

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 artist, Jay Hungate, relative to Ecumenical Plaza, Lowell, MA, and to execute all other documents related to this agreement.

The City of Lowell owns property at the corner of Suffolk Street and Jefferson Street on the Western Canal, known as Ecumenical Plaza, and

Jay Hungate has requested access to said property for the purpose of creating an original public sculpture entitled “Journeys of Perseverance”; and

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

The City of Lowell is willing to grant temporary access to Jay Hungate onto the property for the purpose of this sculpture to be conducted beginning on October 1, 2023 and ending upon completion.

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 Jay Hungate relative to Ecumenical Plaza 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 artist, Jay Hungate, 122 Western Ave. Unit 597 Lowell, MA, 01851, WITNESSETH THAT:

The CITY OF LOWELL owns the property of Ecumenical Plaza, located at the corner of Suffolk Street and Jefferson Street, on the Western Canal, in the City of Lowell, hereinafter called the "SITE," attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, Jay Hungate desires access to said property for the purpose of installing and leaving a 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 October 1, 2023 and ending upon completion;

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 Jay Hungate, temporary access to encroach upon and use the SITE for the purpose of creating a public sculpture;
2. Jay Hungate shall be responsible for the safety and security of the SITE;
3. Jay Hungate 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. Jay Hungate 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 Jay Hungate. 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. Jay Hungate 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 Jay Hungate 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 September 12, 2023.
7. Jay Hungate 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 Jay Hungate 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 Jay Hungate to install and leave said sculpture on City of Lowell property, holds Jay Hungate 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 2023.

CITY OF LOWELL, MA

By: _____

Thomas A. Golden, Jr., City Manager

By: _____

Jay W. Hungate

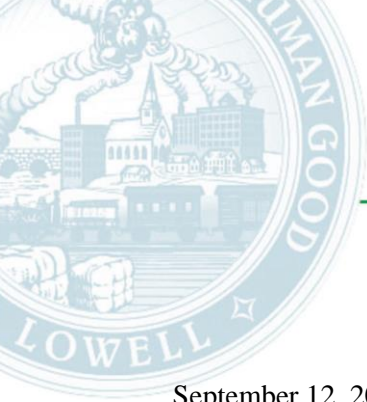
APPROVED AS TO FORM:

Corey Williams, City Solicitor

Exhibit "A"



PROPOSED LOCATION: ECUMENICAL PLAZA, LOWELL, MA
PROJECT NAME: JOURNEYS OF PERSEVERANCE
ARTIST: JAY W. HUNGATE / HUNGATE SCULPTURE
PROJECT OVERVIEW: CREATE AND INSTALL FIVE FISH MADE PRIMARILY OF REPURPOSED MATERIALS, INCLUDING ROUGHLY 120 PULL TAB TYPE ALUMINUM CAT FOOD CAN COVERS, EACH APPROXIMATELY 40" LONG. THEY WILL SWIVEL ON 9' TO 10' LONG STEEL POSTS (2" SQUARE TUBE), AND BE MOUNTED ON SEVERAL PARK BENCHES AND FENCE POSTS WITHIN THE PLAZA. RUBBER STRIPS WILL PROTECT THE PAINT AT THE POINTS OF ATTACHMENT, WHICH WILL BE DONE WITH RUBBER COATED U-BOLTS.
PROPOSED INSTALLATION DATE: OCT. 1, 2023



Thomas A. Golden, Jr.
City Manager

September 12, 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 known as Ecumenical Plaza is City owned. Jay Hungate has requested temporary access to the property.

Jay Hungate has requested access in order to install and leave a sculpture entitled “Journeys of Perseverance”. The access will allow the artist to exhibit an original piece of public art in our City.

The Cultural Affairs and Special Events Department has recommended the approval of this License and Temporary Access Agreement for Jay Hungate.

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

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”