**TEMPORARY EXPANSION OF BUSINESS PERMIT**

THIS TEMPORARY EXPANSION OF BUSINESS PERMIT (this “Permit”) is effective the date recorded by the Salt Lake City Recorder’s Office (“Effective Date”) by and between Salt Lake City Corporation, a Utah municipal corporation (“City”), and the Permittee listed in Section 1 below.

A. The Permittee operates its Business on the Property (each as defined below).

B. The City owns the real property right of way adjacent to the Property (the “Right of Way”), as depicted on Exhibit A attached hereto and incorporated herein.

C. The City has organized an event promoting economic activity downtown called “Open Streets” (the “Event”), where Main Street will be closed to vehicular traffic during the Term (defined below) to increase visitation downtown and support local businesses in and around the Event.

D. As part of the Event, the Permittee desires to use a portion of the Right of Way shown on Exhibit A (the “Encroached Premises”) to temporarily expand its Business.

E. The City agrees to the Permittee’s use of the Encroached Premises as set forth in this Permit.

NOW, THEREFORE, it is agreed by and between the City and the Permittee as follows:

1. **Defined Terms.**

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| “Permittee” | [entity name and type] |
| “Property” | [address] |
| “Business” | [name and type of business] |
| “Permitted Use” | [outdoor dining, retail, etc.] |
| “Furniture” | [number of tables and chairs, removable fencing, retail racks] |
| “Term” | Collectively the following dates: [list dates] |
|  |  |

2. **Grant of Permit.** During the Term, the City grants permission to the Permittee to use the Encroached Premises for the Permitted Use during Business operating hours, which shall allow the Permittee to bring the Furniture, if any, onto the Encroached Premises as described herein.

3. **Use Restrictions.**

(a) The Furniture may be located on the Encroached Premises during the Permittee’s operating hours. All Furniture shall be removed from the Encroached Premises when the Business is closed, including any fencing. The Permittee may not make any other modifications or improvements to the Encroached Premises. If City requires the Permittee to remove all Furniture, the Permittee shall restore the Encroached Premises and any related improvements to its prior existing condition. After such notice by the City, and the Permittee’s failure to do so pursuant thereto within 48 hours of such notice, the Permittee agrees to pay the City all costs of removing, repairing, replacing, or restoring any damages to the Property.

(b) The City’s planning and fire departments must approve the Furniture and location of the Furniture prior to the Term. The public sidewalk shall remain free from any obstructions except as approved under this Agreement.

(d) The Permittee agrees it shall not violate the provisions of City Code 9.28, “Noise Control”. Any such violation shall be a default under this agreement.

(e) If serving alcohol, Permittee shall obtain all required permits from the Utah Department of Alcohol Beverage Services (“DABS”). Any fencing or barricades placed on the Encroached Premises to allow for the service of alcohol must comply with DABS requirements, in addition to City approval.

4. **Term.** This Permit may be utilized on the days listed in Section 1 above. For one year from the Effective Date, if there are additional Open Streets events and there are no uncured defaults under this Agreement, the Permittee and City may add additional days to the Term during that year.

5. **Fee.** The City has determined that the Permittee’s use of the Encroached Premises during Open Streets is a betterment in that it benefits the public by activating expanded use of the ROW and furthers specific goals and objectives set forth in the City’s strategic plan, master plans, or other official documents. Accordingly, there is no encroachment fee.

6. **Compliance with Laws**. The Permittee agrees to obtain all permits and regulatory licenses required for its operations hereunder, and agrees to comply with all applicable local, state and federal codes, ordinances, and laws at all times pertinent hereto.

7. **Access**. Access to the Encroached Premises must be compliant with the American with Disabilities Act (“ADA”). In addition, use of the Encroached Premises may not restrict ADA compliant access to the adjacent properties and sidewalk. During the Term, the Permittee will be responsible for maintaining such access to the Encroached Premises and adjacent properties and sidewalk.

8. **Nuisance**. Notwithstanding anything else contained herein, if use of this Permit or placement of any Furniture becomes a public nuisance under Utah Code or Salt Lake City Code, or otherwise interferes with use of the Right of Way, the City shall have the right to terminate this Permit immediately or require removal or relocation of the Furniture or termination of this Permit, in City’s discretion.

9. **Repair of Damage**. The Permittee agrees to repair any damage caused to the Encroached Premises as a result of the Permittee’s use thereof within 10 days of receipt of written notice from the City.

10. **Non-exclusive Nature - Use by City**. This Permit and rights created herein are not exclusive. The Permittee’s use is subject to all existing rights of way of all public utilities of any and every description, now located in, over or under the Encroached Premises. It is also subject to rights of entry for the purpose of maintaining, altering, repairing, rerouting, removing or replacing the same. At all times the Encroached Premises is subject to any use the City may desire, the City shall not be liable to the Permittee for any loss of use or damage to the Permittee’s Furniture thereon.

11. **Maintenance**. The Permittee agrees to maintain the Encroached Premises in a clean and neat manner during the Term, and shall remove all trash and clean the sidewalk, if needed.

12. **Insurance; Requirements for all Policies**. The Permittee, at its own expense, shall secure and maintain in force during the Term all insurance coverages required by state and local law. Permittee shall also comply with the following minimum insurance coverage:

(a) Commercial general liability insurance with the City as an additional insured, in the minimum amount of $1,000,000 per occurrence with a $2,000,000 general aggregate and $2,000,000 products completed operations aggregate. The policy shall protect the City, the Permittee, and any subcontractor from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the Permittee’s operations under this Permit, whether performed by the Permittee itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, and the acts of independent contractors.

(b) Workers’ compensation and employer’s liability insurance sufficient to cover all of Contractor’s employees pursuant to Utah law, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

(c) If alcohol will be served on the Encroached Premises, dram shop insurance, or its equivalent, providing coverage for any and all liability pursuant to the distribution and use of alcohol on the Encroached Premises, in the minimum amount of $2,000,000 general aggregate and $1,000,000 per occurrence with the City as an additional insured.

(d) Any insurance coverage required herein that is written on a “claims made” form rather than on an “occurrence” form shall (i) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (ii) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable “extended discovery” clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the City.

(e) All policies of insurance shall be issued by insurance companies licensed to do business in the state of Utah and either are currently rated A- or better by A.M. Best Company, OR are listed in the United States Treasury Department’s current *Listing of Approved Sureties (Department Circular 570), as amended*

(f) The Permittee shall furnish certificates of insurance, acceptable to City, verifying the foregoing matters concurrent with the execution hereof and thereafter as required.

(g) The Permittee shall provide notice to the City of any change in coverage prior to such change and shall deliver to City evidence of any new or substitute coverage.

13. **Revocation**. This Permit is made subject to revocation by the City for any reason and at any time upon the expiration of 30 days after written notice has been sent to the Permittee. The Permittee shall remove any Furniture from the Encroached Premises and will restore the surface to its condition prior, after such notice upon written request by the City. The Permittee agrees the City shall not be liable for any loss, cost, expense or inconvenience suffered by the Permittee as a result of such revocation and restoration. The Permittee agrees to pay the City all costs, including attorney’s fees for removing said Furniture and collecting therefore in the event of failure of the Permittee to remove them as requested in the period specified. The Permittee further agrees to pay the City all costs, including reasonable attorney’s fees, incurred by the City in enforcing any of the terms or conditions hereof in the event of breach of such terms or conditions by the Permittee.

14. **Indemnity**. The Permittee agrees to indemnify, save harmless and defend the City, its agents and employees, from all claims, mechanic’s liens, loss, demands, damages, actions, costs, expense and charges of any and every kind, including attorney’s fees, arising out of or by reason of the Permittee’s use of said Encroached Premises or any activities conducted thereon by the Permittee, its agents, employees, invitees or trespassers. The Permittee shall not be liable for losses or damages resulting from the City’s sole negligence.

15. **Miscellaneous**. The City and the Permittee agree this Permit shall run with the Permittee’s interest in the Property and shall be binding upon the heirs, executors, administrators, and assigns of the Permittee. This Permit cannot be amended except in writing signed by both parties. This Permit is nontransferable and is not assignable. The Permittee hereby represents that the Permitted Use is consistent with a lease, if any, of the Property. The City shall in no way be bound by or incur any liability whatsoever for any dispute which may arise between the Permittee and the owner of the Property. In the event of any dispute over the terms and conditions of this Agreement, this Agreement shall be governed by the laws of the State of Utah.

16. **Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees**. The Permittee represents that it has not: (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this Permit upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the City’s conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City’s conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

IN WITNESS WHEREOF, the Permittee and the City have executed this Permit to be effective as of the date stamped by the City Recorder Office.

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|  | **CITY:** |
|  | Salt Lake City Corporation, a Utah municipal corporation  By  Name:  Title: |
| ATTEST:  Salt Lake City Recorder’s Office  City Recorder | Approved as to form:  Salt Lake City Attorney’s Office  By  Name:  Title: Senior City Attorney |

|  |  |
| --- | --- |
|  | **PERMITTEE:** |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By  Name:  Title: |
| Permittee’s Contact Information | Person  Telephone  Email |

EXHIBIT A

ENCROACHED PREMISES