

**ARTS DEVELOPMENT SERVICES, INC.
CULTURAL SERVICES AGREEMENT**

THIS AGREEMENT made this 23rd day of June, 197 8, by and between ARTS DEVELOPMENT SERVICES, INC., a not-for-profit corporation incorporated under the laws of New York, with its principal office at 237 Main Street, Buffalo, New York 14203 (hereinafter referred to as "ADS"), and

THE VASULKA CORPORATION

Name of Organization

257 Franklin Street, Buffalo, N.Y. 14202

Address

(hereinafter referred to as "Contractee").

WITNESSETH:

WHEREAS, ADS has received grants from the National Endowment for the Arts (hereinafter referred to as "NEA"), the New York State Council on the Arts (hereinafter referred to as "NYSCA"), and the City of Buffalo for utilization in and administration of a program for the purchase of cultural services from organizations in the Buffalo metropolitan area; and

WHEREAS, the Contractee has presented to ADS a proposal regarding cultural services which it would propose to provide under such program; and

WHEREAS, ADS is willing to purchase such services and the Contractee is willing to provide such services upon the terms and conditions hereinafter specified;

NOW, THEREFORE, ADS and the Contractee agree as follows:

1. **Services to be Performed.** On the basis of the application submitted to ADS by the Contractee, including all attachments and additions thereto, which application, attachments and additions are incorporated herein by reference, and upon the representations, undertakings, and agreements of the Contractee set forth herein, ADS hereby purchases from the Contractee, and the Contractee hereby agrees to perform, the following described services in accordance with the terms and conditions contained in this Agreement:

Three presentations of computer/video art to community people at Langston Hughes Center, African-American Cultural Center and the Polish Community Center.

In the event of any conflict between the terms of the aforementioned application, including all attachments and additions thereto, and the terms of this Agreement, the terms of this Agreement shall govern.

2. **Period for Performance of Services.** The services purchased under this Agreement to be performed by the Contractee (as described in paragraph 1 above) shall commence no earlier than June 30, 1978 and shall be completed no later than Dec. 31, 1978.

3. **Payment by ADS.** Providing the Contractee abides by the terms and conditions of this Agreement, in consideration of the services to be performed, ADS agrees to pay the Contractee the sum of \$ 1000.00 as follows:

\$1000 on or before June 30, 1978

The obligation of ADS to make each scheduled payment following the initial payment shall be conditioned upon receipt by ADS of an interim report by the Contractee concerning the status of the purchased services (which report shall be provided to ADS at least seven days prior to the next scheduled payment date) and upon approval by ADS of such interim report.

4. **Grantor Agencies.** The funds to be paid to the Contractee hereunder have been made available to ADS through grants from: ~~NYSCA~~ **NEA and the City of Buffalo**

Hereinafter, such bodies are collectively referred to as the "Grantor Agencies" and each body is individually referred to as a "Grantor Agency".

5. **Ability of Contractee to Perform.** The Contractee acknowledges that the undertakings by ADS to purchase the services described herein is made in reliance on the application submitted by the Contractee, on all material supplied by the Contractee in connection with such application, and on a determination based upon a review of the financial information and proposed budget submitted, that the Contractee will be able to satisfactorily perform the contracted-for services described in paragraph 1 hereof. Accordingly, the Contractee agrees to notify ADS immediately in writing if there is any change in the facts, estimates, or projections contained in the application or material submitted to ADS, including, but not limited to, change in any item of receipts or expenditures, changes in personnel, or change in or discontinuance of any operation or program conducted or projected to be conducted by the Contractee. The Contractee agrees that should any such change occur, and ADS in its sole discretion determines that such change will impede or impair the Contractee's ability to perform the contracted-for services or to serve the interests of the Grantor Agencies, ADS shall have the right to terminate this Agreement.

6. **Reports and Records.**

(a) The Contractee agrees to submit such reports as may be requested by ADS, in such form as ADS may prescribe, relating to the Contractee's services and the performance thereof and the Contractee's ability to fulfill its obligations under this Agreement. In addition, the Contractee shall supply a final report regarding such services and performance on such forms as ADS may prescribe within seventy-five days of the completion date specified in paragraph 2 hereof.

(b) The Contractee shall maintain complete, accurate, and current records of all income and expenses relating to its operations and the services performed pursuant to this Agreement. During the term of this Agreement and at any time within three years thereafter, the Contractee shall make such records available upon request to ADS, and the Grantor Agencies, the State of New York (in the event NYSCA is a Grantor Agency) and the Comptroller General of the United States (in the event NEA is a Grantor Agency) or the designees of any one or more of them for review and audit. ADS shall have the right, upon reasonable notice and reasonable times, to inspect the books and records of the Contractee, its offices and facilities, for the purpose of verifying information supplied to ADS or for any other purpose reasonably related to monitoring the services to be performed by the Contractee.

7. Termination of Agreement.

(a) In addition to its right to terminate this Agreement as provided for in paragraph 5 above, ADS shall have the right to terminate this Agreement in the event it determines that the Contractee:

- (i) has misrepresented any fact or supplied any false or misleading information to ADS in its application, supporting material, or reports concerning performance of services; or
- (ii) has diverted any payments made under this Agreement to a purpose other than the performance of the contracted-for services in the manner the Contractee has represented; or
- (iii) has failed to maintain or provide any records or reports required to be maintained or provided; or
- (iv) has failed to abide by any other item or condition of this Agreement; or
- (v) will be unable to satisfactorily perform all or any part of the contracted-for services or any of the Contractee's obligations or duties under this Agreement.

In addition to the right of ADS to terminate as aforesaid, upon the occurrence of any of the facts enumerated in (i) through (v), it may disallow in whole or in part any payments not yet made by it, and require the Contractee to refund any payments made by ADS under this Agreement. The foregoing remedies of ADS are in addition to any other remedies provided by law, and all such remedies shall be cumulative and not exclusive.

(b) In addition, if ADS determines that the termination of this Agreement in whole or in part is in the best interests of the Grantor Agencies, the State of New York (in the event NYSCA is a Grantor Agency), or the United States of America (in the event NEA is a Grantor Agency), it may terminate this Agreement by notice to the Contractee, which notice shall state the effective date of such termination. Upon termination of this contract under the foregoing conditions stated in this subparagraph, ADS shall pay to the Contractee the costs actually incurred up to the date of termination, plus any costs directly resulting from such termination; provided, however, that in no event shall the aggregate of such payments, together with payments previously made to the Contractee under this Agreement, exceed the value of the contracted-for services performed by the Contractee up to the date of termination plus the costs resulting from such termination, or the total amount provided to be paid to the Contractee under paragraph 3 of this Agreement, whichever is less.

8. Recognition of Support. In any program or printed material advertising, announcing, or describing the services for which ADS has contracted under this Agreement, or in any publication, film, videotape, exhibition, or visual material produced as a result of or in connection with the performance by the Contractee of the above-described services, the Contractee shall prominently credit ADS's assistance and the assistance of the Grantor Agencies. Such credit shall be listed separately from any other recognition of non-governmental support. Copies of any material containing the required credit shall be submitted to ADS as soon as may be reasonably practicable.

9. Independent Contractor and Third Parties. The Contractee shall not represent to any person, foundation, group, organization, or government entity that it is acting as agent for ADS, the Grantor Agencies, the State of New York or the United States of America or that it is entitled to act on behalf of ADS, the Grantor Agencies, the State of New York or the United States of America, or that it is authorized to incur obligations on their behalf. Nothing contained in this Agreement shall create or give to third parties any claim or right of action against ADS.

10. Provisions of Basic Grants. The funds to be paid to the Contractee hereunder have been or will be made available to ADS under grants from the Grantor Agencies (hereinafter referred to as the "Basic Grants"). The terms and conditions of the Basic Grants as set forth on Attachment hereto are incorporated herein by reference. **(See Attachment A.)**

11. Notices. Any notice, report or demand required or permitted by any provision of this Agreement shall be deemed to have been sufficiently given for all purposes if it is personally delivered or sent by registered or certified mail, postage prepaid, addressed as set forth on page 1 hereof, or to such other address as shall be furnished in writing by any addressee.

12. Construction. This Agreement shall be governed by the laws of the State of New York.

13. Entire Agreement. This Agreement, together with the application submitted to ADS by the Contractee, including all attachments and additions thereto, and including submitted budgets, as modified or revised with the approval of ADS, and any other approved supplements to any of the above, constitutes the entire Agreement between the parties hereto. This Agreement, which is intended to secure services of the Contractee, may not be assigned, subcontracted, or transferred without the prior written consent of ADS, and no statement, promise, condition, understanding, inducement, or representation, oral or written, express or implied, which is not contained herein shall be binding or valid, and this Agreement shall not be changed, modified, or altered in any manner except by an instrument in writing executed by the parties hereto.

14. Executory Nature of Agreement. The parties agree that this Agreement shall be executory on behalf of ADS to the extent that funds are appropriated by the Grantor Agencies and made available under the Basic Grants.

IN WITNESS WHEREOF, the parties hereto have executed the above instrument, as of the day and year first above written.

ARTS DEVELOPMENT SERVICES, INC.

By *Regina B. Gantka*
Title President

Contractee **THE VASULKA CORPORATION**

By *Demakanka*
Title President

Attachment A to
Cultural Services Agreement
by and between
Arts Development Services, Inc. ("ADS") and
THE VASULKA CORPORATION ("Contractee")

Provisions of the Grant from the
National Endowment for the Arts
("NEA") to ADS Applicable to
Cultural Service Agreements
funded with NEA Grant Funds

1. Labor Standards. Any project or production financed in whole or in part under the above-referenced grant shall be accomplished in compliance with the labor standards set out in 29 Code of Federal Regulations, Part 505. Without limiting the generality of the foregoing, the following shall apply:

(a) All professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under the grant will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities.

(b) No part of any project or production which is financed in whole or in part under the grant will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance.

2. Civil Rights. The Contractee shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d) and all requirements imposed by or pursuant to the Regulations of the National Foundation on the Arts and the Humanities (45 Code of Federal Regulations, Part 1110) issued pursuant to

that Title, to the end that, in accordance with Title VI of that Act and the regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Contractee receives Federal financial assistance through ADS.

3. Handicapped. The Contractee shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. section 794 (1975)), to the end that no otherwise qualified handicapped individual in the United States, as defined in said Act, shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Contractee receives Federal financial assistance through ADS.

As defined in said Act, the term "handicapped individual" means any person who (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. 29 U.S.C.A. section 706(b) (1975).

These evidence of compliance.
2. Civil Rights. The Contractee shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d) and all requirements imposed by or pursuant to the Regulations of the National Foundation on the Arts and the Humanities (45 Code of Federal Regulations, Part 1110) issued pursuant to

May 18, 1978

Ms. Steina Vasulka
The Vasulka Corporation
257 Franklin Street
Buffalo, N.Y. 14202

Dear Ms. Vasulka:

We are pleased to advise you that the ADS Board of Directors, on the recommendation of the Regrant Review Panel, has taken favorable action on your application. A total of \$1,000 was approved for your program and is contingent upon receipt of a finalized budget and contract which will be forwarded to you for completion in the next few days.

For purposes of planning, you should begin to receive payment two weeks after the signed contract is returned to the ADS office. If your contract calls for more than one payment, you will be required to submit an interim report midway through your program. Again, these forms will be provided to you and explained in detail.

The ADS staff will be in touch with you shortly to negotiate your contract.

Sincerely,

Regina B. Grantham

Regina B. Grantham
President, Board of Directors

Franz T. Stone

Franz T. Stone
Chairman, Board of Directors

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MUM*

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Handwritten notes:
262
(290)
268
354
370
364
411

*2- Leona # 130
2- Vicki # 780
Salt # 339
411*

*1st 763
2nd 780
298 to Gate
out*



arts development services, inc. 237 main street buffalo, new york 14203 (716) 856-7520
a not for profit arts service/arts council