

PROFESSIONAL SERVICES CONTRACT

BY AND BETWEEN
**GOVERNMENT OF THE VIRGIN ISLANDS,
DEPARTMENT OF PROPERTY AND PROCUREMENT,
ON BEHALF OF
THE DEPARTMENT OF PUBLIC WORKS
AND
JAREDIAN DESIGN GROUP, LLC.**

THIS AGREEMENT is made as of the 30th day of October, 2014 in the Territory of the United States Virgin Islands, by and between the Virgin Islands Department of Property & Procurement on behalf the Department of Public Works (hereinafter referred to as "Government") and JAREDIAN DESIGN GROUP, LLC. (hereinafter referred to as "Contractor").

This Professional Services Contract constitutes the formal Agreement between the parties who represent and warrant that they are duly authorized to execute this agreement and will attest accordingly when and where necessary.

WITNESSETH:

WHEREAS, the Department of Public Works (DPW), recognizes the need of design services to upgrade and improve a portion of Store Tvaer Gade, Raadets Gade and Nye Gade in the Historic District of the town of Charlotte Amalie on St. Thomas, U. S. Virgin Islands. The work done under the Contract shall be done in conjunction with the existing Scope Of Work for improvements on Main Street, as done by the Contractor presently under Contract No. PC-070-DPW-11.

WHEREAS, the significant north/south streets comprising of Store Tvaer Gade, Raadets Gade and Nye Gade in the Historic District of the town of Charlotte Amalie, St. Thomas, U. S. Virgin Islands are critical in the circulation of foot and vehicular traffic within the Historic District, such that aesthetic enhancement of Main Street/Downtown cannot be completed without preparation of plans specifications and cost estimates for these Side Streets.

WHEREAS, the Contractor is the original designer of the Main Street Enhancement Project and has many years of experience in the field of architecture, engineering and construction management work within the Territory was deemed qualified to perform the Scope Of Work for this Project, and presented a negotiated fee that is in the best interest of the Government of the Virgin Islands; and

WHEREAS, the Contractor represents and warrants that it is willing, trained, qualified and capable to perform all work efforts specified herein for this DPW Project.

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.** Contractor will provide the services described in Addendum No. I (Scope Of Work) attached hereto and made a part of this Contract.

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2. **TERM.** This Contract shall commence upon the execution of this Contract by the Governor of the Virgin Islands and shall terminate two (2) years thereafter. Government and Contractor may extend this Agreement by executing an Exercise of Renewal Option without modification to terms for one (1) year.
3. **COMPENSATION.** The Government, in consideration of satisfactory performance of services described in the Scope Of Work, has agreed to pay the Contractor the amount not to exceed **THREE HUNDRED AND FORTY THOUSAND AND NO/100 DOLLARS (\$340,000.00)** in accordance with Addendum No. 2 (Compensation For Design Services/Fee Proposal Breakdown), attached hereto and made a part of this Contract.
4. **TRAVEL AND COMMUNICATION EXPENSES.** Inclusive in 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, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed N/A (\$0).
5. **RECORDS.** The Contractor, when applicable, will present documented, itemized precise records of time and/or money expended under this Contract.
6. **PROFESSIONAL STANDARDS.** The Contractor agrees to maintain the professional standards applicable to the above-mentioned profession and to consultants 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 here-from and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above-described material shall not be used by the Government, Contractor or any other person or entity except through a written agreement between the Government and the Contractor.
8. **FUNDING RESTRICTIONS/CANCELLATION.** Both parties acknowledge and agree that should Government funding be limited or restricted, it may affect funding for the Contractor. It is agreed that in the event funding is reduced or restricted, Government shall immediately notify Contractor. In this event, Government will only be obligated to reimburse Contractor for costs already incurred and obligated for payment up to the date of termination by Government. In the event that funds are reduced or restricted, Government and Contractor shall negotiate a new scope of services should the Contractor desire to perform the services required by the reduced level of effort.
9. **LIABILITY OF OTHERS.** Nothing in this Contract shall be construed to impose any liability upon Government to persons, firms, associations, or corporations engaged by Contractors 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 Contractor of

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whatsoever nature, including but not limited to unemployment insurance and social security taxes for the contractor, its servants, agents or independent contractors.

10. **INDEMNIFICATION.** Contractor agrees to investigate, defend and hold harmless 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 Contractor under this Contract and arising from any cause, except the sole negligence of Government.
11. **RELATIONSHIP OF THE PARTIES.** Except as otherwise expressly set forth herein, no agency, partnership, joint venture, or employment relationship shall be created or inferred by the existence or performance of this Contract, and neither Party shall have any authority to bind the other in any respect whatsoever. Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.
12. **NO THIRD-PARTY BENEFICIARIES.** Except as expressly set forth herein, nothing in this Contract is intended or will be construed to confer upon or to give to any third party any rights or remedies by virtue hereof.
13. **SEVERABILITY.** If any provision of this Agreement or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Contract shall be valid and enforceable to the extent permitted by law. If any provision of this Contract is held to be invalid or unenforceable for any reason, the Parties shall use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by the applicable law, achieves the purposes intended under the invalid or unenforceable provision.
14. **WAIVERS; AMENDMENTS AND MODIFICATIONS.** No waiver, modification or amendment of any term, condition or provision of this contract 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 Contract but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.
15. **ENTIRE AGREEMENT.** This Contract constitutes the entire agreement between the parties hereto and all prior understandings or communications, written or oral, with respect to the Project which are the subject matter of this Contract, are merged herein.
16. **EXPENSES.** Except as may otherwise be agreed in writing, Government and Contractor will bear and pay its own expenses in connection with all matters contemplated by this Contract.

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17. **RIGHT TO WITHHOLD.** If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor such sums as Government may deem ample to protect it against loss or to assure payment of claims arising there-from, and at its option, Government may apply such sums in such manner Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor 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 Contractor 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.
18. **CONDITION PRECEDENT.** This Contract shall be subject to the availability and appropriation of funds on a year to year basis and to the approval of the Governor.
19. **TERMINATION.** Either party will have the right to terminate this Contract with or without cause on thirty (30) days written notice to the other party specifying the date of termination.
20. **PARTIAL TERMINATION.** The performance of work under this Contract may be terminated by the Government in part, whenever the Government shall deem such termination advisable. The partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the thirty (30) day notice.
21. **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 Contract on account of race, creed, color, sex, religion, handicap or national origin.
22. **CONFLICT OF INTEREST.**
 - (a) Contractor covenant that (he/she) 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 Contract.
 - (b) Contractor further covenants that (he/she) is:
 - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or
 - (2) a territorial officer or employee and, as such, has:
 - (i) familiarized (himself/herself) with the provisions of Title 3, Chapter 37, of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof; and

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- (ii) not made, negotiated or influenced this contract, in (his/her) official capacity; and
- (iii) no financial interest in the contract as that term is defined in Section 1101 (1) of said Code chapter.

23. **EFFECTIVE DATE.** The effective date of this contract is upon the signature of the Governor.
24. **NOTICE.** Any notice required to be given by the Terms of this Contract shall 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

Darryl A. Smalls, P.E.
Commissioner
Virgin Islands Department of Public Works
No. 8244 Sub Base
St. Thomas, Virgin Islands 00802; and

Lynn A. Millin Maduro, Commissioner
Department of Property and Procurement
Sub Base, Building No. 1, Third Floor
St. Thomas, Virgin Islands 00802;

CONTRACTOR:

John P. Woods, AIA, NCARB
Principal
Jaredian Design Group, LLC.

Physical:
5333 Raadets Gade, Suite 14 – Queens Quarter
St. Thomas, U.S. Virgin Islands 00802;

Mailing:
P.O. Box 6218
St. Thomas, U.S. Virgin Islands 00804

25. **LICENSURE.** Contractor covenants that it has: (a) obtained all of the applicable licenses or permits, temporary or otherwise, as required by Title 27 of the Virgin Islands Code; and (b) familiarized himself/herself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.
26. **FALSE CLAIMS.** Contractor warrants that it shall not, with respect to this Contract, 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 claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

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27. **NOTICE OF FEDERAL FUNDING.** Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make, or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.
28. **DEBARMENT CERTIFICATION.** By execution of this Contract, the Contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor 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 Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.
29. **GOVERNING LAW; DISPUTE RESOLUTION.** This Contract shall be interpreted according to the laws of the United States Virgin Islands, applicable to agreements made and to be performed therein, but without regard to any principles of conflicts of law. The Parties hereby submit to the exclusive jurisdiction and venue of the state and federal courts in St. Thomas, Virgin Islands, for the resolution of any and all disputes arising under or in connection with this or any related agreement between the Parties. Any claim or controversy arising among or between the Parties hereto pertaining to this Contract and any claim or controversy arising out of or respecting any matter contained in this Contract or any difference as to the interpretation of any of the provisions of this Contract shall be first settled by mediation conducted on St. Thomas by a mediator associated with the American Mediation Institute and the choice of mediators shall be agreed to in writing by both parties. In legal proceedings instituted to enforce this Contract, the prevailing Party (as determined by the Trier of Fact) shall be entitled to the award of its reasonable attorney's fees and court costs, plus costs incurred by it in executing and/or collecting any judgment, at all trial and appellate levels.
30. **OTHER PROVISIONS.** Addendum I, Addendum II, Addendum III, Attachment No. 1, and Attachment No. 2 are part of this Contract and are incorporated herein by reference.

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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

[Signature]

[Signature]
Darryl A. Smalls, P.E.
Commissioner
Virgin Islands Department of Public Works

9/29/14
Date

[Signature]

[Signature]
Lynn A. Millin Maduro
Commissioner
Department of Property and Procurement

10/13/14
Date

CONTRACTOR:
JAREDIAN DESIGN GROUP, LLC.
(EIN: 66-0519708)

[Signature]

[Signature]
John P. Woods, AIA, NCARB
Principal

6/6/14
Date

APPROVED:

[Signature]
JOHN P. deJONGH, JR.
GOVERNOR OF THE VIRGIN ISLANDS

Date: 10/30/2014

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

[Signature] Date: 10/29/14

MED. NO.

ACCOUNT CODE NO.

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[Signature] 6/6/14
Contractor's Initials/Date