

**SERVICES AGREEMENT BETWEEN
VIRGINIA COMMONWEALTH UNIVERSITY
AND GREATER RICHMOND TRANSIT CO.**

This Services Agreement (the "Agreement"), effective as of August 1, 2018, is by and between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia ("VCU"), and Greater Richmond Transit Co., a Virginia public service company ("GRTC"). VCU and GRTC are sometimes referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, GRTC is jointly owned by the City of Richmond and Chesterfield County, and governed by a Board of Directors appointed three each by the Richmond City Council and the Chesterfield County Board of Supervisors; and

WHEREAS, GRTC provides public transportation services to the metropolitan Richmond area; and

WHEREAS, VCU desires to expand its current transportation services to provide access to GRTC transportation service for VCU, Virginia Commonwealth University Health System ("VCUHS"), and Virginia Premier identification cardholders (collectively "VCU Riders"); and

WHEREAS, GRTC is willing to offer to VCU its public transportation services according to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. SCOPE OF SERVICES

1.1 Services. GRTC will provide unlimited transportation access on GRTC's Pulse Bus Rapid Transit ("BRT") and its regular local fixed-route bus service to VCU Riders (the "Services"). VCU agrees to cover the actual costs for express service and extended express service fares (excluding seasonal express fares), collectively "express service fares", incurred by VCU Riders. GRTC will provide VCU Parking and Transportation with monthly express service ridership data (including routes and counts as provided in Section 4.6 below) by the tenth of each month. GRTC will invoice VCU for express service fares monthly, which invoices will be payable Net 30 days upon receipt.

1.2 Access to Services. Beginning on August 1, 2018 and continuing through December 31, 2018, VCU Riders must present a current and valid VCU, VCUHS, or Virginia Premier identification card to access the Services.

1.3 Rider Pass. Beginning January 1, 2019, VCU Riders must present either a GRTC approved fare card or a mobile credential with approved tracking capacity ("Rider Pass") which will serve as both a transit credential and an identification card. VCU shall create and issue the Rider Pass with cards or mobile credentials that meet GRTC standards. In the event VCU fails to create or issue Rider Passes before January 1, 2019, and GRTC's performance or requirements

have not unreasonably impacted VCU's ability to do so, GRTC may terminate this Agreement and neither Party will have any further obligation under this Agreement, including any obligation of payment or repayment. In such an instance, neither Party will be considered in default, and this Agreement will terminate effective January 1, 2019.

2. TERM

2.1 Pilot Program Period. The Parties agree that this Agreement sets forth terms and conditions of a pilot program, the term of which begins August 1, 2018 and expires July 31, 2019 (the "Term").

2.2 Evaluation of Program. The Parties shall meet no later than February 28, 2019, to evaluate the Services. Data required for such evaluation, identified in Section 4.6, shall be provided by GRTC to VCU Parking and Transportation by February 15, 2019.

2.3 Continuation of Services. The Parties shall meet no later than April 15, 2019 to determine the desire of the Parties to continue the Services. In the event VCU elects not to continue the services, or if the Parties are unable to agree on terms of continued service, this Agreement will continue at the sole discretion of GRTC. Such a continuance shall be on a month to month basis for a period of not less than three months and not more than six months, and VCU shall give notice by April 30, 2019, as required herein below, of the exact period of continuance.

3. PAYMENT

3.1 Compensation for Services. VCU shall pay GRTC a total of One Million Two Hundred Thousand Dollars (\$1,200,000.00) for the Services during the Term. VCU shall make payment in two equal installments, with the first payment of Six Hundred Thousand Dollars (\$600,000.00) due on August 31, 2018, and the second payment of Six Hundred Thousand Dollars (\$600,000.00) due on January 15, 2019.

3.2 Card Fee. For Rider Passes that are physical cards provided by GRTC to VCU Riders, VCU shall pay to GRTC the actual cost of each card, such cost not to exceed \$2 per card.

4. GRTC RESPONSIBILITIES

4.1 Headways. Subject to approval by the Federal Transit Administration, GRTC will reduce the current Pulse headways from 15 minutes to 10 minutes during the weekday hours of 5:30 a.m. to 7:00 p.m., as soon as is practicable upon such approval but not later than October 1, 2018. In accordance with Paragraph 4.6 herein, GRTC shall provide Pulse headway performance metrics to VCU on a monthly basis throughout the Term. VCU reserves the right in its sole discretion to terminate this Agreement, pursuant to Paragraph 7 herein and effective December 31, 2018, if GRTC is unable to reduce Pulse headways to 10 minutes by not later than November 1, 2018. Should VCU exercise its right of termination contained in this Paragraph 4.1, neither Party will have any further obligation under this Agreement, including any obligation of payment or repayment and neither Party will be considered in default.

4.2 Access and Accessibility.

4.2.1 Assurance of Accessibility. GRTC will ensure accessibility for VCU Riders, as set forth by the U.S. Department of Transportation standards in 49 C.F.R. §§ 27 and 37 and Appendix E to 49 C.F.R. § 37.

4.2.2 Bus Tracking Access. GRTC will ensure VCU Riders have access to predictive real-time bus tracking through existing GRTC applications that meet accessibility requirements for electronic and information technology pursuant to state and federal laws, such as the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act.

4.3 Safety Committee. GRTC will create and participate in a safety and security committee with VCU Police (the "Committee"). The Committee will meet once every 60 days, or as agreed by the members of the Committee, to address concerns and safety-related issues related to the Services.

4.4 Cooperation in Unforeseen Events. GRTC will include to the extent practicable VCU's Emergency Management representative in pre-planning for inclement weather or other events that may impact the Services for VCU Riders. The Parties further agree that GRTC controls all operational decisions in such events.

4.5 Customer Service. GRTC will designate a customer service liaison who will work directly with VCU's designated Parking and Transportation point of contact to respond to and resolve customer concerns. Such liaison will respond to VCU Parking and Transportation within 24 hours of a concern being brought to their attention, or within 24 hours of the start of business when notified of a concern on a weekend or holiday. GRTC's customer service liaison will also inform VCU's aforementioned point of contact as soon as practicable of complaint's involving VCU Riders. VCU's point of contact will provide the same level of communication to GRTC's liaison. The Parties agree to work together to resolve all such customer concerns.

4.6 Performance Metrics. GRTC will provide the following performance metrics to VCU Parking and Transportation on a monthly basis and on request.

Prior to Establishment of the Rider Pass

- a. Numbers of VCU Riders by route, boarding time, and board location (excluding BRT)
- b. Monthly Headway report for Route 5 and BRT

After Establishment of the Rider Pass

- a. Rider time and place of boarding by Rider Pass number (including BRT)
- b. Monthly Headway report for Route 5 and BRT

5. VCU RESPONSIBILITIES

5.1 Rider Pass usage and notification. Beginning January 1, 2019, VCU shall notify GRTC on a daily basis, via email to smartcard@ridegrtc.com or another mutually agreed upon automated interface, and by sequence number of passes, of any passes that malfunction or

require activation/deactivation. The Parties acknowledge that the effective date of pass deactivation will be no sooner than five (5) business days after receipt by GRTC of VCU notification.

5.2 Replacement passes. Beginning January 1, 2019, VCU shall pay to GRTC the actual cost, not to exceed \$2 each, for any replacement passes required by VCU Riders, which costs will be invoiced by GRTC to VCU on a monthly basis.

6. **INSURANCE.**

6.1 Each Party shall procure and maintain during the Term of this Agreement insurance in the kinds and amounts specified in this section with an insurer licensed to transact insurance business in the Commonwealth of Virginia. Each insurance policy, endorsement and certificate of insurance shall be signed by duly authorized representatives of such insurers and shall be countersigned by duly authorized local agents of such insurers. Each Party shall pay all premiums and other costs of such insurance, and no Party shall be responsible for such premiums or costs incurred by any other Party. Upon request, each Party shall furnish the other party with a certificate of insurance evidencing the coverages required.

6.2 GRTC shall provide and maintain the following types of insurance in accordance with the requirements of this Section 6:

- (a) Worker's compensation and employer's liability;
- (b) Commercial general liability with limits of no less than Five Million Dollars (\$5,000,000) per occurrence, naming VCU as an additional insured;
- (c) Automobile liability having limits not less than One Million Dollars (\$1,000,000.00) per occurrence.

6.3 VCU shall provide and maintain the following types of insurance in accordance with the requirements of this Section 6:

- (a) Worker's compensation and employer's liability;
- (b) Virginia Commonwealth University is subject to the terms of the Commonwealth of Virginia's Risk Management Plan for public liability. To the extent permitted by the Virginia Tort Claims Act, Section 8.01-195.1 et seq. of the Code of Virginia (1950), as amended, Virginia Commonwealth University shall be responsible for the negligent acts or omissions of its board, officers, employees, and agents. The statutory limit of liability for claims against Virginia Commonwealth University is \$100,000. The limit of liability for claims against individuals is \$2,000,000. This coverage is on an occurrence basis without an annual aggregate.

Nothing contained herein shall constitute a waiver of the sovereign immunity of Virginia Commonwealth University or the Commonwealth of Virginia.

- (c) VCU participates in the Commonwealth of Virginia's Risk Management Plan to self-insure its Commercial Automobile Liability (bodily injury and property damage liability) in accordance with the Code of Virginia, §2.2-1838.

6.4 Self-insurance is acceptable in meeting the above requirements. Each Party shall provide the other prompt notice of any cancellation or modification to such policies.

7. **TERMINATION**

GRTC may terminate this Agreement for VCU's failure to make the payment required in Section 3 herein above. GRTC may further terminate this Agreement as provided in Section 1.3 herein above. VCU may terminate this Agreement if GRTC fails to provide the Services for more than thirty (30) days. Except for termination as provided in Section 1.3 herein, either Party wishing to terminate must give six (6) months prior written notice in the manner prescribed in Section 8.9 of this Agreement.

8. **GENERAL PROVISIONS**

8.1 **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto; provided, however, that except as provided below, in no event may this Agreement or any of the rights, benefits, duties or obligations of the Parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither Party shall be obligated to give and which consent may be reasonably conditioned so as to protect the consenting Party's interests under this Agreement.

8.2 **No Joint Venture.** The terms and conditions of this Agreement shall not be construed or interpreted in any manner as creating or constituting the Parties as partners or joint venture participants with each other or as making either Party liable for the debts, defaults, obligations or lawsuits of the other or of either Party's assigns, contractors or subcontractors. Nothing in this Agreement is intended to create an employment or agency relationship, including that of a legal representative, among the Parties.

8.3 **Captions.** All section titles or captions in this Agreement are for convenience of reference only. They should not be deemed to be part of this Agreement or to in any way define, limit, extend, or describe the scope or intent of any provisions of this Agreement.

8.4 **Counterparts.** This Agreement may be executed by VCU and GRTC in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Agreement.

8.5 **Entire Agreement.** This Agreement contains the entire understanding between GRTC and VCU and supersedes any prior understandings and written or oral agreements between them respecting this subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between GRTC and VCU relating to the subject matter of this Agreement that are not fully expressed in this Agreement.

8.6 **Governing Law and Forum Choice.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of VCU and GRTC in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. Any and all disputes, claims and causes of action arising out of or in connection with this Agreement, or any performances

made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia.

8.7 Modifications. This Agreement may be amended, modified and supplemented only by the written consent of both VCU and GRTC preceded by all formalities required as prerequisites to the signature by each Party of this Agreement.

8.8 Waiver. No Party's delay or failure to exercise any right, power or privilege under this Agreement or under any other instrument given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any event of default hereunder or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against any Party unless made in writing and signed by an authorized officer of the Party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

8.9 Notices. Unless explicitly provided otherwise herein, all notices, offers, consents, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered as properly given or made if delivered personally, by messenger, by recognized overnight courier service or by registered or certified U.S. mail with return receipt requested, and addressed to the address of the intended recipient at the following addresses:

Virginia Commonwealth University
Attn: Director of Parking and Transportation
1108 West Broad Street
Richmond, Virginia 23284-3000

GRTC
e-pass Program Administrator
301 E. Belt Boulevard
Richmond, Virginia 23224

and

Chief Executive Officer
301 E. Belt Boulevard
Richmond, Virginia 23224

8.10 Disclosure.

8.10.1 Personal Identifiable Information. The Parties agree that GRTC will not have access to any personal identifiable information of any VCU Rider. If GRTC becomes aware that it is in possession of such information or that such information has otherwise been disclosed, it will inform VCU and exercise reasonable care to not further disclose such information.

8.10.2 FERPA. To the extent that the use or disclosure of student information protected by the federal Family Educational Rights and Privacy Act (FERPA) (including but not limited to student name, contact information, and other identifiable information) becomes

necessary under this Agreement, the VCU hereby designates GRTC as a school official with a legitimate educational interest in the education record(s). GRTC shall use information from a student's education record only for the limited purpose of this Agreement and shall not disclose any information from an education record without the consent of the student. GRTC will comply with FERPA's restrictions, including limiting access to such information to only those employees or agents with a need to know.

8.10.3 Virginia Freedom of Information Act. The Parties acknowledge that both VCU and GRTC are subject to the Virginia Freedom of Information Act.

8.11 Advertising and Public Relations. GRTC reserves the right to promote its Pass program. GRTC may use VCU marks or logos only with prior written approval from VCU. GRTC agrees that published information related to VCU or the Pass program will be factual. Each party retains all rights, title, and interest to its trademarks, logos, and other intellectual property.

8.12 Nondiscrimination and Drug-Free Workplace. During the performance of this Agreement:

(1) GRTC will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of GRTC. GRTC agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRTC, in all solicitations or advertisements for employees placed by or on behalf of GRTC, will state that GRTC is an equal opportunity employer.; and

(2) GRTC agrees to (a) provide a drug-free workplace for GRTC's employees; (b) 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 GRTC's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (c) state in all solicitations or advertisements for employees placed by or on behalf of GRTC that GRTC maintains a drug-free workplace; and (d) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 resulting from this Agreement, so that the provisions of this subparagraph (2) will be binding upon each subcontractor or vendor.

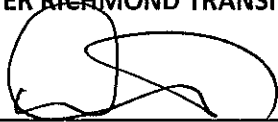
8.13 Force Majeure. Neither Party will be responsible for any losses resulting from delay or failure in performance resulting from any cause, event, or occurrence beyond the Party's control, and without the negligence of the Party, including without limitation: war, strikes or labor disputes, civil disturbances, fires, natural disasters, and acts of God.

8.14 No Third Party Beneficiaries. Notwithstanding any other provision of this Agreement, GRTC and VCU hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than GRTC or VCU; (iii) no individual or entity shall obtain any right to make any claim against GRTC or VCU under the provisions of this Agreement; and (iv) no provision of this Agreement shall

be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase "individual or entity" means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, sub-vendors, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the duly authorized representatives of each party.

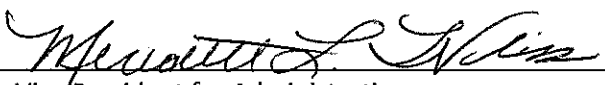
GREATER RICHMOND TRANSIT CO.

By:  _____ Date: 7/30/2018
Chief Executive Officer

Approved as to form:

General Counsel to GRTC

VIRGINIA COMMONWEALTH UNIVERSITY

By:  _____ Date: 7/30/18
Vice President for Administration

Approved as to Form:
JAMES A. Fiorelli
Associate University Counsel/Assistant Attorney General