



Mayor Terence Murphy

City of Holyoke

Law Department

December 4, 2021

Honorable Councilors
of the City Council
City Council Chambers
536 Dwight Street
Holyoke, MA 01040

Dear Honorable Councilors:

Attached herewith for your consideration is License Agreement, as amended by the Development and Governmental Relations Committee in their December 1, 2021 meeting, between the City of Holyoke and Mr. Edward Owen where Mr. Owen is seeking to use a portion of 120 Front Street to construct handicap access and egress to the building that he owns at that location.

Very truly yours,

Kathleen E. Degnan
Assistant City Solicitor
Enclosure

LICENSE AGREEMENT

This LICENSE AGREEMENT is made this _____ day of December 2021, by and between the **CITY OF HOLYOKE**, a municipal corporation within the County of Hampden, Commonwealth of Massachusetts, with its principal offices at 536 Dwight Street, Holyoke, Massachusetts 01040 (hereinafter referred to as the "Licensor") and **EDWARD A. OWEN**, an individual with a business address of 120 Front Street, Holyoke, Massachusetts 01040 (hereinafter called the "Licensee").

The Licensor, being the owner of real property more particularly described in an Order of Taking recorded in the Hampden County Registry of Deeds in Book 22320, Page 505 on August 20, 2018 (hereinafter referred to as "the Property") hereby grants to the Licensee the following:

I. SCOPE OF LICENSE

- A. The Licensee owns land and a building located at 120 Front Street, with the land shown on Exhibit "A" which is attached hereto, and it is the Licensee's desire to reconstruct and maintain the access and egress improvements to such building shown on Exhibit "B". In order to implement such reconstruction and maintenance, the Licensor will allow the Licensee to use that portion of Front Street, which is owned by the Licensor by virtue of an eminent domain taking recorded in the Hampden County Registry of Deeds in Book 22320, Page 505, adjacent to his building to construct handicap access and egress to said building located at 120 Front Street.
- B. The Licensee shall make all such reconstruction and improvements in accordance with all applicable federal, state, and local laws, regulations, and requirements.
- C. The Licensee shall obtain all the necessary permits prior to beginning reconstruction.
- D. The Licensee shall be solely responsible for the construction of said access and egress improvements made by the Licensee, and for any upkeep, maintenance, or repair of the site, including the cost thereof and ensure compliance with any federal, state, and local laws, regulations and requirements and the cost thereof. The Licensor shall have no obligation to construct, reconstruct, upkeep, maintain or repair of the Licensee's improvements.
- E. The Licensor shall have no responsibility for the monitoring of the License Area and the Licensee shall indemnify and hold harmless the Licensor from any and all liability relating to injuries or claims of any kind related to the License Area and in connection with any entry upon the Property occurring pursuant to this License, or on account of any claim, liability, damage or expense suffered or incurred by or threatened against the Licensor as a result of the existence, operation, maintenance and/or repair of the License Area.
- F. In the event of a public safety emergency, the Licensor may rescind this License effective immediately and without prior notice, in which case, the Licensee must remove all of the improvements as ordered by the Licensor. The Licensor shall consult with the Licensee with regard to the time, place, and method of such removal; provided that the Licensee is available for consultation. The Licensee shall provide the Licensor with updated emergency contact information throughout the duration of this License Agreement.

II. TERM AND TIME FOR PERFORMANCE

- A. This Agreement shall be for a term of two (2) years commencing upon the date on which this License Agreement becomes fully executed. This License may be renewed for additional two (2) year periods upon the Licensor's receipt of a written request for such renewal periods, which must be given at least thirty (30) prior to the expiration of any two (2) year term, which renewal shall not be unreasonably denied. However, in the event that renewal of this License must be denied for good and reasonable cause, the Licensor shall not own the improvements made by the Licensee, and therefore, the Licensee shall remove the improvements that he made within six (6) months after receiving notice of non-renewal from the Licensor."

III. INDEMNIFICATION AND HOLD HARMLESS, INSURANCE

- A. The Licensee shall assume the defense of (with counsel acceptable to the Licensor) and indemnify and hold harmless the Licensor and its respective officers, agents, and employees from all suits and claims against it or any of them arising from any negligent or intentional act or omission of the Licensee, its agents, associates, consultants, employees, partners, or servants, in any way connected with the performance of this Agreement. This provision shall survive the termination of the agreement.
- B. The Licensee hereby waives and relinquishes all claims, liabilities, causes of action, demands, and costs and expenses related to the subject matter of this agreement now or hereafter arising with respect to injury to persons or property occasioned by, directly or indirectly, the condition of the Properties or any improvements thereon or any other facts or occurrences with respect to the Licensor's conduct under this Agreement.
- C. The Licensee shall,
1. General Liability Insurance: General Liability Insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate, covering the Licensee and any person or business entity for whose performance the Licensee is legally liable, arising out of the performance of this Agreement, naming the City of Holyoke as an "additional insured".
 2. Auto Liability Insurance and Worker's Compensation Insurance: All required automobile insurance coverage for any vehicles used in the performance of this Agreement, and worker's compensation insurance required by law, at all times during the term of this Agreement.
 3. Certificates of Insurance: The Licensee shall file with the Licensor a certificate/s evidencing such coverage and outlining policy limits and information relative to coverage and the persons covered thereby, which Certificate must be attached to this Agreement as Exhibit #1.

IV. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, the Licensee agrees as follows:

- A. The Licensee will not discriminate against any client or applicant for services because of race, color, religion, sex, sexual orientation, disability, family status or national origin. The Licensee will take affirmative action to ensure that clients, applicants, and employees are treated without regard to their race, color, religion, sex, sexual orientation, disability, family status or national origin.
- A. In the event of the Licensee’s noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Licensee may be declared ineligible for further City contracts.

V. APPLICABLE LAW AND EXCLUSIVE FORUM

The laws of the Commonwealth of Massachusetts shall govern the validity, interpretation, construction, and performance of this Agreement. The sole and exclusive forum for the resolution of any question of law or fact arising out of this Agreement, to be determined in any judicial proceeding, shall be the Superior Court of Hampden County, or the United States District Court for the Western District of Massachusetts, sitting in Springfield, Massachusetts. It is the express intention of the parties that all legal actions and proceedings related to this Agreement or the rights or relationship of the parties arising therefrom shall be solely and exclusively brought and heard in said Courts.

VI. GENERAL PROVISIONS

- A. This Agreement represents the entire and integrated Agreement between the Licensor and the Licensee and supersedes all prior negotiations, representation, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the parties hereto.
- B. If any term or provision of this Agreement should be declared invalid by a court of competent jurisdiction, the remaining terms and provisions of this Agreement shall be unimpaired.

IN WITNESS WHEREOF, the City of Holyoke and Edward A. Owen, have executed this Agreement as a sealed instrument on the day and year as the same is signed by all parties hereto, on the latest date noted below.

EDWARD A. OWEN

CITY OF HOLYOKE

Signature

Mayor

Date signed: _____

Date signed: _____

Approved as to form:

Acting City Solicitor

Date signed: _____