

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT ("Contract") is made this 20th day of December, 2018 in the Territory of the U. S. Virgin Islands, by and between the Government of the Virgin Islands, **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT OF EDUCATION** (hereinafter referred to as "Government") of 1834 Kongens Gade, St. Thomas, U.S. Virgin Islands 00802 and **MILESTONE HEALTHCARE, LLC d/b/a MILESTONE STAFFING SERVICES** of 275 W. Campbell Rd., Richardson, TX 75080 ") (hereinafter referred to as "Contractor" or "Milestone")

WITNESSETH:

WHEREAS, the Department is responsible to promote the cause of education and achieve a high level of general education throughout the Virgin Islands pursuant to Title 3, Chapter 7, Section 96(a)(1); and

WHEREAS, the Government is in need of the services of a Contractor to supply the Department of Education ("Department" or "VIDE"), St. Thomas/St. John and St. Croix School District Offices of Special Education with Occupational Therapist(s), Physical Therapists(s), Speech Therapists, Vision Specialist(s)/Teacher(s) and other specified therapists ("Therapists") that would provide related therapeutic services to designated special education students between the age of three to twenty one (3-21) in accordance with their Individualized Education Plans (IEPs) to satisfy the mandates described in the Individuals with Disabilities Education Act ("IDEA") during the 2018-2019 School Year; and

WHEREAS, Pursuant to 31 V.I.C. §236, **Request for Proposal No. 002-T-2019(P)** was issued by the Department of Property and Procurement for qualified firms or individuals to provide Therapeutic Services to Students with Special Needs in the St. Thomas/St. John and St. Croix School Districts; and

WHEREAS, Milestone Healthcare, LLC was recommended by the Government's Evaluation Committee and approved by the Commissioner of the Department of Property and Procurement to provide the services particularly described in Addendum I (Scope of Work) attached hereto and made part of this Contract; and

WHEREAS, the Contractor represents that it willing and capable of providing services particularly described in Addendum I (Scope of Work) attached hereto and made part of this Contract; and

WHEREAS, the Contractor represents that it has complied with all the applicable local and federal laws, rules, and regulations, as they apply to the implementation of the Contract; and

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

2. TERM

Upon execution of this Contract by the Governor of the Virgin Islands the Contract shall be effective for a Term beginning from December 20, 2018 to August 31, 2019. The Government in its sole discretion, shall have the option to renew this Contract for one (1) additional one (1) year period subject to the appropriation and availability of funds and to the same terms noted herein, by providing the Contractor with sixty (60) days written notice of the Government's election to renew.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in ADDENDUM I (Scope of Work), agrees to pay Contractor the sum of **ONE MILLION, SEVEN HUNDRED FORTY ONE THOUSAND, SIX HUNDRED DOLLARS AND ZERO CENTS (\$1,741,600.00)** in accordance with the provisions set forth in ADDENDUM II (Compensation) attached hereto and made a part of this Contract. Compensation for Renewal Option Year 1 shall be in an amount of **THREE MILLION, FOUR HUNDRED TWENTY THREE THOUSAND DOLLARS AND ZERO CENTS (\$3,423,000.00)**.

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, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed **Not Applicable (N/A)**

5. RECORDS

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

6. 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.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom 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 materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

8. 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 the 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.

9. ASSIGNMENT

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

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against 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 the extent caused, during the performance of services under this Agreement, by the negligent acts, errors or omissions of the Contractor or anyone for whom the Contractor is legally responsible, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from gross negligence, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

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.

12. GOVERNING LAW

This Contract 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 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.

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

If work under this Contract is not performed in good faith, 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 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.

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.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor of the U.S. Virgin Islands.

17. 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.

18. 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 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 30-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 Contract on account of race, creed, color, sex, religion, disability or national origin.

20. 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.

(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.

21. EFFECTIVE DATE

The effective date of this Contract shall be the day of execution of the Contract by the Governor of the U. S. Virgin Islands

22. 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 Anthony D. Thomas, Commissioner Nominee
DEPARTMENT OF PROPERTY AND PROCUREMENT
8201 Sub Base, 3rd Floor
St. Thomas, U.S. Virgin Islands 00802

Racquel Berry-Benjamin, Commissioner Nominee
DEPARTMENT OF EDUCATION
1834 Kongens Gade
St. Thomas, U.S. Virgin Islands, 00802

CONTRACTOR George Thompson, General Manager
MILESTONE HEALTHCARE, LLC d/b/a
MILESTONE STAFFING SERVICES
275 W Campbell Rd, Suite
Richardson, TX 75080

23. 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.

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 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. 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 claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

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 offence.

28. LIABILITY INSURANCE

The Contractor shall maintain the following insurance coverages during the term of this Contract.

- (a) **COMMERCIAL GENERAL LIABILITY:** Commercial General Liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than One Million Dollars and Zero Cents (\$1,000,000.00) for anyone per occurrence for death or personal injury and one Million Dollars (\$1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement.
- (b) **MEDICAL PROFESSIONAL LIABILITY:** Medical Professional Liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than One

Million Dollars and Zero Cents (\$1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.

- (c) **WORKERS' COMPENSATION:** Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

29. BILLING PROCEDURES and PAYMENT

The Government will pay Contractor upon receipt of properly completed invoices to be submitted monthly. The invoices shall describe and document to the Government's satisfaction, and shall contain information, including but not limited to, the period of services covered by the invoice, description of the services performed, and the amount of fees in accordance with the compensation schedule agreed upon by the parties. Each invoice must be accompanied by applicable supporting documents, including but not limited to monthly reports, daily individual student/client SOPA record, and any other deliverables due for the applicable invoice period.

Payment shall be considered timely if made by the Government within forty five (45) days after receipt of properly completed invoices, and verification that the services invoiced were provided in accordance with the Contract and all applicable federal and local laws and regulations, including all applicable policies, rules and procedures pertaining to the Contract or the services provided hereunder. Payment shall be sent to the address designated by the Contractor. The Government may, at its sole discretion, withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of the Contract. No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the Government.

30. FORCE MAJEURE

Neither Party shall be liable to the other for any delays or failure to perform under this Contract, as a result of conditions reasonably beyond the Party's control including but not limited to war, terrorist acts, riot, strikes, fire, earthquakes, hurricanes, floods, or any act of God.

31. SEVERABILITY

If any of the provisions of this Contract are determined to be invalid, such invalidity shall not affect or impair the validity of the other provisions, which shall be considered severable and shall remain in full force and effect.

32. NON-PERFORMANCE BY SELECTED CONTRACTOR

In the event of the Contractor's non-performance, , under the Contract and/or the violation or breach of the contract terms, the Government shall have the right to pursue all administrative, contractual, and legal remedies against the Contractor and shall have the right to seek all sanctions and penalties as may be appropriate. Further, either party shall have the

right to terminate the contract with or without cause upon the agreed upon written notice to the other party specifying the date of termination in accordance with Paragraph 17.

33. NONWORKING DAYS

All holidays, whether local or federal, are generally considered as non-working, non-paid days for therapists under this Contract unless Contractor chooses to compensate therapists. Holidays specifically recognized by the Contract are New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, as well as those holidays set out on the Public School Calendar (Attachment A) for Elementary, Junior High, and High Schools each applicable school year. The applicable Public School Calendars shall be provided to the Contractor within a reasonable time before the start of the academic school year.

Days lost due to exigent circumstances such as hurricanes, rain out days, strike days, or other official closure of schools are considered as non-working days, non-paid days for the therapists. Notwithstanding the last day of school that is designated in the Public School Calendars, the Government may recover such days as are necessary by extending the school year and/or the dates for Summer School, and by the parties entering into an extension agreement to this Contract.

34. OPTION TO CHANGE THERAPISTS REQUESTED

The Department shall have the ability to request the number therapist for each discipline and request the substitution of one discipline of therapist for another according to the need of each District as determined by the Commissioner of Education or his or her designee. Such adjustment will be requested in writing to the Contractor in accordance to Paragraph 22 of the Contract, providing that such adjustment does not increase the compensation amount under the Contract.

35. THERAPISTS RATE OF COMPENSATION

The Contractor shall be compensated at the rate per hour for each therapist for the services as provided in Addendum II attached hereto and made part of this Contract based on verified attendance records submitted to both district Directors of Special Education and/or their authorized designee. The compensation will be computed on the basis of each therapists' actual number of hours worked, which shall be eight (8) hours a day, Monday through Friday between the hours of 7:45 a.m. to 5:00 p.m., excluding lunch, during the regular school year; and six (6) hours a day, Monday through Friday between the hours of 7:45 a.m. to 3:00 p.m., excluding lunch, during the summer.


36. OTHER PROVISIONS

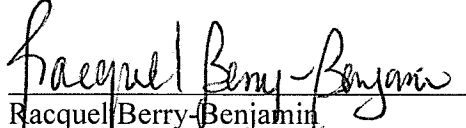
Addendum I, Addendum II, Addendum III, and Attachment A, and the Contractor's eligibility documents are attached hereto, made a part of this Contract and are incorporated herein by reference.

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

WITNESSES:

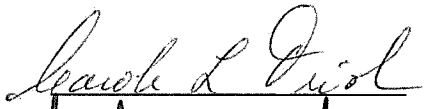
**GOVERNMENT OF THE VIRGIN ISLANDS
DEPARTMENT OF EDUCATION**

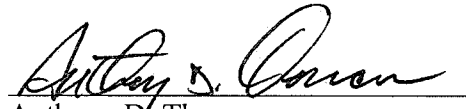

Francis
Governor


Racquel Berry-Benjamin
Commissioner Nominee

5/20/19
Date

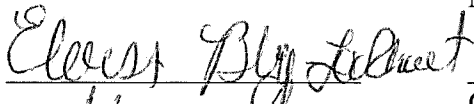
Department of Property and Procurement

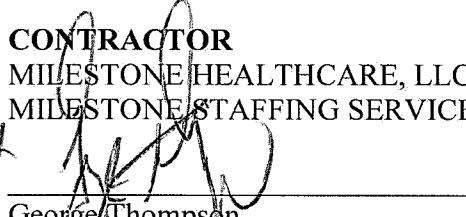

Magdelena A. Moana


Anthony D. Thomas
Commissioner Nominee

6.19.19
Date

**CONTRACTOR
MILESTONE HEALTHCARE, LLC DBA
MILESTONE STAFFING SERVICES**


George Thompson
General Manager


George Thompson
General Manager


05.14.19
Date

APPROVED:


Honorable Albert Bryan, Jr.
GOVERNOR OF THE VIRGIN ISLANDS

Date: 6/25/19

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY


Date 6/21/19

9734, 9052, 179, and 14422
PURCHASE ORDER NO.