

AGREEMENT FOR SERVICES

This AGREEMENT, (hereinafter "Agreement") dated this ____ day of _____, 2009, constitutes a contract entered into by and between the CITY OF VIRGINIA BEACH, VIRGINIA (hereinafter the "City"), a municipal corporation of the Commonwealth of Virginia, and the HAMPTON ROADS CENTER FOR CIVIC ENGAGEMENT (hereinafter "Center" or "Contractor"), a Virginia non-stock corporation whose principal place of business is 5200 Hampton Blvd, Norfolk, Va. 23508.

WITNESSETH:

That for and in consideration of the mutual covenants set forth herein, and for other good and valuable consideration the receipt of which is hereby acknowledged, the City and the Center (collectively, "Parties") do hereby agree as follows:

1. **SCOPE OF SERVICES**

The Center shall perform services as specified in "Proposal: To Envision* Transportation" ("Proposal" or "Project") with is attached hereto (Exhibit # 1) and made a part of this Agreement by reference as if repeated verbatim herein. In the event that a conflict exists between the referenced Proposal and the terms of this Agreement, the terms of this Agreement shall govern and supersede any such conflicting terms of the Proposal.

2. **PAYMENT**

A. The Center will be paid a total of \$63,000 to conduct the public outreach program outlined in the Proposal. Funding will be dispensed upon presentation of invoices from the Center. The payment shall be as follows: \$31,500 when work starts; \$15,750 on January 15, 2010; and the remaining \$15,750 upon completion of the Project's final report provided by the Center. If any out-of-pocket expenses incurred by the Center for the Project Web site and speakers are lower than projected in the Center's Proposal, that amount shall be deducted from the final payment.

B. This Agreement does not include the funding needed for video elements. Such additional work may be undertaken as an addendum to this Agreement or as a separate agreement.

3. **TERM**

The term of the Agreement shall be for such period as is required to complete the Project.

4. **INDEPENDENT CONTRACTOR**

Nothing herein shall be construed to create an employer-employee relationship between the City and Center. The Center is an independent contractor and not an employee of the City. The consideration set forth herein shall be the sole consideration due to the Center for the services rendered hereunder. It is understood that the City will not withhold any amounts for payment of taxes from the compensation of Center hereunder.

5. **TERMINATION**

A. This Agreement is terminable at the will of the City, either with or without cause.

The City may at any time, and for any reason, terminate the Agreement by written notice to the Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed. Notice shall be given to the Contractor by certified mail/return receipt requested.

B. In the event of such termination, the Contractor shall be paid such amount as shall compensate the Contractor for work satisfactorily completed, and accepted by the City, at the time of termination.

6. **CONFIDENTIALITY**

In the course of performing services, the Parties recognize that Contractor may come in contact with or become familiar with information which the City may consider confidential. Contractor agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate City personnel or their designees without the express permission of the City.

7. **MODIFICATION**

There may be no modification of this Agreement, except in writing, executed by the authorized representatives of the City and Contractor.

8. **SEVERABILITY**

The provisions of this Agreement shall be deemed to be severable, and should any one or more of such provisions be declared or adjudged to be invalid or unenforceable, the remaining provisions shall be unaffected thereby and shall remain in full force and effect.

9. **WAIVER**

No failure of the City to exercise any right or power given to it by law or by this Agreement, or to insist upon strict compliance by Contractor with any of the provisions of this Agreement, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of the City's right to demand strict compliance with the terms of this Agreement.

10. **AGREEMENT INTERPRETED UNDER LAWS OF VIRGINIA**

This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

11. **VENUE**

Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Virginia Beach.

12. **NON-APPROPRIATION**

It is understood and agreed between the parties hereto that the City shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this Agreement. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this Agreement, the City shall immediately notify Contractor of such occurrence and this Agreement shall terminate on

the last day of the fiscal year for which appropriations were received without penalty or expense to the City of any kind whatsoever.

13. **ASSIGNMENT OF AGREEMENT**

The Contractor shall not, without the prior written consent of the City, assign, delegate, or otherwise transfer, in whole or in part, the Agreement or any of the Contractor's rights or obligations arising hereunder. The City may, in its sole discretion, consent or decline to consent to any such assignment, delegation, or transfer, or may give its conditional consent thereto. In the event the City conditionally consents to such an assignment, delegation, or transfer, such consent may, without limitation, be conditional upon Contractor's remaining fully and unconditionally liable to the City for any breach of the terms of this Agreement by Contractor's transferee and for any damage or injury sustained by a third party or parties as a result of the intentional act or omission, negligence, or breach of warranty by Contractor's transferee.

14. **AUDITS**

The City shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Contractor. Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Agreement and for at least three years following the completion of this Agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the City, through its employees, agents, representatives, contractors or other designees, during normal business hours at Contractor's office or place of business in Norfolk, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Virginia Beach, Virginia, which is convenient for the City.

15. **HOLD HARMLESS**

Contractor shall hold City harmless from and against any and all damage to persons or property occurring on City-owned property which is caused by or arises out of any act or omission of Contractor or its agents, volunteers, servants and employees in connection with this Agreement. Contractor shall have no liability for any property damage or personal injury caused by City or its agents, volunteers, servants and employees.

16. **COMPLIANCE WITH APPLICABLE LAWS**

The Contractor shall comply with all federal, state and local statutes, ordinances, regulations and guidelines now in effect or hereafter adopted, in the performance of the description of services set forth herein. Contractor represents that it possesses all necessary licenses and permits required to conduct its services. If the Contractor is a corporation, partnership, or limited liability company, Contractor expressly represents that it is a legal business entity in good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of this Agreement.

17. **NONDISCRIMINATION/DRUG-FREE WORKPLACE**

A. During the performance of this Agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification/consideration reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.

B. During the performance of this Agreement, if applicable the Contractor agrees as follows:

1. The Contractor will provide a drug-free workplace for the Contractor's employees.
2. The Contractor will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. The Contractor will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.

18. **COMPLIANCE WITH IMMIGRATION LAWS**

Contractor agrees that it does not currently, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien, as defined in the federal Immigration Reform and Control Act of 1986.

19. **INTEGRATION**

This Agreement constitutes the final, complete and exclusive written expression of the intentions of the parties, and shall supersede all previous communications, representations, agreements, promises or statements, whether written or oral, by any party or between the parties.

20. **INTERPRETATION**

Whenever the context hereof shall require, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

21. **DESCRIPTIVE HEADINGS**

The descriptive headings appearing in this Agreement are for convenience only and shall not be construed either as a part of the terms, covenants, or conditions hereof or as an interpretation of such terms, covenants, and conditions.

22. **FAITH BASED ORGANIZATIONS**

The City of Virginia Beach does not discriminate against faith based organizations.

[The rest of this page was intentionally left blank]

IN WITNESS WHEREOF, the following signatures and seals:

HAMPTON ROADS CENTER FOR CIVIC ENGAGEMENT

BY: _____

TITLE: _____

DATE: _____

STATE OF VIRGINIA

CITY OF _____, to-wit:

I, _____, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, whose name is signed to the foregoing writing, bearing date the _____ day of _____, _____, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

My Notary number is: _____

[NOTARY STAMP/SEAL]

CITY OF VIRGINIA BEACH, VIRGINIA

City Manager/Authorized Designee

(SEAL)
ATTEST:

City Clerk

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, _____, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, City Manager or authorized designee for the CITY OF VIRGINIA BEACH, whose name is signed to the foregoing Agreement bearing date on the ____ day of _____, _____, has acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this ____ day of _____, _____.

Notary Public

My Commission Expires: _____
My Notary number is: _____

[NOTARY STAMP/SEAL]

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, _____, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, City Clerk for the CITY OF VIRGINIA BEACH, whose name is signed to the foregoing Agreement bearing date on the ____ day of _____, _____, has acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this ____ day of _____, _____.

Notary Public

My Commission Expires: _____
My Notary number is: _____

[NOTARY STAMP/SEAL]

APPROVED AS TO AVAILABILITY OF FUNDS:

Department of Finance

Date

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

Date