

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement For Professional Services (this "Agreement") is entered into on August 19, 2019 (the "Effective Date"), by and between the City of South Bend, acting by and through its Board of Park Commissioners, for the benefit of the Venues Parks & Arts Department (the "City"), and Grass Roots Media, Inc, an Indiana domestic for-profit corporation with its Principal place of business located at 508 ½ W. Washington Street, South Bend, IN 46601 (the "Provider") (each a "Party" and collectively the "Parties").

For and in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Services. The Provider will provide to the City the professional services (the "Services") set forth in the Provider's proposal attached hereto as Exhibit A (the "Proposal"), which Proposal is incorporated herein. In the event of any conflict between the terms of this Agreement and the terms of the Proposal, the terms of this Agreement will prevail. The Provider will execute its obligations under this Agreement in accordance with the prevailing professional standard of care for projects of similar design and complexity.

2. Compensation. In exchange for the Provider's satisfactory performance of the Services, and subject to the terms and conditions of this Agreement, the City will pay the Provider the Program Fee stated in the Proposal (the "Contract Amount") in accordance with the project budget stated in the Proposal. The City will pay the Contract Amount in installments upon invoicing by the Provider as set forth in the Proposal (each a "Contract Installment"). The City will not be required to pay any Contract Installment if the City is not satisfied with the Provider's performance under this Agreement or any default or breach of this Agreement by the Provider exists, as the City may determine in its sole discretion. The sum of all Contract Installments will not exceed the Contract Amount, and the Provider will not incur or seek reimbursement for any expenses in excess of the Contract Amount.

3. Term; Termination. Unless earlier terminated in accordance with its terms, this Agreement will commence on the Effective Date and end upon the Provider's satisfaction of all its obligations hereunder and the City's final payment therefor. Notwithstanding the foregoing, effective immediately upon delivery of a written termination notice to the Provider, the City may terminate this Agreement, in whole or in part, for any reason, if the City determines that such termination is in the best interest of the City. In addition, in accordance with Ind. Code 6-1.1-18-4, payments are subject to annual appropriation by the City. If the City makes a written determination that funds are not appropriated or are otherwise unavailable to support the continuation of this Agreement, it shall be cancelled. A determination by the City that funds are not appropriated or are otherwise unavailable to support the continuation of performance shall be final and conclusive. The City will not be required to pay any Contract Installment or be otherwise liable for any cost associated with the Provider's performance of any Services after the effective date of termination.

4. Remedies for Breach of Contract. Failure to complete the Services in accordance with this Agreement will be considered a material breach. In the event of such breach, the City

may suspend all payments to the Provider and may pursue any and all remedies available at law or in equity. The Provider shall repay to the City any portion of the Contract Amount expended for matters not within the scope of the Services.

5. Point of Contact. The City employee identified in Section 9 below will serve as the City's principal point of contact for purposes of this Agreement.

6. Relationship. The Provider shall at all times be an independent contractor for the performance of the Services rather than an employee of the City, and no act or omission to act by the Provider shall in any way bind or obligate the City. This Agreement is strictly for the benefit of the Parties and not for any third party or person. This Agreement was negotiated by the Parties at arm's length and each of the parties hereto has reviewed the Agreement after the opportunity to consult with independent legal counsel. Neither party shall maintain that the language in the Agreement shall be construed against any signatory hereto. The City and the Provider hereby renounce the existence of any form of agency relationship, joint venture, or partnership between the Provider and the City and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and the Provider.

7. Indemnification of City. The Provider hereby agrees to defend, indemnify, and hold harmless the City, its officials, employees, and agents from any and all claims of any nature which arise from the performance by the Provider under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising out of the negligence of the City, its officials, directors, employees, and agents. The obligations of the Provider under this section shall survive the termination of this Agreement.

8. Assignment. The Provider shall not assign or subcontract the whole or any part of this Agreement or its obligations hereunder without the prior written consent of the City.

9. Notices. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to the City or the Provider, as the case may be, at the address set forth below.

Provider:

_____, _____
_____, _____
Attn: _____

City:
City of South Bend

South Bend, IN _____
Attn: _____, _____

10. Equal Opportunity; Non-Discrimination; Compliance. The Provider shall comply with all applicable laws and regulations in its hiring and employment practices and policies for any activity covered by this Agreement. The Provider shall comply with all state, federal, and municipal laws, regulations, and standards applicable to its activities pursuant to this Agreement including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), the provisions of Ind. Code 5-22-16.5 (disqualification for dealings with the

government of Iran), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of unauthorized aliens). Each of the foregoing provisions is incorporated herein as if set forth in full, and the Provider certifies that it is in compliance with each such provision and shall remain in compliance through the term of this Agreement.

11. Contractor's Affidavit. The Provider agrees, as a condition precedent to the effectiveness of this Agreement, that its authorized representative will execute and submit to the City and any other appropriate bodies an affidavit in the form attached hereto as Exhibit B.

12. Drug-Free Workplace. The Provider hereby agrees to make a good faith effort to provide and maintain a drug-free workplace. The Provider will give written notice to the City within ten (10) days after receiving actual notice that the Provider or an employee of the Provider within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.

13. Entire Agreement; Amendment; Applicable Law. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them. This Agreement may be amended only by separate writing, signed by authorized representatives of both the Provider and the City. This Agreement will be construed and interpreted according to the laws of the State of Indiana, and any dispute arising out of this Agreement or otherwise concerning the Provider's rendering of the Services will be resolved in the courts located in St. Joseph County, Indiana, unless the Parties mutually agree to a different method of dispute resolution.

14. Severability. All provisions of this Agreement shall be considered as separate terms and conditions, and in the event any one shall be held illegal, invalid or unenforceable, all the other provisions hereof shall remain in full force and effect as if the illegal, invalid, or unenforceable provision were not a part hereof, unless the provision held illegal, invalid or unenforceable is a material provision of this Agreement, in which case the Provider and the City agree to amend this Agreement with replacement provisions containing mutually acceptable terms and conditions.

15. Force Majeure. The Provider shall not be responsible for any failure or delay in the performance of any obligation hereunder, if such failure or delay is due to a cause beyond the Provider's reasonable control, including, but not limited to acts of God, flood, fire, volcano, war, third-party suppliers, labor disputes or governmental acts.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement for Professional Services to be effective as of the Effective Date stated above.

GRASS ROOTS MEDIA, INC.

Signature

Printed Name and Title

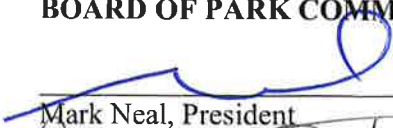
Street Address

P.O. Box


City, State Zip

Telephone Fax

**CITY OF SOUTH BEND, INDIANA
BOARD OF PARK COMMISSIONERS**




Mark Neal, President



Consuella Hopkins, Vice President




Aimee Buccellato, Member



Dan Farrell, Member

ATTEST:



Eva Ennis, Clerk

EXHIBIT A

Proposal

[See attached.]

EXHIBIT B

Contractor's Affidavit

[See attached.]

Work for Hire Agreement Between Grass Roots Media, Inc. (GRM) and South Bend Venues Parks and Arts (VPA).

Product:

GRM will create a 2.5- to 3-minute video for the Howard Park Grand Opening.

Due Dates:

First version completed and delivered by September 30, 2019. Final updated version completed and delivered by November 14, 2019.

Ownership:

Upon receipt of final payment, VPA shall own completely and outright all finished products and raw materials associated with this project.

Cost:

\$4,125

Payment Schedule:

GRM will invoice for half (\$2,062.50) with 30-days terms on August 15, 2019, and the balance (\$2,062.50) with 30-days terms upon delivery of the final product in November 2019.

The plan:

- GRM will make multiple short visits lasting a couple hours each to shoot footage of construction, testing the water feature in September, lots of general shots to show the wide view and detailed features of the park, the new club house and restaurant building, aerial shots of the park and river to put it in context and show off the layout from above, and a final view of everything in place in November ahead of grand opening.
- VPA will provide the initial script content and GRM will revise as needed to take advantage of the available visuals and focus the message for the general public audience.
- VPA will provide digital files of any available photos, video and architectural renderings of the park along with any historical photos that might be useful.
- VPA will provide the new Howard Park logo as a vector file, the style/brand guide and any guidance on graphic style and fonts to help this video coordinate with other Howard Park/VPA marketing and branding efforts.

A detailed estimate for the grand opening video totaling \$4,125 is attached.

Andrea Rogers

A handwritten signature in black ink, appearing to read "Andrea Rogers". The script is fluid and cursive.

President, Grass Roots Media, Inc.

South Bend Venues, Parks and Arts Representative

A handwritten signature in black ink, appearing to read "Eva Emmis". The script is fluid and cursive.

Signature



508 1/2 W. Washington St.
 South Bend, IN 46601-1528
 574.289.8437

Estimate

DATE	ESTIMATE #
7/21/2019	2800 REV
<u>REP</u>	
AR	
Project	
VPA-19-2080 Howard Park	

South Bend Venues, Parks & Arts
 Attn: Eva Ennis
 301 S. St. Louis St.
 South Bend, IN 46601

ITEM	DESCRIPTION	QTY	COST	TOTAL
	Create a 2.5- to 3-min. promo video about Howard Park renovation. Include new footage and existing photos and video of demo and construction.			
Shoot 1	Single camera - multiple short trips of 2 hours each for b-roll of construction, water feature testing, park details and features, aerial footage of finished park, etc.	12	150.00	1,800.00
Producer Day	Producer time for script revisions, gather existing photos and video, interview sound bite selection, project management, edit supervision, etc.	1.5	650.00	975.00
Post- Day Rate	Up to 8-hour day post-production services	2	1,350.00	2,700.00
Materials/Archi...	Data backup, raw footage archiving, music & misc. production materials		200.00	200.00
Discount 1	VPA Discount		-1,550.00	-1,550.00

TOTAL \$4,125.00

When the prospective Contractor is unable to certify to any of the statements below, it shall attach an explanation to this Affidavit.

**CONTRACTOR'S NON-COLLUSION AND NON-DEBARMENT AFFIDAVIT,
CERTIFICATION REGARDING INVESTMENT WITH IRAN, EMPLOYMENT ELIGIBILITY
VERIFICATION, NON-DISCRIMINATION COMMITMENT AND CERTIFICATION OF USE
OF UNITED STATES STEEL PRODUCTS OR FOUNDRY PRODUCTS**

(Must be completed for all quotes and bids. Please type or print)

STATE OF _____)
) SS:
_____ COUNTY)

The undersigned Contractor, being duly sworn upon his/her/its oath, affirms under the penalties of perjury that:

1. Contractor has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding. Contractor further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale; and
2. Contractor certifies by submission of this proposal that neither contractor nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and
3. Contractor has not, nor has any successor to, nor an affiliate of, Contractor, engaged in investment activities in Iran.
 - a. For purposes of this Certification, "Iran" means the government of Iran and any agency or instrumentality of Iran, or as otherwise defined at Ind. Code § 5-22-16.5-5, as amended from time-to-time.
 - b. As provided by Ind. Code § 5-22-16.5-8, as amended from time-to-time, a Contractor is engaged in investment activities in Iran if either:
 - i. Contractor, its successor or its affiliate, provides goods or services of twenty million dollars (\$20,000,000) or more in value in the energy sector of Iran; or
 - ii. Contractor, its successor or its affiliate, is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person for forty-five (45) days or more, if that person will (i) use the credit to provides goods and services in

the energy sector in Iran; and (ii) at the time the financial institution extends credit, is a person identified on list published by the Indiana Department of Administration.

4. Contractor does not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the Contractor subsequently learns is an unauthorized alien. Contractor agrees that he/she/it shall enroll in and verify the work eligibility status of all of Contractor's newly hired employees through the E-Verify Program as defined by I.C. 22-5-1.7-3. Contractor's documentation of enrollment and participation in the E-Verify Program is included and attached as part of this bid/quote; and

5. Contractor shall require his/her/its subcontractors performing work under this public contract to certify that the subcontractors do not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the subcontractor subsequently learns is an unauthorized alien, and that the subcontractor has enrolled in and is participating in the E-Verify Program. The Contractor agrees to maintain this certification throughout the term of the contract with the City of South Bend, and understands that the City may terminate the contract for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the City.

6. Persons, partnerships, corporations, associations, or joint venturers awarded a contract by the City of South Bend through its agencies, boards, or commissions shall not discriminate against any employee or applicant for employment in the performance of a City contract with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, sex, religion, color, national origin, ancestry, age, gender expression, gender identity, sexual orientation or disability that does not affect that person's ability to perform the work.

In awarding contracts for the purchase of work, labor, services, supplies, equipment, materials, or any combination of the foregoing including, but not limited to, public works contracts awarded under public bidding laws or other contracts in which public bids are not required by law, the City, its agencies, boards, or commissions may consider the Contractor's good faith efforts to obtain participation by those Contractors certified by the State of Indiana as a Minority Business ("MBE") or as a Women's Business Enterprise ("WBE") as a factor in determining the lowest, responsible, responsive bidder.

In no event shall persons or entities seeking the award of a City contract be required to award a subcontract to an MBE/WBE; however, it may not unlawfully discriminate against said WBE/MBE. A finding of a discriminatory practice by the City's MBE/WBE Utilization Board shall prohibit that person or entity from being awarded a City contract for a period of one (1) year from the date of such determination, and such determination may also be grounds for terminating the contract for which the discriminatory practice or noncompliance pertains.

7. The undersigned contractor agrees that the following nondiscrimination commitment shall be made a part of any contract which it may henceforth enter into with the City of South Bend, Indiana or any of its agencies, boards or commissions.

Contractor agrees not to discriminate against or intimidate any employee or applicant for employment in the performance of this contract with privileges of employment, or any matter directly or indirectly related to employment, because of race, religion, color, sex, gender expression, gender identity, sexual orientation, handicap, national origin or ancestry. Breach of this provision may be regarded as material breach of contract.

I, the undersigned bidder or agent as contractor on a public works project, understand my statutory obligations to the use of steel products or foundry products made in the United States (I.C. 5-16-8-1). I hereby certify that I and all subcontractors employed by me for this project will use steel products or foundry products made in the United States on this project if awarded. I understand I have an affirmative duty to notify the City in my bid that my proposal does not include the use of steel products or foundry products made in the United States. I understand it is my sole obligation and responsibility to provide a justification to the City, subject to review and approval, why the cost of United States made steel or foundry products is unreasonable. Prior to award and upon submission of bid which does not use steel products or foundry products made in the United States, the City, through its director of public works, shall make a determination if the price of United States made steel or foundry is unreasonable. I understand that violations hereunder may result in forfeiture of contractual payments.

I hereby affirm under the penalties of perjury that the facts and information contained in the foregoing bid for public works are true and correct.

Dated this _____ day of _____, 20__

Contractor/Bidder (Firm)

Signature of Contractor/Bidder or Its Agent

Printed Name and Title

Subscribed and sworn to before me this _____ day of _____, 20__

My Commission Expires _____

Notary Public

County of Residence _____