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**NATIONAL PARK SERVICE AND INDEPENDENCE VISITOR CENTER FAIL TO EXECUTE  
MANAGEMENT AGREEMENT, 10 YEARS AFTER PRESIDENT CLINTON SIGNED LAW**

***Non-compliance Plays Central Role In Lawsuit Filed By The Constitutional Walking Tour  
Against the National Park Service and Independence Visitor Center***

**Philadelphia, Pennsylvania** – December 7, 2009 - Today marks the 10 year anniversary of President Clinton signing the Independence Visitor Center Authorization Act<sup>1</sup>, which empowered the U.S. Secretary of the Interior to execute a detailed and long-term management agreement with the Independence Visitor Center Corporation (“IVCC”) to construct and operate the Independence Visitor Center (“Visitor Center”) at Independence National Historical Park (“INHP”) in Philadelphia.

After ten years, however, the National Park Service (“NPS”) has still not entered into a management agreement with the IVCC establishing fair and transparent policies and procedures for the management of the Visitor Center. Instead, the NPS has simply handed over management to the Visitor Center — which makes decisions in secret, outside of the careful safeguards that control the National Park Service — under the guise of a “Special Use Permit” that has been re-issued 26 separate times. Under the National Park Service’s own regulations, “Special Use Permits” are to allow a “short-term activity” that “provides a benefit to an individual, group or organization, rather than the public at large.” Clearly the operation of the Visitor Center is not a short-term activity, and the Visitor Center benefits the public at large. Special Use Permits should be used for purposes such as assemblies and demonstrations, not as a loophole for avoiding the laws passed by Congress.

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<sup>1</sup> Public Law 106-131, the Gateway [Independence] Visitor Center Authorization Act.

The Visitor Center land and building are owned by the taxpayers. So, too for all intents and purposes, is the non-profit corporation which runs the Visitor Center; the Federal government has provided north of \$6.4 million in taxpayer money to the IVCC to fund its secretive operations. The taxpayers deserve a transparent organization that won't vigorously object to complying with the Freedom of Information Act and the Pennsylvania Right to Know law.

The actions of the IVCC and National Park Service have not escaped the attention of both U.S. Senator Arlen Specter and U.S. Representative Robert Brady, who have each written to the National Park Service about various problems regarding the operations of the Visitor Center. On April 27, 2009, Congressman Brady wrote to Secretary of the Interior Ken Salazar, describing how "the failure of INHP [Independence National Historical Park] and the IVC [Independence Visitor Center] to execute the statutorily authorized Operating Agreement has had a material adverse effect on the overall visitor experience to America's Birthplace for numerous reasons, including violating the purpose and spirit of INHP's enabling legislation and INHP and IVC having effectively turned the taxpayer-supported IVC into a federally subsidized sales and staging area for large corporations offering tour related services in Philadelphia who have more favorable access to operate their businesses both inside and outside of the IVC on INHP property."<sup>2</sup>

The U.S. Senate also questioned Jonathan Jarvis, the new Director of the National Park Service, during his confirmation hearings in July 2009 why a law signed in 1999 about the Visitor Center has not been followed. Mr. Jarvis testified, "I am told that there are only a few legal and policy matters where agreement has not been reached, and it is expected that a final document will be signed this summer."

Summer has come and gone, and there is still no operating agreement. Instead, there have been six new extensions to the Special Use Permit.

The Constitutional Walking Tour conducts guided tours of INHP starting at the Visitor Center. Because of the numerous problems caused by the National Park Service's non-compliance with the Visitor Center Act, the jobs of 30 people at The Constitutional are now at stake, and one job loss in this economy is one job loss too many.

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<sup>2</sup> For a complete copy of Representative Robert Brady's letter, please see [www.theconstitutional.com/bradyletter](http://www.theconstitutional.com/bradyletter)

In order to preserve its rights, The Constitutional Walking Tour filed a lawsuit, Civil Action Number 09-3083, against the Independence Visitor Center Corporation and the National Park Service in Philadelphia in Federal Court in the Eastern District of Pennsylvania. The lawsuit alleges violations of the Administrative Procedures Act, deprivation of due process, breach of contract, breach of implied agreement to negotiate in good faith, unjust enrichment, tortious interference with existing and prospective contractual relations, and commercial disparagement. This lawsuit is about holding the stewards of Independence Park, a unit of the National Park Service, and the Independence Visitor Center to the standards of governmental fairness, accountability and transparency established by our country's Founders on that very ground at Independence National Historical Park.

**Statements by Jonathan Bari and Leslie Bari of The Constitutional Walking Tour**

"The Constitutional Walking Tour views litigation as a last resort," stated Jonathan Bari, President of The Constitutional Walking Tour. "However, given that we have exhausted all other administrative remedies over the last 4 years, we will now rely on the Rule of Law and the equal administration of justice to resolve this matter once and for all."

"With 2009 quickly coming to a close, we want to remind Mr. Jarvis of his commitment to the Senate and the American people when he testified, 'I support the effort to reach a conclusion on this agreement' and to that end we urge Mr. Jarvis to execute a management agreement restoring the Rule of Law at the Visitor Center before year-end," stated Leslie Bari, Executive Vice President of The Constitutional.

"While The Constitutional Walking Tour has had meaningful differences with the senior management of the National Park Service, specifically pertaining to Independence National Historical Park in Philadelphia, we truly value the work and dedication of the thousands of NPS staffers nationwide who proudly wear the National Park Service uniform – the gray and the green," stated Jonathan Bari.

"The Constitutional supports the laudable mission and goals of the National Park Service in Philadelphia as well as the Independence Visitor Center, but in terms of achieving their missions, the ends simply do not justify the means here," stated Leslie Bari. "Our Founding Fathers taught us that checks and balances are required for our system of government to work. However, a closer look at the Independence Visitor Center reveals that there are few, if any,

meaningful checks and balances in place with the Independence Visitor Center Corporation and the National Park Service to ensure that the taxpayers' investment in these public trusts is effective, efficient and fair such that the Independence Visitor Center works as the U.S. Congress intended it to work.”

### **Legal Representation**

The Constitutional Walking Tour is represented in this matter by Maxwell S. Kennerly, Esq. of The Beasley Firm, LLC in Philadelphia, Pennsylvania.

### **About The Constitutional Walking Tour of Philadelphia**

The Constitutional Walking Tour of Philadelphia takes visitors on a walking journey through America's Birthplace - "Where Every Day is Independence Day!"<sup>TM</sup>. Located in Historic Philadelphia, The Constitutional visits more than 20 of the most historical sites on a 75 minute, 1.25 mile outdoor adventure in the Independence National Historical Park area, which is home to the Liberty Bell and Independence Hall. The Constitutional guides visitors on a walk through history where The Declaration of Independence and the Constitution of the United States were created. The Constitutional offers factual information that is historically accurate and based upon current scholarship. The Constitutional is consistent with INHP's enabling legislation,<sup>3</sup> complements INHP's mission, values and visitor experience objectives, is appropriate for public use and enjoyment of INHP, is an environmentally friendly "green" tour, does not cause unacceptable impacts on INHP,<sup>4</sup> and benefits the Visitor Center and in turn the NPS financially from ticket sales for The Constitutional. For more information, see [www.TheConstitutional.com](http://www.TheConstitutional.com) .

Additional commentary and documentary information can be found at:

- [www.IndependencePark.blogspot.com](http://www.IndependencePark.blogspot.com)
- [www.TheConstitutional.com/nps](http://www.TheConstitutional.com/nps)

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<sup>3</sup> "Independence National Historical Park Act of 1948" - U.S. Code, Title 16, Chapter 1, Subchapter LI. <http://www4.law.cornell.edu/uscode/16/ch1schLI.html>

<sup>4</sup> Management Policies 2006, National Park Service, Section 10, page 144 - Commercial Visitor Services, ISBN 0-16-076874-8, <http://www.nps.gov/policy/MP2006.pdf>