

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 5th day of November, 2014 by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Department of Planning and Natural Resources ("Government") 8100 Lindberg Bay Suite No. 61, Cyril E. King Airport, Terminal Building 2nd Floor, St. Thomas VI 00802 and Ocean Systems Laboratory of St. Thomas, Inc. ("Contractor") 6194 Estate Frydenhoj, St. Thomas, VI 00802 (Collectively the "Parties").

WITNESSETH:

WHEREAS, the Department of Planning and Natural Resources ("DPNR"), through the Coastal Water Quality Monitoring Program, is responsible for the quarterly monitoring of the coastal waters of the USVI;

WHEREAS, DPNR, through its Water Pollution Control Program, is responsible for the administration and enforcement of the Territorial Pollutant Discharge Elimination System ("TPDES");

WHEREAS, enforcement of TPDES requires laboratory analysis of water samples collected from regulated facilities during CSI and CEI inspections;

WHEREAS, DPNR, through its Public Water Systems Supervision Program ("PWSS"), is responsible for overseeing public water systems in order to protect the public health;

WHEREAS, administration of the PWSS Program requires laboratory analysis of water samples collected for (i) surveillance water sampling (including new systems, citizen complaints, QC samples from annual water hauler inspections) and (ii) sanitary surveys of WAPA.

WHEREAS, DPNR acknowledges that it has and continues to, including the effective date of the Contract, utilize the Contractor to provide the analytical laboratory services associated with the quarterly monitoring of the coastal waters, periodic sampling of regulated TPDES facilities, and the sample analysis under the PWSS program ("Prior Analyses");

WHEREAS, DPNR further acknowledges that the Contractor has invoiced DPNR for the Prior Analyses and that the invoices remain outstanding and unpaid;

WHEREAS, the Government remains in need of the services of a contractor to provide analytical laboratory services to support water quality assessment initiatives for the TPDES and PWSS programs in the St. Thomas/ St. John District, which duties and responsibilities are more

PC005PNR15



particularly described in Addendum I (Scope of Work) and Addendum II (Terms of Compensation) attached hereto and made a part of this Contract; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services in an expeditious manner and in accordance with the specifications cited in Addendum I and Addendum II.

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

1. **SERVICES**

The Contractor will provide the services described in Addendum I (Scope of Work) attached hereto and made a part of this Contract.

2. **TERM**

This Contract shall commence upon execution by the Governor of the Virgin Islands and shall terminate one (1) year thereafter, unless mutually extended or terminated by the parties in accordance with the applicable terms of this Contract.

3. **COMPENSATION**

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), including the Prior Sampling, agrees to pay Contractor a sum not to exceed Eighty-Five Thousand Five Hundred Dollars (\$85,500.00) in accordance with the provisions set forth in Addendum II (Terms of Compensation) attached hereto and made a part of this Contract.

4. **RECORDS**

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

5. **PROFESSIONAL STANDARDS**

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

6. **DOCUMENTS, PRINTOUTS, ETC.**

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

7. **LIABILITY OF OTHERS**

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor 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 Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

8. **ASSIGNMENT**

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

9. **INDEMNIFICATION**

The Contractor agrees to investigate, defend and hold harmless the Government from and against any and all losses, damages, liabilities, claims, demands, detriments, costs, charges and expenses (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.

10. **INDEPENDENT CONTRACTOR**

PC005PNR15



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

11. GOVERNING LAW

The laws of the United States Virgin Islands shall govern this Contract and jurisdiction over this Contract shall remain in the United States Virgin Islands.

12. WAIVERS AND AMENDMENTS

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.


13. 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 is the subject matter of this Contract, are merged herein.

14. 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 the Contractor, 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 Contractor in writing in the event that it elects to exercise its right to withhold.

PC005PNR15



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.

15. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

16. 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.

17. 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. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term(s) 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) days notice.


18. 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, disability or national origin.

19. CONFLICT OF INTEREST

(a) Contractor 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 Contract.

PC005PNR15



(b) Contractor further covenants that it 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 itself 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;

(ii) not made, negotiated or influenced this Contract, in its official capacity;

(iii) no financial interest in the Contract as that term is defined in section 1101 (1) of said Code chapter.

20. **EFFECTIVE DATE**

The effective date of this Contract shall be the date of execution of the Contract by the Governor.

21. **NOTICE**


Any notice required to be given by the Terms of this Contract, 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

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

Jean-Pierre Oriol
Acting Commissioner
Department of Planning & Natural Resources
No. 45 Mars Hill
Frederiksted, Virgin Islands 00840

PC005PNR15



CONTRACTOR

Amy Claire Dempsey
Vice President
Ocean Systems Laboratory of St. Thomas, Inc.
6194 Estate Frydenhoj
St. Thomas, VI 00802

22. **LICENSURE**

The Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. **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.

24. **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.

25. **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

PC005PNR15



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.

26. TRAVEL EXPENSES

The Government shall pay no travel expenses.

27. OTHER PROVISIONS

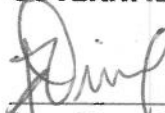
Addendum I (Scope of Work) and Addendum II (Terms of Compensation) attached hereto are a part of this Contract and are incorporated herein by reference.

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

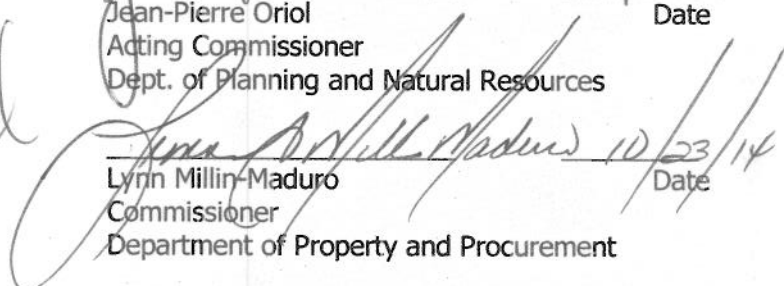
WITNESSES




GOVERNMENT OF THE VIRGIN ISLANDS


Jean-Pierre Oriol
Acting Commissioner
Dept. of Planning and Natural Resources

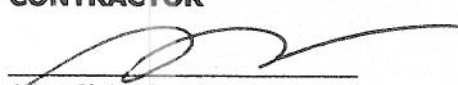
15-Sep-2014
Date


Lynn Millin-Maduro
Commissioner
Department of Property and Procurement

10/23/14
Date

CONTRACTOR




Amy Claire Dempsey, Vice President
Ocean Systems Laboratory of St. Thomas, Inc.
(Corporate Seal, if Contractor is a corporation)

9/1/14
Date

PC005PNR15