

RECORDING REQUESTED BY:  
**THE CITY OF SAN DIEGO**  
WHEN RECORDED MAIL TO:

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

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**City of San Diego**  
**TEMPORARY PEDESTRIAN PLAZA MAINTENANCE AND REMOVAL AGREEMENT**

APPROVAL NUMBER: \_\_\_\_\_

PROJECT NUMBER: \_\_\_\_\_

This agreement is made by and between the City of San Diego, a Municipal Corporation [City] and the duly authorized representative of \_\_\_\_\_ [Applicant], located at

\_\_\_\_\_  
\_\_\_\_\_  
(Applicant Address)

In consideration of the grant of permission by the City of San Diego to install and maintain a Temporary Pedestrian Plaza over, under, and across \_\_\_\_\_ [ROW] for the use and benefit  
(Describe Right of Way)  
of the general public, the Applicant covenants and agrees with the City Of San Diego as follows:

- (a) The Temporary Pedestrian Plaza shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the Applicant(s) and successors in interest.
- (b) This agreement shall run with the land.
- (c) With respect to any liability, including but not limited to claims asserted, demands, causes of action, costs, expenses, losses, attorney fees, damages, expenses or payments that the City may sustain or incur in any manner for damages or injuries, including those to any person (including disability, dismemberment, illness damages, or death) or property, arising from, related to, or resulting from the construction, maintenance, state of use, repair, or presence of the Temporary Pedestrian Plaza and/or any furniture and accessories utilized within the Temporary Pedestrian Plaza. The Applicant agrees to defend, indemnify, protect and hold harmless the City, its agents, officers, and employees from and against any and all liability.

Also covered by this Section is liability arising from, related to, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees that may be in combination with active or passive negligent acts or omissions of the Applicant, its employees, agents or officers, or any third party. The Applicant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the City, its agents, officers or employees.

Applicant further agrees to pay any and all costs the City incurs to enforce the indemnity and defense provision above.

**NOTE: ALL SIGNATURES MUST INCLUDE NOTARY ACKNOWLEDGMENTS PER CIVIL CODE SEC.1180 ET.SEQ.**  
This information is available in alternative formats for persons with disabilities, upon request.

- (d) The Applicant(s) shall remove, relocate or restore the Temporary Pedestrian Plaza as directed by the City Engineer within thirty (30) calendar days of written notice from the City, or in the case of an emergency, as determined by the City, the City may request that the work be done immediately or within less than thirty (30) calendar days. If the Applicant(s) fails to remove, relocate or restore or otherwise comply with the direction of the City Engineer regarding the Temporary Pedestrian Plaza, the City may cause the work to be done, and the costs thereof shall be deducted from the removal bond posted. The City's request to remove, relocate, or restore the Temporary Pedestrian Plaza shall not be arbitrary or without reason.
- (e) Whatever rights and obligations were acquired by the City with respect to the rights-of-way shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the Temporary Pedestrian Plaza.
- (f) The Applicant shall maintain a policy of liability insurance, with the City of San Diego and its respective elected officials, officers, employees, agents, and representatives named as additional insured, in an amount specified in the San Diego Municipal Code §129.0715(a)(6), which will protect the City from any potential claims which may arise from the Temporary Pedestrian Plaza.
- (g) The Applicant will be subject to an annual inspection to ensure compliance with this Agreement. The annual inspection fee will be as set forth in the most recent Development Services Department Fee Schedule. Inspection shall be coordinated with the City of San Diego. All deficiencies identified for correction shall be the sole responsibility of the Applicant.
- (h) The Temporary Pedestrian Plaza shall be accessible to the general public. Signage informing open public use shall be displayed at all times as specified in the construction permit. The Applicant shall not restrict use of the Temporary Pedestrian Plaza to patrons of particular establishments.
- (i) The Applicant shall keep all plants in good health. All costs for the upkeep and maintenance of the plants shall be the sole responsibility of the Applicant.
- (j) The Applicant shall keep the Temporary Pedestrian Plaza free of debris, litter and grime and prevent debris, litter, pollution and contaminants from entering the adjacent storm water conveyance system.
- (k) The Applicant shall maintain the surface of the Temporary Pedestrian Plaza and ensure safe, accessible path of travel.
- (l) The Applicant shall control any non-storm water discharges from the Temporary Pedestrian Plaza in accordance with the San Diego Municipal Code §43.03.
- (m) The Applicant shall sweep out debris and litter from under the Temporary Pedestrian Plaza and adjacent gutter. The Applicant shall maintain the underside of the Temporary Pedestrian Plaza and gutter free and clear of all debris and litter at all times.
- (n) The Applicant shall remove all unsecured furniture at the close of business each working day. Unsecured furniture shall not be permitted after business hours. Unsecured furniture shall be placed and utilized within the area of the Temporary Pedestrian Plaza. No unsecured furniture shall be located within the sidewalks or accessible path of travel.
- (o) Upon 30 day notice by the City Engineer, the Applicant shall remove the Temporary Pedestrian Plaza from the street for any planned City overlay, slurry seal or other maintenance or construction project. Removal will be at the Temporary Pedestrian Plaza owner's expense. If the Applicant(s) fails to remove, relocate or restore or otherwise comply with the direction of the City Engineer regarding the Temporary Pedestrian Plaza, the City may cause the work to be done, and the costs thereof shall be deducted from the removal bond posted.

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- (p) Prior to expiration of the five (5) year discretionary permit, the Applicant must, at their sole cost, replace parking meters and remove the pedestrian plaza from the City's right-of-way.
- (q) Upon termination of the use of the Temporary Pedestrian Plaza, the Applicant shall restore all damaged public facilities by the installation of the Temporary Pedestrian Plaza. Prior to the commencement of work the Applicant shall obtain a Right of Way permit in accordance with Municipal Code 129.0701, to the satisfaction of the City Engineer.
- (r) The applicant must post a bond for the removal of the Temporary Pedestrian Plaza and any restoration of the public facilities that were impacted by the construction of the Temporary Pedestrian Plaza (sidewalk, curb and gutter, asphalt).

EXHIBIT(S):

- See Plan for Construction Permit Number: \_\_\_\_\_  
on file with the City of San Diego.
- See Drawing Number(s): \_\_\_\_\_  
on file with the City of San Diego.
- See Attached \_\_\_\_\_

CITY OF SAN DIEGO APPROVED:

\_\_\_\_\_  
(City Control Engineer Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date)

I HEREBY CERTIFY I am the record owner of the Property and that I have read all of this Agreement,

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Date)

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