

Use of Public Right of Way Agreement

The **BOROUGH OF WEST CAPE MAY**, a Municipality of the State of New Jersey, hereinafter referred to as "**MUNICIPALITY**", hereby agrees to allow _____ (*Name of Person(s) or Organization*)

hereinafter referred to as "**USER**", to use the Public Right of Way listed below:

Name, Location and Specific Dimensions of the **PUBLIC RIGHT OF WAY**:

hereinafter referred to as "**ROW**" for the following use of the Public Right of Way with ___ tables and ___ chairs to be placed in the ROW: _____
on the following dates and during the following hours of operation: _____

The above **USER** shall perform a complete and thorough inspection of the described **PUBLIC RIGHT OF WAY** prior to the use of the **ROW** and report any defective, hazardous or dangerous conditions found at the **ROW** to _____
_____ at **MUNICIPALITY**, and the **USER**

(Name and Tel. Number)

shall immediately cease the use of the **ROW** until such defective, hazardous or dangerous conditions are remedied. After the use of the **ROW**, the **USER** shall immediately report to the **MUNICIPALITY** any and all defects, hazards, damages or dangerous conditions upon or adjacent to the **ROW**.

Indemnification

The **USER** shall indemnify, hold harmless and defend the **MUNICIPALITY**, its elected and appointed officials, its employees, agents, volunteers and others working on behalf of the **MUNICIPALITY**, from and against any and all claims, losses, costs, attorney's fees, damages, or injury including death and/or property loss, expense claims or demands arising out of **USER's** use of the named **PUBLIC RIGHT OF WAY**, including all suits or actions of every kind or description brought against the **MUNICIPALITY**, either individually or jointly with **USER** for or on account of any damage or injury to any person or persons or property, caused or occasioned or alleged to have been caused by, or on account of, any of the activities conducted by or caused to be conducted by **USER**, or through any negligence or alleged negligence in safeguarding the **PUBLIC RIGHT OF WAY**, participants, or members of the public, or through any act, omission or fault or alleged act, omission or fault or alleged act, omission or fault of the **USER**, its employees, agents, volunteers, subcontractors or others under the direction, control or under any contractual relationship with the **USER**.

Insurance

Notwithstanding the indemnification, hold harmless and defense obligations of the **USER**, the **USER** shall purchase and maintain General Liability and Liquor Liability (if applicable) insurance described in the attached schedule as is appropriate for the type of use and hazards present and as will provide protection to the **MUNICIPALITY** from any and all claims which may arise out of or caused or alleged to have been caused in any manner from **USER's** use of the **ROW**, whether it is to be used by the **USER**, its employees, agents, volunteers, subcontractors or others under the direction, control or under any contractual relationship with the **USER** or by anyone for whose acts any of them may be liable.

The **USER** shall be required to name the **MUNICIPALITY** as an "Additional Insured" on the **USER's** policy of Commercial General Liability and Liquor Liability (if applicable) insurance, and simultaneously with the delivery of the executed *Use of Public Right of Way Agreement*, the **USER** shall provide the **MUNICIPALITY** with Certificate of Insurance and an Endorsement to the Insurance Policy indicating that the insurance coverage as described in the attached schedule, and as is appropriate for the type of use and hazards present, has been obtained and that the **MUNICIPALITY** has been designated as an "Additional Insured". On or before the renewal date of said policy, **USER** shall be required to provide the **MUNICIPALITY** with an Endorsement and a Certificate of Insurance indicating the continuation of insurance coverage and designating the **MUNICIPALITY** as an "Additional Insured" for the duration of this Agreement.

The schedule of insurance and the limits of liability for the insurance shall provide coverage for not less than the amounts listed in the attached schedule or greater where required by law.

Signed by an authorized representative of the **USER** and the **MUNICIPALITY** on

this ____ day of _____, 2020.

Witness

MUNICIPALITY

Witness

USER

Schedule of Insurance*

Notwithstanding the indemnification, hold harmless and defense obligations of the **USER**, the **USER** shall provide, at its own cost and expense, proof of the following insurance to the "**MUNICIPALITY**":

General Liability including Products & Completed Operations Insurance with a minimum combined single limit of liability per occurrence for bodily injury and property damage of *one million (\$1,000,000) dollars** with a minimum annual aggregate of *two million (\$2,000,000) dollars**.

Liquor Liability with a minimum limit of liability per occurrence of *one million (\$1,000,000.00) dollars** with a minimum annual aggregate of *two million (\$2,000,000.00) dollars** (if applicable).

The **MUNICIPALITY** shall be named as an "Additional Insured", and shall be provided with an endorsement to the policy evidencing the designation.

Failure by the **USER** to supply such written evidence of the required insurance coverage, and/or the failure by the **USER** to maintain the coverage for the duration of this Agreement shall result in the **USER's** default of this Agreement and the **USER** shall be prohibited from using said **ROW**.

The insurance companies providing the above referenced coverage must be licensed by the State of New Jersey and acceptable to the **MUNICIPALITY**. The **USER** shall take no action to cancel or materially change any of the insurance required under this Agreement without the **MUNICIPALITY's** prior approval. The maintenance of insurance under this section shall not relieve the **USER** of any liability greater than the limits or scope of the applicable insurance coverage.

* The Insurance Schedule detailed above should be prepared in consultation with your Risk Management Consultant as recommended within the JIF Certificate of Insurance Guidelines.