

5/14/13

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO AN AGREEMENT WITH HAMAN'S NEW DRIVERS TO PROVIDE DRIVER TRAINING SERVICES FOR THE CITY'S DRIVERS EDUCATION PROGRAM, IN THE AMOUNT OF ONE HUNDRED EIGHTY-TWO THOUSAND DOLLARS (\$182,000.00).

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Administrator of the Department of Transportation to enter into an agreement with Haman's New Drivers to provide driver training services for the City's Drivers Education Program, in the amount of \$182,000.00.

ADOPTED: \_\_\_\_\_, 2013.

/mms

# City of Chattanooga



## Resolution/Ordinance Request Form

Date Prepared: 5/2/13

Preparer: John Van Winkle

Department: Public Works / Traffic Engineering

Brief Description of Purpose for Resolution/Ordinance:

Res./Ord. # \_\_\_\_\_ Council District # \_\_\_\_\_

*A City Council Action to approve a contract with Haman's New Drivers to provide driver training services for the City's Driver's Education Program.*

Name of Vendor/Contractor/Grant, etc.	<u>Haman's New Drivers</u>
Total project cost \$	<u>182,000.00</u>
Total City of Chattanooga Portion \$	<u>182,000.00</u>
City Amount Funded \$	<u>182,000.00</u>
New City Funding Required \$	<u>N/A</u>
City's Match Percentage %	<u>N/A</u>

New Contract/Project? (Yes or No)	<u>YES</u>
Funds Budgeted? (YES or NO)	<u>YES</u>
Provide Fund	<u>9091</u>
Provide Cost Center	<u>A21005</u>
Proposed Funding Source if not budgeted	<u>N/A</u>
Grant Period (if applicable)	_____

**List all other funding sources and amount for each contributor.**

<u>Amount(s)</u>	<u>Grantor(s)</u>
\$ <u>N/A</u>	_____
\$ _____	_____
\$ _____	_____

Agency Grant Number \_\_\_\_\_

CFDA Number if known \_\_\_\_\_

Other comments: (include contingency amount, contractor, and other information useful in preparing resolution)

Approved by: \_\_\_\_\_

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: October, 2011

<b>Jul-13</b>	2 classes	35 students in each	70
<b>Fall 2013</b>	3 classes	35 students in each	105
<b>Winter 2013/2014</b>	3 classes	35 students in each	105
<b>Spring 2014</b>	3 classes	35 students in each	105
<b>Jun-14</b>	2 classes	35 students in each	70
		total	455
		Haman's fee per student	x \$400
		<b>Total for Haman's</b>	<b>182,000</b>
		additional A/V equipment	2000
		promotional expenses	3000
		Caroline's salary	30,000
		Caroline's benefits	20,000
		<b>TOTAL EXPENSES</b>	<b>\$237,000</b>

KOF

**AGREEMENT**

This Agreement ("Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Chattanooga, Tennessee ("City) and Haman's New Drivers, hereinafter called "Contractor."

**WITNESSETH:**

WHEREAS, the City seeks to employ the services of the Contractor, an independent contractor, to provide the services outlined below in Article I;

WHEREAS, the Contractor has the ability and expertise to provide said services; and

WHEREAS, the Contractor has submitted a proposal to develop and provide a Driver's Education Program ("the Program") in accordance with the City's requirements.

NOW, THEREFORE, for and in consideration of the covenants and promises to be carried out by each party herein, it is agreed by and between the parties that the City shall and does hereby employ said Contractor to provide services as outlined below.

**ARTICLE I.**

1.1 Scope of Services. City agrees to hire Contractor to provide services related to a driver's education program at City community centers as follows:

- 1.1.1. City community centers and other facilities designated as appropriate by the City's program coordinator will be used as site locations for classroom instruction. Driving appointments will be scheduled through the Contractor's website and will be based at the Contractor's place of business. The Program shall consist of thirty (30) hours of classroom training and six (6) hours of behind the wheel instruction, as required by the Tennessee Department of Safety. City will provide all equipment, as necessary, for the Contractor to conduct the Program.
- 1.1.2. Contractor and City agree to cooperate in the scheduling of classroom instruction.
- 1.1.3. The Program shall be offered to novice drivers who are residents of the City of Chattanooga, age fifteen (15) through twenty-two (22), and other drivers as mutually agreed to by the City and Contractor (hereinafter "Students"). In order to be eligible for the Program, Students will pay to the City a non-refundable \$50 fee.
- 1.1.4. In the event that the City chooses to expand the program to include additional student populations such as Hamilton County residents, senior citizens, etc., Contractor agrees to provide the Program to those Students

on the same terms and in the same manner as provided by this Agreement. City agrees to work with Contractor and provide notice before expansion of the Program to include additional or new student populations.

1.1.5. In the event that the Program is expanded to Hamilton County residents or any other municipality within Hamilton County by Agreement between the City and Hamilton County or another municipality, City and Contractor and City agree that the City will not be responsible for payment for those student populations unless otherwise agreed by the City and Contractor. Although the Program will be provided to those Students on the same terms and in the same manner as provided by this Agreement, Hamilton County or any other municipality will be billed directly by Contractor for its own Students. The parties agree to supplement this agreement if the Program is expanded to additional or new student populations.

1.1.6. Contractor will provide the Program for a per Student fee as follows:

- City residents, ages 15-22 \$400
- Other student populations pursuant Section 1.14 \$400
- Special needs populations  
TBD

1.1.7. The Program shall consist in part but is not limited to guest speakers who are well-versed in traffic safety issues and the law enforcement thereof in order to enrich Students' learning activities.

1.1.8. Contractor shall provide the City with a list of Students who successfully complete the Program.

1.1.9. Contractor will maintain all certificates, licenses, and approvals from all relevant authorities as required to provide the Program.

1.2 Term. The term of this Agreement shall commence effective upon the execution hereof by Contractor and shall continue for one (1) year with an option to extend for four (4) additional one (1) year terms upon mutual agreement by the parties.

1.3 Contractor's Compensation. City agrees to pay Contractor for providing the services enumerated in Section 1.1 the amounts designated in Section 1.1.6 for each Student who successfully completes the Program. City and Contractor agree that City will not be responsible for payment for any Student who does not successfully complete the Program.

1.4 Payment of Invoices. City agrees to pay Contractor within thirty (30) days following the receipt of an invoice from Contractor which lists the Students who have successfully completed the Program.

1.5 Equipment. City shall supply appropriate audio/visual equipment necessary for Contractor to conduct classroom instruction at each designated teaching location. All purchased A/V equipment will be and remain the property of the City.

1.6 Miscellaneous Expenses. Contractor shall be solely responsible for any and all expenses incurred by Contractor in providing the services enumerated in 1.1 hereinabove, including, but not limited to, all travel expenses, meal expenses, long distance telephone charges, facsimile transmissions, shipping, and postage.

1.7 Cooperation. The City agrees to share data and other requested information with the Contractor on a timely basis and to actively participate in meetings and other activities organized by the Contractor in providing the Program.

1.8 Sub-Contractors. It is understood and agreed that if Contractor desires to subcontract any portion of the services to subcontractors, Contractor must obtain the prior written approval of City. Contractor agrees to be solely responsible for assigning, directing, and compensating any subcontracted work.

1.9 Indemnification. Contractor agrees to protect, defend, indemnify, and hold City and its officers, employees, and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with the performance of the services provided by Contractor, its agents, servants, employees or subcontractors, or anyone directly employed by any of them for whose acts any of them may be liable. City agrees to be responsible for the actual negligence of its own agents, servants, and employees.

1.10 Independent Contractor. Contractor agrees to provide the services enumerated herein as an independent contractor and not as an employee of City. It is understood and agreed that City will not withhold any amount for payment of taxes from the compensation of Contractor hereunder. Contractor shall not represent to be or hold itself out as an employee of the City.

1.11 Notice. Any notice or communication permitted or required by this Agreement shall be deemed effective when personally delivered or deposited, postage prepaid, in the First Class Mail of the United States, properly addressed to the appropriate party at the address set forth below:

**City:** Administrator Public Works  
City of Chattanooga  
1250 Market Street, Suite 2100  
Chattanooga, Tennessee 37402

**With a copy to:** City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
Chattanooga, TN 37402

**Contractor:** Haman's New Drivers  
66 Stuart Road  
Ft. Oglethorpe, GA 30742

## **ARTICLE II. AUDITS AND RECORDS**

2.1. City or its assign may audit all financial and related records (including digital) associated with the terms of the agreement including timesheets, reimbursable out of pocket expenses, materials, goods, and equipment claimed by Contractor. City may further audit any Contractor's records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of the contract or agreement) or to identify conflicts of interest.

2.2. Contractor shall at all times during the term of the agreement and for a period of five (5) years after the end of the agreement, keep and maintain records of the work performed pursuant to this Agreement. This shall include proper records of quotations, contracts, correspondence, invoices, vouchers, timesheets, and other documents that support actions taken by Contractor. Documents shall be maintained by Contractor necessary to clearly reflect all work and actions taken. All such records shall be maintained in accordance with generally accepted accounting principles. Contractor shall at its own expense make such records available for inspection and audit (including copies and extracts of records as required) by City at all reasonable times and without prior notice.

2.3. The obligations of this Section shall be explicitly included in any subcontracts or agreements formed between Contractor and any subcontractors or suppliers of goods or services to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to City.

2.4. Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by City unless the audit identifies significant findings that would benefit City. Contractor shall reimburse City for the total costs of an audit that identifies significant findings that would benefit City.

2.5. This Section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which City may have by Federal, State, or Municipal law, whether those rights, powers, or obligations are express or implied.

2.6 All data, reports, schedules, or other related materials produced in whole or part under this contract shall be maintained by the Contractor for five (5) years after the date of this Agreement. Furthermore, the Contractor will not apply for a copyright for any reports, data, or other documents in whole or in part under this agreement for work created for hire for the City.

## **ARTICLE IV. STANDARD TERMS AND CONDITIONS**

4.1 City is not bound by this Agreement until it is approved by the appropriate officials as indicated on the signature page of this Agreement.

4.2 This Agreement may be modified only by a written amendment that has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

4.3 If Contractor fails to properly perform its obligations under this Agreement or violates any term of this Agreement, City shall have the right to immediately terminate this Agreement and withhold payments in excess of fair compensation for completed services. Contractor shall not be relieved of liability to City for damages sustained by virtue of any breach of this Agreement by Contractor.

4.4 The City may terminate this Agreement at any time by providing sixty (60) days written notice to the Contractor if the City determines that termination is in the best interests of the City.

4.5 Contractor shall not assign this Agreement without obtaining the prior written approval of City.

4.6 No person on the grounds of handicap, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State Constitution and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement.

4.7 The Contractor agrees to pay all applicable taxes incurred in performance of this Agreement.

4.8 The Contractor shall not disclose nor permit disclosure of any information, except to its employees and other subcontractors, approved by City, who need such information in order to properly execute the services of this Agreement.

4.9 The Contractor shall comply with all applicable Federal and State and local laws and regulations in the performance of this Agreement.

4.10 The City is not obligated to third parties. The City shall not be obligated or liable hereunder to any party other than the Contractor.

4.11 If any provision of this Agreement is determined to be unenforceable or invalid, such determination shall not affect the validity of other provisions contained in this Agreement. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the right of the parties to enforce any other provision of this Agreement at any time.

4.12 This Agreement shall be governed and construed in accordance with the laws of the State of Tennessee.

4.13 This Agreement shall be binding upon and shall inure to the benefit of Contractor and City and to their successors and assigns.

4.14 This Agreement forms the entire agreement between the City and the Contractor. Any prior representations, promises, agreements, oral or otherwise, between the parties, which are not embodied in this writing, will be of no force and effect.

**ARTICLE V.**

If any terms and conditions of this Contract are held to be invalid or enforceable as a matter of law, the other terms and conditions hereof shall be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of the Contract are declared severable.

IN TESTIMONY WHEREOF, the said parties have hereunto set their hands and seals the day and year first above written.

CITY OF CHATTANOOGA

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_