

AGENDA NOTE - HRPDC QUARTERLY COMMISSION MEETING

ITEM #9I: HAMPTON ROADS TRANSIT BUS SHELTER AGREEMENT

SUBJECT:

Approval of an agreement between the HRPDC and SPSA, owners of The Regional Building, and Hampton Roads Transit (HRT), constructor of a proposed bus shelter, which is to be placed between the Woodlake Drive sidewalk and the berm that lines the edge of The Regional Building property.

BACKGROUND:

In 2010, the HRPDC staff expressed interest to the City of Chesapeake staff in having a bus shelter near the Regional Building in order to better serve users of public transportation who want to attend meetings. In May of 2012, the City of Chesapeake staff offered to fund such a shelter administered by HRT.

The proposed bus shelter location is between the Woodlake Drive sidewalk and the berm that lines the edge of The Regional Building property. Being outside the public right-of-way, the proposed location is on the edge of The Regional Building property.

In October of 2012, HRPDC staff received a license agreement from HRT, to be signed by HRT and the owners of The Regional Building property, HRPDC and SPSA. Lawyers for the HRPDC and SPSA have edited the license agreement to protect the interests of the HRPDC and SPSA.

Attachment 9-I

RECOMMENDED ACTION:

Authorize the HRPDC Executive Director to sign the bus shelter license agreement.

LICENSE AGREEMENT

THIS AGREEMENT (the "Agreement"), made this _____ day of _____, 2012, by and between the HAMPTON ROADS PLANNING DISTRICT COMMISSION, a political subdivision and body corporate and politic of the Commonwealth of Virginia created pursuant to the Virginia Area Development Act of 1968 ("HRPDC"), and SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA, a political subdivision and body corporate and politic of the Commonwealth of Virginia ("SPSA") (HRPDC and SPSA are referred to collectively as the "Grantor"), and the TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS, operating as Hampton Roads Transit, a body corporate and politic of the Commonwealth of Virginia created pursuant to the Transportation District Act of 1964, Grantee.

WHEREAS, HRPDC and SPSA are the owners, as tenants-in-common, of a parcel of real property (the "Property") known as Hampton Roads Planning District Commission Regional Headquarters, located at 723 Woodlake Drive, Chesapeake, VA 23320; and

WHEREAS, Grantee, after obtaining all permits required by any appropriate legal authority, intends to construct a bus shelter on a 15' X 5' foot concrete pad on the Property at the location shown on Exhibit A (the "License Area"); and

WHEREAS the bus shelter and concrete pad will be a continuing encroachment ("Encroachment") upon the Property;

NOW THEREFORE the Parties agree as follows:

1. The foregoing recitals are incorporated by reference herein.
2. Grantor, insofar as its rights and interests are concerned, hereby grants a license to the Grantee for construction, maintenance, and operation of the above-mentioned Encroachment in the License Area, subject to the following conditions.

3. Grantee acknowledges that Grantor makes no representations or warranties as to condition or suitability of the License Area for Grantee's intended purpose.

4. Grantor agrees that the Grantee shall be authorized to perform all tasks reasonably necessary to complete its intended improvements using heavy equipment, and Grantor agrees to maintain access from the public right of way to the License Area during construction.

5. Grantor shall not erect or install any improvements or any other obstruction within or near the License Area that will obstruct or interfere with the construction, maintenance, or operation of the Encroachment in the License Area by Grantee for the duration of this Agreement without the prior written consent of Grantee.

6. Grantee agrees and represents that it has adequately investigated the tasks required and has assured itself the work can be performed in a safe manner and without any damage to the License Area (other than the Encroachment) or the Property or any other property.

7. Grantee agrees to return the License Area and the Property to its original condition with the exception of the Encroachment.

8. Grantee assumes responsibility for and shall hold Grantor harmless for any claims or liability for personal injuries or damages to property which may result from the exercise by Grantee of the rights granted in this license, except as result from the negligence or willful misconduct by Grantor or its agents, employees or contractors. Grantor acknowledges that Grantee is self-insured pursuant to a self-insurance plan. In the event Grantee terminates its self-insurance plan, then Grantee shall maintain a commercial general liability insurance policy covering any and all damages and liability, including, attorneys' fees and expenses, on account of or arising out of injuries to or the death of any person or damage to property in or about the License Area or related to the use of the License Area, however occasioned, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

9. Grantee agrees that it will not construct or cause to be constructed or erected any other structure or improvement upon the License Area or the Property other than the

Encroachment. Grantee will remove the Encroachment at no expense to the Grantor should this license be revoked.

10. Grantee agrees that any and all cost or expense for the Encroachment shall be borne solely by the Grantee, and the Grantor shall have no duty, obligation or liability for the maintenance and care or cost expense for the same. Grantee agrees to maintain the Encroachment in good repair and condition, reasonably clean and free of litter.

11. Grantee agrees to give Grantor notice of date of start of construction at least 10 days prior to that date.

12. This Agreement is revocable and terminable at will by the Grantor, with six months advance written notice to the Grantee, and shall in no way be construed as the granting of a perpetual easement or otherwise vesting in the Grantee any type of property right.

13. The terms of this Agreement shall run with the land and are binding upon the heirs, personal representatives, successors in interest and assigns of the parties.

14. All notices hereunder must be in writing and shall be deemed validly given if hand delivered or if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows:

HRPDC: Attn: Executive Director
Hampton Roads Planning District Commission
723 Woodlake Drive
Chesapeake, VA 23320

SPSA: Attn: Executive Director
Southeastern Public Service Authority of Virginia
723 Woodlake Drive
Chesapeake, VA 23320

Grantee: Attn: President and CEO
Hampton Roads Transit
3400 Victoria Boulevard
Hampton, Virginia 23661

With a copy to: Attn: Chief Engineering and
Facilities Officer Hampton Roads Transit
3400 Victoria Boulevard
Hampton, Virginia 23661

The Grantor or Grantee may, from time-to-time, designate any other address for this purpose by written notice to the other party.

WITNESS the following signature(s) and seal(s):

HAMPTON ROADS PLANNING DISTRICT
COMMISSION

By: _____ (SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
CITY OF CHESAPEAKE, to-wit:

The foregoing instrument bearing date of _____, was
acknowledged before me this _____ day of _____, by
_____.

Notary Public

My Commission expires: _____

Registration Number _____

SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA

By: _____ (SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
CITY OF CHESAPEAKE, to-wit:

The foregoing instrument bearing date of _____, was
acknowledged before me this _____ day of _____, by
_____.

Notary Public

My Commission expires: _____

Registration Number _____

TRANSPORTATION DISTRICT COMMISSION OF
HAMPTON ROADS

By: _____ (SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
CITY OF CHESAPEAKE, to-wit:

The foregoing instrument bearing date of _____, was
acknowledged before me this _____ day of _____, by
_____.

Notary Public

My Commission expires: _____

Registration Number _____