



MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“the Agreement”) is made this 24th day of September, 2020 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement on behalf of the Department of Planning and Natural Resources (herein after “the Government”) and the Virgin Islands Office of Disaster Recovery (“ODR”), a subsidiary division of the Virgin Islands Public Finance Authority, an independent instrumentality of the Government (“the Authority”).

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to assist the Department of Planning and Natural Resources with the administration of its Fisheries Disaster Recovery Program (“the Program”), where such duties and responsibilities are more particularly described in Addendum I (Scope of Services) (“Services”) attached hereto; and

WHEREAS, the Government after both an internal solicitation process, and a public bid process was unable to identify a qualified vendor to provide the services needed; and

WHEREAS, the Authority has an existing contract with certain consultants to assist with the Virgin Islands recovery from the Hurricanes Irma and Maria in 2017 and is eligible to assist with the Program pursuant to the provisions of 31 V.I.C. § 239(a)(8); and

WHEREAS, the Authority, through its consultants is willing and capable of providing such services.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Authority will provide the Services described in Addendum I (Scope of Services) attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

This Agreement shall be effective upon the date of execution by the Parties and shall terminate 730 days thereafter unless sooner terminated in accordance with Section 17 (Termination) or unless otherwise extended or renewed for a period of one (1) year in writing. The Government shall have the option to renew this Agreement for a period of one (1) additional year subject to the same terms noted herein, by providing the Authority with sixty (60) days written notice of the Government’s election to renew.



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3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), agrees to pay the Authority a sum not to exceed Two Hundred and Seventy-one Thousand Six Hundred Fifty-three Dollars (\$271,653.00) in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Agreement.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government.

5. RECORDS

The Authority, when applicable, will present documented precise records of time and/or money expended under this Agreement.

6. PROFESSIONAL STANDARDS

The Authority agrees to maintain the professional standards applicable to its profession and to similar contractors doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Agreement shall become the property of the Government and shall be turned over to it at the termination of this Agreement. The above-described materials shall not be used by the Authority or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this Agreement shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by the Authority as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of the Authority of whatsoever nature, including but not limited to unemployment insurance and social security taxes for the PFA, its servants, agents or independent contractors.



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9. ASSIGNMENT

The Authority shall not subcontract or assign any part of the services under this Agreement without the prior written consent of the Government. The Government consents to the Authority's use of Witt O'Brien's, USVI LLC to assist the Contractor in completion of the Services.

10. INDEMNIFICATION

To the extent permitted by law, the Authority agrees to indemnify, defend and hold harmless the Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by the Authority under this Agreement and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Authority shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This Agreement shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this Agreement shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Agreement, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

15. RIGHT TO WITHHOLD



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If work under this Agreement is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to the Authority, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Authority in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while the Authority gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Agreement shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on sixty (60) days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Agreement may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing sixty (60) days written notice to the Authority. This partial termination shall be effected by delivering to the Authority a Notice of Partial Termination specifying the extent to which the term and/or duties under this Agreement are terminated and the date upon which such termination becomes effective. The Authority shall be entitled to receive payment for services provided to the date of termination, including payment for the period of sixty (60) day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Agreement on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

The Authority covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

21. NOTICE



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Any notice required to be given by the Terms of this MOA shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT

ANTHONY D. THOMAS
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas U.S. Virgin Islands 00802

JEAN-PIERRE L. ORIOL
Commissioner
Department of Planning and Natural Resources
Charles Turnbull Regional Library
St. Thomas U.S. Virgin Islands 00802

VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

KIRK CALLWOOD, Sr.
Executive Director
Virgin Islands Public Finance Authority
5033 Kongens Gade, Government Hill
St. Thomas, US Virgin Islands 00802

VIRGIN ISLANDS OFFICE OF DISASTER RECOVERY

ADRIENNE L. WILLIAMS-OCTALIEN
Director
Virgin Islands Office of Disaster Recover
1000 King Street, Suite No. 6
Christiansted, St. Croix
VI 00820-4905

22. LICENSURE

The Authority covenants that it has:

- (c) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code to the extent required by law; and
- (d) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations to the extent it applies to the Authority.

23. OTHER PROVISIONS



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Addenda I and II attached hereto are a part of this Agreement and are incorporated herein by reference.

24. DEBARMENT CERTIFICATION

By execution of this Agreement, the Authority certifies that it is eligible to receive awards using federally appropriated funds and that it has not been suspended or debarred from entering into agreements with any federal agency. The Authority shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT". In the event the Authority or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Authority or subcontractor agrees that it shall not be entitled to payment for any work performed under this Agreement or any subcontract and that the Authority or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

The Authority warrants that it shall not, with respect to this Agreement, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. The Authority acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

The Authority acknowledges that this Agreement is funded, in whole or in part, by federal funds. The Authority warrants that it shall not, with respect to this Agreement, make or present any claim knowing such claim to be false, fictitious, or fraudulent. The Authority acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

27. INSURANCE

The PFA shall maintain the following insurance coverages during the term of this MOA

WORKERS' COMPENSATION: The Authority shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FASCIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Agreement shall be deemed an original and binding upon the Parties hereto.



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IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

WITNESSES

GOVERNMENT OF THE VIRGIN ISLANDS

Richie Ayala 7/30/2020

Jean-Pierre L. Oriol
Jean-Pierre L. Oriol
Commissioner
Department of Planning and Natural Resources

30-July-2020
Date

Magdalene A. Francis

Anthony D. Thomas
Anthony D. Thomas
Commissioner
Department of Property and Procurement

9/24/2020
Date

VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

Jeanelle M. Georges

Kirk Callwood, Sr.
Kirk Callwood, Sr.
Executive Director

7/30/2020
Date

VIRGIN ISLANDS OFFICE OF DISASTER RECOVERY

Adrienne L. Williams-Octalien

Adrienne L. Williams-Octalien
Adrienne L. Williams-Octalien
Director

7/31/2020
Date

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: Paul E. McNeil Date 9/24/2020

PURCHASE ORDER NO. _____

VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY AND THE OFFICE OF DISASTER RECOVERY

BY: _____ Date _____

PO No. _____
G060PNRT20

Initials: _____