Property Area provided Permit Applicant is in compliance with, as determined by City, all permit requirements established in Sections 64-168, 64-170, 64-171 and 64-172 of the Kansas City Code of Ordinances or otherwise required by the City.

**Sec. 2. Permit Applicant Obligations.** Permit Applicant agrees to indemnify the City and procure and maintain insurance coverage as indicated in the following sections.

**Sec 3. Indemnifications.** Permit Applicant shall defend, indemnify, and hold harmless City and any of its agencies, officials, officers and employees from and against all claims, damages, liability, losses, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from any acts or omissions in connection with the performance under this Permit, caused in whole or in part by Permit Applicant, Permit Applicant's employees, agents, or Contractors, or others for whom Permit Applicant is legally liable, regardless of whether or not caused in part by any act or omission of City, its agencies, officials, officers or employees.

Permit Applicant's contracts with every Contractor shall require such persons or entities to defend, indemnify, and hold harmless the City and any of its agencies, officials, officers and employees from and against all claims, damages, liability, losses, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from any acts or omissions in connection with the performance under this Permit, caused in whole or in part by Contractor, Contractor's employees, agents, or Contractors, or others for whom Contractor is legally liable, regardless of whether or not caused in part by any act or omission of City, its agencies, officials, officers or employees.

If Permit Applicant hires any architect or engineer in connection with the installation of the sidewalk café(s), street café(s) or parklet(s) then Permit Applicant's contracts with its architects or engineers shall cause such contractors to indemnify and hold harmless City and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, but only to the extent caused by the negligent acts, efforts, or omissions of such Contractors, their employees, agents or others for whom such Contractors are legally liable, in the performance of professional services. Permit Applicant's Contractors are not obligated under this section to indemnify City for the negligent acts of City and any of its agencies, officials, officers, or employees.

**Sec. 4. Insurance.** Permit Applicant shall procure and maintain, and shall require its Contractors to procure and maintain, in effect throughout the duration of this Permit, insurance coverage not less than the types and amounts specified below. Permit Applicant shall ensure that City is named as an additional insured on its and its Contractors' policies.

a) Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- i. Severability of Interests Coverage applying to Additional Insureds
- ii. Contractual Liability
- iii. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
- iv. No Contractual Liability Limitation Endorsement
- v. Additional Insured Endorsement, ISO form CG2010, current edition, or its equivalent.

b) Workers' Compensation Insurance: as required by statute, including Employers Liability with limits of:

Workers' Compensation	Statutory
Employers' Liability with limits of:	\$100,000 each accident \$500,000 disease –policy limit \$100,000 disease - each employee

c) Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with this Permit.

d) If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$ 2,000,000.

e) Permit Applicant shall deliver to City, prior to the start of any work at the Property area, properly completed certificates of insurance or other evidence that the required insurance is in full force and effect, in a form acceptable to City. The receipt or acceptance of a certificate of insurance that does not incorporate the required terms and coverage shall not constitute a waiver by City of the insurance requirements contained in this Permit.

f) All policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained by Permit Applicant and its Contractors will contain waiver provisions. The certificates of insurance will also contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

g) If the coverage afforded is cancelled or changed or its renewal is refused, Permit Applicant shall endeavor to give at least thirty (30) days prior written notice to City.

Regardless of any approval by City, it is the responsibility of Permit Applicant to ensure that the required insurance coverage is procured and maintained in effect at all times. In the event Permit Applicant fails to ensure that the required insurance is procured and maintained in effect, or that City is named as an additional insured, City may order that the installation of the sidewalk café(s), street café(s) or parklet(s) immediately stop and, upon ten (10) days' notice and an opportunity to cure, City may remove any of the installations or materials used for the sidewalk café(s), street café(s) or parklet(s) without notice or may pursue any other remedies for breach of this Permit as provided for herein and by law.

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CITY OF KANSAS CITY, MISSOURI

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Director of Public Works

PERMIT APPLICANT

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Name

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Printed Name

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Title

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Date

Approved as to form:

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Assistant City Attorney