

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to execute a License and Temporary Access Agreement between the City of Lowell and Lowell Festival Foundation, relative to 375 Merrimack Street, Lowell, MA, and to execute all other documents related to this agreement.

The City of Lowell owns property at the corner of 375 Merrimack Street, Lowell, and

Lowell Festival Foundation has requested access to said property for the purpose of displaying an original public sculpture by artist Stefanie Timmermann; and

A License and Temporary Access Agreement for such purpose is needed; and

The City of Lowell is willing to grant temporary access to Lowell Festival Foundation, their employees, agents and contractor's access onto the property for the purpose of this sculpture to be conducted beginning on July 21, 2023 and ending on July 31, 2023.

Said Agreement shall be predicated upon adequate insurance coverage which coverage shall be kept in force so long as said use of the premises continues under this License.

BE IT VOTED BY A TWO-THIRDS VOTE OF THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and is hereby authorized to execute a License and Temporary Access Agreement between the City of Lowell and Lowell Festival Foundation, their employees, agents and contractor's relative to property at the corner of 375 Merrimack Street for the purpose of this sculpture, all as more fully described in the form, or substantially the form, attached hereto, and to execute all other documents related to this agreement.

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

LICENSE AND TEMPORARY ACCESS AGREEMENT

THIS LICENSE AND TEMPORARY ACCESS AGREEMENT, made at Lowell, Middlesex County, Massachusetts, between the CITY OF LOWELL, a municipal corporation of the Commonwealth of Massachusetts and LOWELL FESTIVAL FOUNDATION, duly established with principal offices at 67 Kirk Street, Lowell, MA 01852, hereinafter called “LICENSEE”, WITNESSETH THAT:

The CITY OF LOWELL owns the property located at the corner of 375 Merrimack Street, in the City of Lowell, hereinafter called the “SITE,” attached hereto as Exhibit “A” and made a part hereof; and

WHEREAS, Lowell Festival Foundation desires access to said property for the purpose of installing a temporary public sculpture; and

WHEREAS, the CITY OF LOWELL is willing to grant access to the property as shown in Exhibit “A” for the purpose of this sculpture beginning on July 21, 2023 and ending on July 31, 2023;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. The CITY OF LOWELL hereby grants to Lowell Festival Foundation its employees, agents, contractors, and artists, temporary access to encroach upon and use the SITE for the purpose of creating a public sculpture;
2. Lowell Festival Foundation shall be responsible for the safety and security of the SITE;
3. Lowell Festival Foundation shall obtain all necessary City of Lowell permitting, approvals, and authorizations, required as part of creating the mural, failure to obtain proper permitting shall void this access agreement;
4. Lowell Festival Foundation and the CITY OF LOWELL acknowledge that the City makes no representations or warranties regarding the condition or safety of its SITE and that entry upon the SITE is at the risk of DIY Lowell, its employees, agents, contractors, and artists. The CITY OF LOWELL shall not be responsible for any personal injury or property damage suffered by any party or person that arises in any way out of the activities contemplated in this Agreement, except to the extent that such injury or damage is a direct result of negligence of the CITY OF LOWELL, and subject to the limits set forth in MGL Chapter 258.

5. Lowell Festival Foundation agrees to defend, indemnify and hold the CITY OF LOWELL, its officers, officials, agents and employees harmless from and against any suits, claims, actions, costs, expenses, fees, liability, losses and damages that may be asserted against, imposed upon, or incurred by the CITY OF LOWELL, its officers, officials, employees and agents, as a result of, relating to, or arising from any act or omission of DIY Lowell employees, agents, artists, and contractors that is directly associated or in connection with the grant of access as set forth herein.
6. The License and Temporary Access Agreement is issued under the authority and in accordance with the Vote of the City Council of Lowell on this subject dated July 11, 2023.
7. Lowell Festival Foundation hereby agrees to be responsible for, and to pay for the cost of any damage to the CITY OF LOWELL regarding the premises.
8. Inherent in this License and Temporary Access Agreement is the unilateral right of the CITY OF LOWELL to cancel this License and Temporary Access Agreement at any time upon written notice thereof to Lowell Festival Foundation for any reason.
9. It is understood and agreed that this License and Temporary Access Agreement does not grant any ownership interest to the Site in the License and Temporary Access Agreement area.

IT IS FURTHER AGREED that this License allows Lowell Festival Foundation to install and leave said sculpture on City of Lowell property, holds Lowell Festival Foundation responsible for the maintenance and repair of said sculpture, and allows the City Manager to execute all other documents and agreements related to this work.

Said License shall be predicated upon and shall not be in effect until adequate insurance coverage is provided, which coverage shall be kept in force so long as said use of the premises continues under this License.

IN WITNESS WHEREOF, the Parties have executed this Agreement as a contract under seal this the ____ day of September 2022.

CITY OF LOWELL, MA

LOWELL FESTIVAL FOUNDATION

By: _____

Thomas A. Golden, Jr., City Manager

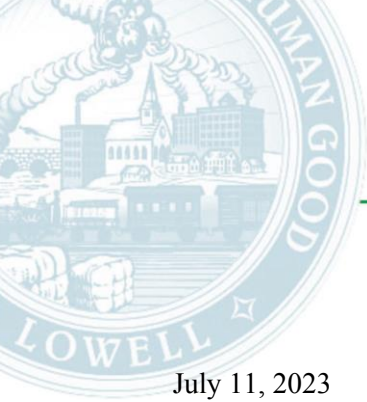
By: _____

APPROVED AS TO FORM:

Corey Williams, City Solicitor

Exhibit "A"





Thomas A. Golden, Jr.
City Manager

July 11, 2023

Mayor Sokhary Chau
and
Members of City Council

RE: License and Temporary Access Agreement

Dear Mayor Chau and Members of the City Council:

The property located at the corner of 375 Merrimack Street is City owned. Lowell Festival Foundation has requested temporary access to the property.

Lowell Festival Foundation has requested access in order to install and display a sculpture of a heron made from repurposed and recycled metal and plastic elements by artist Stephanie Timmermann. The access will allow an artist to exhibit an original piece of public art in our City during the Lowell Folk Festival. This sculpture will highlight the return of recycling to the festival and address the efforts to maintain clean waterways to avoid our debris filling the stomachs of water fowl in our ecosystems.

The Cultural Affairs and Special Events Department has recommended the approval of this License and Temporary Access Agreement for Lowell Festival Foundation

The Law Department has prepared the necessary Vote authorizing the City Manager to enter into a License and Temporary Access Agreement with Lowell Festival Foundation.

Sincerely,

Thomas A. Golden, Jr.
City Manager

Attachment:

Cc: Peter Crewe, Director of CASE
Corey Williams, City Solicitor

Attachment: Temporary Access and License Agreement
Exhibit "A"