

**AGREEMENT BETWEEN THE  
CITY OF PORTSMOUTH AND THE NH ART ASSOCIATION**

Draft  
4-7-2017

This Agreement is entered into between the City of Portsmouth (hereinafter "City"), with a principal place of business at 1 Junkins Avenue Portsmouth, NH 03801 and NH Art Association, a non-profit IRS Section 501(c)(3) corporation (hereinafter "Association") with a principal place of business at 136 State Street, Portsmouth NH 03801 under the terms and conditions described below.

**WHEREAS**, the City owns and operations Prescott Park (hereinafter "the Park") located on Marcy Street in the City of Portsmouth; and

**WHEREAS**, the Association exists to connect visual artists with the public through ongoing exhibits and educational activities to encourage appreciation for contemporary culture, foster creativity, and enhance community spirit; and

**WHEREAS**, the Association desires to utilize the Sheafe Warehouse for arts programming and educational activities and the City desires to facilitate that purpose.

**NOW THEN**, the City and the Association agree as follows:

**THE SHEAFE WAREHOUSE**

1. During the term of this Agreement, the Association is granted a limited right of entry to use the first floor of the Sheafe Warehouse in Prescott Park for its annual Art show, related talks, and demonstrations within the Sheafe Warehouse.
2. The Association, is granted a limited right of entry to use limited outdoor areas in the vicinity of the Sheafe Warehouse for additional programming described below.

**ANNUAL LICENSE FEE**

3. The Association shall pay an annual license fee to the City on or before July 15, 2017 in the single lump sum amount of \$1500.00.

**USE OF SHEAFE WAREHOUSE**

4. The use of the first floor of the Sheafe Warehouse and associated areas.

The permitted purposes are as follows:

- a. To conduct its annual Art show and associated art demonstrations and talks within the Sheafe Warehouse.
- b. To include a single day, temporary outdoor public art installation. Final details for the space to be used for these activities as well as schedule shall be approved in writing by the City Manager. Activities will not be permitted to interfere with movement of the public through Park.
- c. To hold pop-up art classes sponsored by the NH Art Association in areas approved by the City Manager. Classes shall be by donation only.
- d. In furtherance of this provision the Association shall make a single written request of the City prior to April 1, 2017, with a schedule of the events for the season. To the extent that the Association thereafter desires to add additional educational programs, the Association shall secure written approval in advance from the City.
- e. The sale of paintings associated with the Associations' Art Show.
- f. The following activities are specifically not permitted in the Sheafe Warehouse or other areas used for NH Arts programming
  - i. The storage of combustible materials.
  - ii. Smoking or use of open flame
  - iii. The staging of theatrical or other events involving amplified sound or music.
  - iv. The sale of any goods, services or tickets other than addressed above.
  - v. The sale, transport, use, and possession of alcoholic beverages by the Association is prohibited.

**ADDITIONAL SERVICES TO BE PROVIDED BY CITY**

5. The City shall allow the Association the reasonable use of electricity on an intermittent basis.
6. The City shall allow the Association the reasonable use of water provided by means of a spigot on the Shaw Warehouse in support of its programming. The City shall bear the cost of the water provided.

## TERM

7. This Agreement becomes effective on its completed execution by the parties and shall remain in full force and effect unless otherwise terminated until August 29, 2017.

## INSURANCE AND FINANCES

10. Association shall maintain at all times during the term of this Agreement general liability insurance in a coverage amount of at least \$2,000,000.00 per occurrence naming the City of Portsmouth as additional insured, a certificate indicating the existence of such insurance shall be kept on file at all times in the office of the City Attorney of the City of Portsmouth.
11. Financial Books and records of the Association shall be open for review at all times by the City upon reasonable notice to the Association.
12. At any time during the term of this Agreement on request of the City the Association shall provide the Trustees with a full accounting of all income and expense, including donations, sponsorships, and income of any form received by the Association for the prior calendar year.
13. On or before October 1, 2017 the Association shall provide the City with complete annual financial statements reflecting all financial activities of the Association.

## PROPERTY DAMAGE INSURANCE

14. The City, shall provide property damage insurance for the Sheafe Warehouse. The purpose of this insurance will be to protect the City from any property damage which may be occasioned to the Warehouse. The Association may, at its option, secure such other and further insurance as the Association deems necessary beyond those insurances required by this Agreement.

## MISCELLANEOUS

15. The Association shall submit a security plan, which addresses its plan for accessing and securing the site at the beginning and end of each day. The City makes no representation as to the suitability of the Warehouse for storage of works of art.
16. Neither this Agreement nor any of the authority granted under it shall be transferrable or assignable in any way by the Association.

17. In the event of a breach of this Agreement by the Association in any manner which does not create a risk to health or safety, as determined in the sole discretion of the City the City shall provide a seven (7) day opportunity to cure the breach by the Association. Subsequent to such a cure period or at any time following a breach of the Agreement which does create a risk to health or safety, as determined in the sole discretion of the City the City may suspend or terminate this agreement under such terms and conditions as may be established by the City.
18. This Agreement describes the entire relationship between the City and the Association.
19. The Association shall have no authority to conduct any activity in Prescott Park not specifically authorized herein.
20. The Association understands that the Park Supervisor represents the City in all matters connected with the Park and the administration of this Agreement and that he/she speaks with the authority of the City on these matters. As such, the Association shall comply with all reasonable instructions of the Park Supervisor.
21. The Association agrees to comply at all times with federal, state and local law, including any ordinances adopted by the Portsmouth City Council, including the existing Park ordinance, Chapter 8, Article II.
22. The Association agrees to indemnify and hold harmless the City of Portsmouth and all its respective agents and employees from any and all liability arising in any way out of the exercise of rights granted to the Association under this Agreement.

#### **SIGNAGE**

23. A signage plan shall be submitted to the City Manager within two weeks of execution of this agreement. The following signs are approvable by the City Manager in accordance with the following terms; signage not expressly listed below is not permitted:
  - a. Limited interpretative signage (erected for one day only) associated with the single-day public art installation.
  - b. A sign to be erected on one interior door to the Sheafe Warehouse related to the Arts show and 2017 NH Art programming to take place in the Park.
  - c. A single A-Frame sign for the purposes of explaining "day-of activities" to be removed at the end of each day.

- d. No logos or donor information shall be displayed on the signs; the one exception may be the NH Art Association logo.

**NH ART ASSOCIATION**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Barbara Albert, President

Dated: \_\_\_\_\_

\_\_\_\_\_  
, President

As authorized by the Gundalow Association  
Board of Directors on \_\_\_\_\_, 2017.

**CITY OF PORTSMOUTH**

Dated: \_\_\_\_\_

\_\_\_\_\_  
John P. Bohenko  
City Manager

Approved by vote of the City Council on  
\_\_\_\_\_, 2017.