

**Northern Virginia Transportation Authority
Organizational Working Group
Agenda**

June 27, 2013 ~ 10:00 a.m.

**Loudoun County Board of Supervisors Conference Room
21641 Ridgetop Circle, Sterling, VA 20166**

- 1. Update on Office Space**
 - NVRC Proposal – Mark Gibb
 - Innovation Center – Monica Backmon
- 2. Employment Status Update for Interim Executive Director – Monica Backmon and Tom Biesiadny**
- 3. Other Items/Next Steps**
- 4. Adjourn**

ATTACHMENT 1

**Preliminary cost estimate for
Interim facilities and admin support at NVRC
6/26/13**

6 months

Rent	waived	Value: \$30/sf * [1 17'x10' office = 170 sf] = \$5,100 yr, or 425/mo Furnished, exclusive of computer Amenities at no cost: Use of conference rooms (3) WITH A/V Mailbox Parking Use of NVRC printers, fax Kitchen privileges
Reception services	600	Average \$100/month Greet and direct guests to meeting spaces Receive and route mail Answer phone calls as needed
Phone/email/internet	180	\$30 per month includes Dedicated direct inward dial phone number with voice mail with option to have receptionist answer Access to shared T1 line
Secretarial	Hourly	\$21/hour for correspondence, mailouts, etc.
Other direct costs specific to NVTA	Usage basis	Postage and Reproduction: Postage to be billed per actual use as recorded on NVRC postage meter Reproduction to be billed @ 2¢ per copy on B&W copier; 25¢ per copy on color copier Assignment of exclusive access code tracks usage on postage meter and copiers

FAIRFAX INNOVATION CENTER RATES

Available Space	Price per square foot	Annual Cost
\$650/month for an interior office that is 100 sq. ft	\$6.50/ft ²	\$ 7,800.00
\$800/month for an office that is 12x10	\$6.67/ft ²	\$ 9,600.00
\$850/month for an office that is 8x12 but is large enough to accommodate an executive director and an administrative assistant	\$8.85/ft ²	\$ 10,200.00
\$1150/month for a 12x12 office. This office can also accommodate an executive director and a chief financial officer	\$7.99/ft ²	\$ 13,800.00
\$2150/month for a 300 sq ft office	\$7.17/ft ²	\$ 25,800.00

All office space rentals include the following services:		
Receptionist		
Mailbox		
Furniture		
Wifi		
Daily use of the conference rooms		
* Paper for copies		
Use of the kitchenette---free coffee and tea		

Extras:		
A phone line is not included. The cost is about \$70/month		Approx. \$840
Computers are not included		
* Copies are 10 cents/copy and there is a one-time \$100 charge for a copy card		

Clients:		
Other clientele currently located in the Innovation Center include government contractors, architects and insurance firms		

Contractor vs. Employee Status

1. § 15.2-4833, Staff, of the Virginia Code pertaining to the NVTVA provides:

The Authority shall employ a chief executive officer and such staff as it shall determine to be necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Authority. The Virginia Department of Transportation and the Virginia Department of Rail and Public Transportation shall make their employees available to assist the Authority, upon request.

The code refers to this position as a chief executive officer. While it is certainly common for a CEO to be a contractual employee, it would be most unusual for a CEO to have the kind of independence required to meet the IRS test for an independent contractor. Further, the language of the Code even goes so far as to use the word "employ" which further suggests that this position was intended to be an employee.

2. If the job description which was drafted in 2007, is used for the position is used the requirements for this position, it will be difficult to meet the IRS independent contractor test.

3. The potential liability regarding this issue is real. The IRS has apparently been cracking down on employers for erroneously classifying employees as "independent contractors" in recent years. A CEO or Executive Director filing taxes as an independent contractor would likely not escape the notice of an IRS.

4. In terms of the Independent Contractor vs. employee, the IRS website says:

"You are not an independent contractor if you perform services that can be controlled by an employer (what will be done and how it will be done). This applies even if you are given freedom of action. What matters is that the employer has the legal right to control the details of how the services are performed."

IRS Publication 15-A states that, "An employee is generally subject to the business' instructions about when, where, and how to work....instructions about how to do the work include...what workers to hire or to assist with the work, where to purchase supplies and services, what order or sequence to follow."

An employee may be trained to perform services in a particular manner, while independent contractors ordinarily use their own methods.

- A. Independent contractors are:

More likely to have unreimbursed expenses than are employees. Generally free to seek out business opportunities, maintain a visible business location, and are available to work in the relevant market. Able to make a profit or loss.

- B. An employee is:

Generally guaranteed a regular wage amount for an hourly, weekly or monthly period of time. A worker who provides services that are a key aspect of the regular business activity of the hiring firm, someone who must perform the work himself, without hiring subcontractors or assistants at his own expense and is paid benefits.

If the worker is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, the worker is generally considered to be an employee.