

CONTRACT FOR PROFESSIONAL SERVICES

THIS Contract is made as of the 16th day of Dec, 2017 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 Virgin Islands Bureau of Corrections (hereinafter referred to as "Government" or "USVI") and CoreCivic of Tennessee, LLC (hereinafter referred to as "Contractor") with an address of 10 Burton Hills Blvd., Nashville, Tennessee 37215 and with Citrus County, Florida, by and through its Board of Commissioners, 110 N. Apopka Ave. Inverness, Florida, 34450 (hereinafter referred to as "County") as owner of the Citrus County Detention Facility in Lecanto, Florida.

WITNESSETH:

WHEREAS, the Government is in need of certain off-island facilities to house Virgin Islands inmates on an ongoing basis; and

WHEREAS, the parties had a previous agreement, Contract No. PC097BOC15, which expired on December 15, 2017, and wish to enter into a new contract; and

WHEREAS, the Contractor is willing and capable of housing Virgin Islands inmates by taking custody of United States Virgin Islands inmates at its facilities as listed in Schedule "A-1", including the facility known as the Citrus County Detention Facility located in Lecanto, Florida; and

WHEREAS, the authority of the Government to enter into this contract is set out in Section 4503 of Title 5, Virgin Islands Code; and

WHEREAS, County is the owner of the Citrus County Detention Facility located in Lecanto, Florida; and

WHEREAS, the Contractor operates the Citrus County Detention Facility; and

WHEREAS, the County approves of this contract for the Government to house Virgin Islands inmates at the Citrus County Detention Facility in Lecanto, Florida with services provided by the Contractor; and

WHEREAS, the Contractor owns and/or operates certain other private correctional facilities as described and located as set forth on the attached Schedule A-1 and will provide services as described in this Contract.

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

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1. SERVICES

Contractor shall take custody of and house Virgin Islands inmates at the Facilities listed in Schedule "A-1" based on the Contractor's determination that space is available, and in accordance with the duties and responsibilities that are more particularly described in Addendum I (Scope of Services), which is attached hereto and made a part of this contract.

2. TERM

Upon execution of this Contract by the Governor of the Virgin Islands, the term of this Contract shall commence on December 16, 2017, and shall terminate on December 15, 2019.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services as described in Addendum I (Scope of Services), agrees to pay Contractor a total sum not to exceed NINE MILLION, EIGHT HUNDRED FIFTY-FIVE THOUSAND and 00/100 DOLLARS (\$9,855,000.00), during the term of this contract, for an amount not in excess of FOUR MILLION, NINE HUNDRED TWENTY-SEVEN THOUSAND, FIVE HUNDRED and 00/100 DOLLARS (\$4,927,500.00), per annum, in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Contract.

4. TRAVEL EXPENSE

NOT APPLICABLE.

5. RECORDS

Contractor, including its employees and subcontractors, shall maintain all books, documents, papers, medical records, charges, complaints, hearings, disciplinary records, and all other inmate records which a correctional institution is required to make and keep, and bring to the attention of Government. Such records shall be kept in each inmate file and turned over to the Government at the expiration of this Contract. Contractor may keep copies of said records as may be necessary to resolve any matters which may be pending. Upon resolution of the matter, those copied records may be destroyed by Contractor. Notwithstanding the foregoing, USVI will not have any rights to inspect or copy Contractor's non-public financial records or proprietary information. The Contractor, when applicable, will present documented precise records of time and/or money expended under this Contract.

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6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards recommended and followed by the American Correctional Association in the conduct of performing the services described in Addendum I.

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. Notwithstanding the foregoing, USVI will not have any rights to inspect or copy Contractor's non-public financial records or proprietary information. 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, its departments, agencies, officers, and staff, and persons, firms, associations, or corporations engaged by Contractor as servants, agents, 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, responsibilities, 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, transfer or assign any part of the services under this Contract without prior written consent of the Government (such consent shall not be unreasonable withheld). Notwithstanding this provision, the Government approves the Contractor's food service vendor, Trinity Services Group, Inc. and commissary supplier, Keefe Group, as subcontractors under this Contract.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless the Government from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which the Government may incur, sustain or be subjected to, arising out of or in any way connected to the

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services to be performed by Contractor, its employees, agents, or subcontractors, under this Contract and arising from any cause, except the sole negligence of Government.

Cost of Defense. The Government acknowledges that it will defend, at its own cost, any post-conviction action, including, without limitation, appeals and writs of habeas corpus filed by any inmate challenging the underlying judgment or conviction or the administration of the sentence imposed and all actions filed by inmates or others challenging the decision or right of the Government to place USVI Inmates with Contractor at the Facilities.

11. LIMITATION OF CONTRACTOR LIABILITY

(a) Contractor's liability to the Government under or relating to this Contract shall be limited to actual damages and shall in no event exceed Four Million, Nine Hundred Twenty Seven Thousand, Five Hundred Dollars and 00/100 Cents (\$4,927,500.00), per annum, and in no event shall Contractor be liable to the Government for any indirect, special, incidental, exemplary or consequential damages (including, without limitation, lost profits or good will) related to this Contract.

(b) The limitation of liability provided for in subsection (a) of this Section shall not apply in the event of gross negligence, reckless conduct, or willful misconduct on the part of the Contractor, its employees, agents or subcontractors, which event of gross negligence, reckless conduct, or willful misconduct shall include, but in no way be limited to or by, the following:

- (1) Transmission of communicable diseases;
- (2) Sexual misconduct;
- (3) Acts performed while under the influence of alcohol, narcotics, hallucinogenic agents or which results from substance abuse; and
- (4) Personal injury caused by or incurred at the discretion of Contractor, its employees, agents or independent contractors, where Contractor, its employees, agents, or independent contractors, knew or should have known that their action, or inaction, would result in such injury.

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12. INSURANCE

(a) Contractor agrees to procure and provide evidence of the following insurance policies in the amount and with the type of coverage shown below.

- (1) Compliance with 24 V.I.C. § 273 requiring employer contributions to the Workers Compensation Insurance Fund. Not Applicable
- (2) Commercial General Liability insurance on an "Occurrence Basis" with limits of liability not less than \$ 5,000,000.00 per occurrence.
- (3) Motor Vehicle Liability, including No-Fault coverage, with limits of liability not less than \$ 2,500,000.00 per occurrence. Coverage shall include all non-owned vehicles and, all hired vehicles.
- (4) Professional Liability insurance in a form acceptable to the Government with a limit of liability of not less than \$ 5,000,000.00 per occurrence.

(b) Contractor warrants that during the term of the Contract it shall comply with the above-listed insurance requirements and maintain the above-listed insurance policies in the amounts and type of coverage indicated. The Government acknowledges that any AAA rated insurance carrier will be acceptable.

(c) This Contract is subject to Contractor providing the Government with a Certificate of Insurance evidencing the Commercial General Liability, Motor Vehicle Liability, and Professional Liability Insurance coverage described above. Said Certificate of Insurance shall identify Contractor as the "Named Insured" and the Government as the "Certificate Holder."

(d) If the policy for any liability insurance described above is on a claims-made basis, the policy shall be acceptable provided that Contractor submit with the applicable Certificate of Insurance documentation evidencing an extended reporting endorsement (tail) for a period of not less than 3 years after the end of the Contract term.

(e) Evidence of insurance documenting the required coverage under this Contract shall be provided to the Government prior to the commencement of services under this Contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the commencement of services, all payments under this contract shall be withheld until evidence of the extended reporting endorsement is provided to the Government.

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(f) The policies evidencing required insurance shall also contain an endorsement to the effect that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or Contractor gives written notice to the Government. If, during the performance period of this Contract, Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this Section, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

(g) Contractor shall insert the substance of this Section, including this paragraph (g), in all subcontracts under this contract and shall require such subcontractors to provide evidence of and maintain insurance in accordance with this Section. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Government evidence of such insurance.

13. 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.

14. 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.

15. 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 representative, 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.

16. 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 subject matter of this Contract, are merged herein.

17. RIGHT TO WITHHOLD

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(a) If services under this Contract are not performed in accordance with the terms hereof, the Government will have the right to withhold out of any payment due to Contractor, such sums as the Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, the Government may apply such sums in such manner as the Government may deem proper to secure itself or to satisfy such claims, provided no payment may be withheld until the Government has given the Contractor at least thirty (30) days written notice to cure the failure to perform. The 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 the Government if and while Contractor gives satisfactory assurance to the Government that such claims will be paid by the Contractor or its insurance carrier, if applicable, in the event that such contest is not successful.

(b) Should the Government fail to make timely payments (including any grace periods) under the terms of the Contract, the Contractor may issue a sixty (60) day written notice of its intent to discontinue services until payment is received and to return the inmates to the US Virgin Islands at the additional expense of the Government. Should the Government continue to fail to make payment, all other remedies provided for herein may be applied.

18. CONDITION PRECEDENT

This Contract shall be subject to the availability of funds appropriated for such purpose and to the approval of the Governor of the Virgin Islands. The Government shall confirm in writing to Contractor annually that funds necessary to implement the Contract have been appropriated in each Budget covering the fiscal-year.

19. TERMINATION

(a) Either party shall 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.

(b) Termination shall be effected by delivering to the other party a Notice of Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which 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 sixty (60) day notice.

20. PARTIAL TERMINATION

NOT APPLICABLE.

21. NON-DISCRIMINATION

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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.

22. 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 compensation 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, 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.

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. EFFECTIVE DATE

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This Contract is expressly subject to the appropriation of funds and the effective date is upon the signature of the Governor. The term of this Contract shall commence on December 16, 2017.

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25. NOTICE

All notice arising out of or from the provisions of this Contract, except as otherwise required herein, shall be in writing and given to the parties at the address provided, delivered either by a nationally recognized overnight courier mail service, certified mail, return receipt requested, facsimile at the telefax number provided below with proof of successful transmittal. or delivery in person.

To Contractor:

Cole Carter
Executive Vice President and General
Counsel
CoreCivic of Tennessee, LLC
10 Burton Hills Blvd.
Nashville, TN 37215
Tel. 615-263-3000
Fax. 615-263-3020

To Government:

Wynnie Testamark
Director Designee
Virgin Islands Bureau of Corrections
RR 1, Box 9955, Kingshill
St. Croix, VI 00820
Tel. 340-778-0400
Fax. 340-712-3119

Anthony Thomas
Commissioner-Designee
Department of Property & Procurement
Sub Base # 1
St. Thomas, VI. 00802
Tel. (340) 774-0828
Fax. (340) 774-9587

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To County:

Jeff Kinnard, DC
Chairman
Citrus County
110 N. Apopka Ave.
Inverness, FL 34450
Tel. (352) 341-6560
Fax. (352) 341-6584

26. LICENSURE

The Contractor covenants that it has obtained all of the applicable licenses or permits, temporary or otherwise, as required by federal or state law to perform under this Contract.

27. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract may be 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 sub-contracts hereunder after the effective date of this Contract and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT." In the event the Contractor or sub-Contractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or sub-Contractor agrees that it shall not be entitled to payment for any work performed under this contract or sub-contract and that the Contractor or sub-Contractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

29. COUNTY APPROVAL

The County approves of this contract for the Government to house Virgin Islands inmates at the Citrus County Detention Facility in Lecanto, Florida with services provided by the Contractor.

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30. OTHER PROVISIONS

ADDENDUM I (Scope of Services) and ADDENDUM II (Compensation) and SCHEDULE A-1 (List of Eligible Contractor Facilities) attached hereto contain other provisions that are made a part of this Contract, and are incorporated herein by reference.

IN WITNESS WHEREOF, the parties intending to be legally bound have hereunto set their hands on the day and year first above written.

WITNESS:

Leah L. Diol

GOVERNMENT OF THE VIRGIN ISLANDS

Anthony D. Thomas

8/23/19

Anthony D. Thomas Date
Commissioner-Designee
Department of Property & Procurement

BUREAU OF CORRECTIONS

Wynne Testamark

Wynne Testamark

6/10/19

Wynne Testamark
Date
Director Designee
Bureau of Corrections

CORECIVIC OF TENNESSEE, LLC

Brian Ferrell

Brian Ferrell

3/19/19

Brian Ferrell Date
Vice President, Partnership Development

CITRUS COUNTY



Jeff Kinnard

3/26/19

Jeff Kinnard, DC
Chairman
Citrus County


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WT*

APPROVED:



Albert Bryan, Jr.
Governor of the Virgin Islands

10/9/19
Date

Approved as to legal sufficiency at the V.I. Department of Justice



Date: 9/30/19

M.E.D. No. _____

Account Code No. _____

Contract No. _____

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