



**MEMORANDUM OF
UNDERSTANDING BETWEEN
THE VIRGIN ISLANDS DEPARTMENT OF HEALTH
PUBLIC HEALTH PREPAREDNESS DIVISION
&
NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND
PREVENTION, INC.
THROUGH
THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND
PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this 5th day of October 2020 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Health, Public Health Preparedness Division (“VIDOH”) and National Foundation for the Centers for Disease Control and Prevention, Inc. (“CDC Foundation”), through the Department of Property and Procurement.

WITNESSETH:

Whereas, the Virgin Islands Department of Health is responsible for the functions as both the state regulatory agency and the territorial public health agency for the U.S. Virgin Islands pursuant to Title(s) 3 and 19, Section(s) 19 and 1-8 respectively, of the Virgin Islands Code; and

Whereas, the National Foundation for the Centers for Disease Control and Prevention, Inc., is an independent nonprofit and the sole entity created by Congress to mobilize philanthropic and private-sector resources to support the Centers for Disease Control and Prevention’s critical health protection work.; and

Whereas, the agencies have a common interest in the implementing the Hurricane 2017 Jurisdictional Disaster Reconstitution (the “Project”); and

Whereas, the CDC Foundation was awarded a grant to provide support to Puerto Rico and the U.S. Virgin Islands (USVI) after the 2017 Hurricanes through the Jurisdictional Disaster Reconstitution Management Funding Award with a project period September 1, 2018 through June 30, 2021 by the Centers for Disease Control and Prevention Grant No. 6 NU1ROT000008-01-06, CFDA Number(s) 93.391 (the “Prime Award”).

Whereas the agencies desire to combine efforts in ensuring the implementation of the Hurricane 2017 Jurisdictional Disaster Reconstitution (the “Project”), by entering into this MOU.

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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. TERM AND EFFECTIVE DATE

This MOU shall be effective, as of October 5, 2020, upon the date of execution of this MOU by the Commissioner of the Department of Property and Procurement, and shall terminate June 30, 2021.

2. COSTS

There shall be no exchange of funds between the Parties for the performance of tasks under this MOU. Each Party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

3. RESPONSIBILITIES / TASKS

3.1 Department of Health, Public Health Preparedness Division shall be responsible for:

- a) Providing a safe and secure space in Central Office (or other appropriate location) for CDC Foundation employee, a Performance Improvement Manager assigned to the Project.
- b) Provide the CDC Foundation employees with safety training regarding use of VIDOH's Central Office.
- c) As may be required or necessary, provide the CDC Foundation employee with the following amenities: printer access, copy machine access, meeting room access, kitchen/breakroom access, clearance to enter the Central Office, and parking.
- d) Ensure the safety of CDC Foundation employee, including requiring and utilizing safe infection prevention control practices, such as proper personal protective equipment, as set forth by the CDC, and inform the CDC Foundation of CDC Foundation employees that fall ill.
- e) VIDOH is responsible for coordinating any configuration requirements and the costs incurred in the configuration required to make the CDC Foundation provided laptop operational for the CDC Foundation employee hereunder.
- f) Notify the CDC Foundation if concerns arise regarding the CDC Foundation employees' ability to complete designated Project assignments.



3.2 CDC Foundation shall be responsible for:

- a) The CDC Foundation will temporarily assign employee(s) to the work from the VIDOH office at Charles Harwood Complex 3500 Estate Richmond, Christiansted, VI 00820. The CDC Foundation employees will comply with the policies and procedures of the CDC Foundation.
- b) The assigned Performance Improvement Manager (PIM) will manage and coordinate organization-wide efforts to ensure that performance management (PM) and quality improvement (QI) programs are developed and managed using a data-driven focus that sets priorities for improvements aligned to ongoing strategic imperatives. This position assures that organization-wide PMQI initiatives are focused and aligned on improving operational and program efficiencies and effectiveness; participates in organizational strategic planning and provides leadership for PM and QI policy development; provides leadership and coordination for improving the organization's core public health functions and evaluating the impact that systems improvements have on the public's health; and researches and develops PM and QI training programs that focus on enabling the workforce to achieve improvements with priority health concerns.
- c) The CDC Foundation employees will be provided a laptop, with Microsoft Office software, and/or phone if the job positions requires such for the completion of tasks.
- d) CDC Foundation employees will be provided human resources support and training materials for successful onboarding including but not limited to information regarding benefits, instructions for the completion of timesheets and requests for leave.

3.3 CONFIDENTIALITY

The CDC Foundation will comply with all confidentiality obligations under federal and state laws and VIDOH policies and requirements including but not limited to the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-92, as amended, and regulations (45 CFR Parts 160 and 164), as applicable. Confidential information means information known or maintained in any form, whether recorded or not, consisting of protected health information, other health information, personal information, personal identifying information, confidential business information, and any other information required by law to be treated as confidential, designated as confidential by VIDOH, or known or believed by the CDC Foundation or the CDC Foundation's employee or agent to be claimed as confidential or entitled to confidential treatment.

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- a) The CDC Foundation will not:
 - access, view, use, or disclose confidential information without written authorization from VIDOH;
 - discuss confidential information obtained in the course of its relationship with VIDOH with any other person or in any location outside of its area of responsibility in VIDOH; or
 - make any unauthorized copy of confidential information, or remove or transfer this information to any unauthorized location or media.
- b) The CDC Foundation will direct any request it receives for confidential information obtained through performance of services under this MOU, including a subpoena, litigation discovery request, court order, or Freedom of Information Act request, to the VIDOH Contracts Manager and VIDOH Office of General Counsel as soon as possible, and in every case within one business day of receipt. If the CDC Foundation discloses confidential information pursuant to a properly completed authorization or legal process, order or requirement, the CDC Foundation must document the disclosure and make the documentation and authorization available for VIDOH inspection and audit.
- c) The CDC Foundation must immediately notify the VIDOH Assistant Commissioner, Dr. Nicole Craigwell-Syms at (340) 514-8921 or nicole.syms@doh.vi.gov of any unauthorized use or disclosure of confidential information received under this MOU. The CDC Foundation will promptly notify VIDOH of any suspected or actual breach of security of an individual's personal identifying information under applicable law.
- d) The CDC Foundation's obligations under this provision and any other agreements concerning confidentiality shall survive termination, cancellation, or expiration of the MOU.

3.4 RECORDKEEPING, AUDITS, & INSPECTIONS

The CDC Foundation shall create and maintain adequate records to document all matters covered by this MOU. CDC Foundation shall retain all such records for six (6) years or other longer period required by law after termination, cancellation, or expiration of the MOU and make records available for inspection and audit at any time VIDOH deems necessary. If any litigation, claim or audit has begun but is not completed at the end of the six-year period, or if audit findings have not been resolved at the end of the six-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. CDC Foundation shall allow VIDOH to inspect facilities and locations where activities under this MOU are to be performed on reasonable notice. Unjustified failure to produce any records required under this paragraph may result in immediate termination of this MOU with no further obligation on the part of VIDOH.

CDC Foundation must dispose of records containing VIDOH Confidential information in a secure manner such as shredding or incineration once the required retention period has ended. Confidential information means information known or maintained in any form, whether recorded or not, consisting of protected health information, other health information, personal



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information, personal identifying information, confidential business information, or any other information required by law to be treated as confidential, designated as confidential by VIDOH.

3.5 LIABILITY, NO AGENCY RELATIONSHIP.

Neither party shall be liable for any claims, demands, expenses, liabilities and losses (including reasonable attorney's fees) which may arise out of any acts or failures to act by the other party, its employees or agents, in connection with the performance of services pursuant to this MOU. Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or authority to control or direct the activities of the other or the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party, unless expressly authorized in this MOU.

3.6 NON-DISCRIMINATION

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in relation to activities carried out under this contract on the grounds of race, religion, color, sex, age, national origin, disability, or any other basis prohibited by law. This includes the provision of language assistance services to individuals of limited English proficiency eligible for services provided by VIDOH.

3.7 DRUG FREE WORKPLACE

By signing this MOU, the CDC Foundation certifies that it will comply with all applicable provisions of The Drug-free Workplace Act of 1988, 48 CFR § 52.223-6 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

3.8 DISPUTE RESOLUTION

The parties agree that if any dispute arises between the parties under this MOU, the following dispute resolution procedure shall be followed:

- (a) The parties agree to first seek to exhaust all possibilities prior to seeking assistance in resolving any and all disputes
- (b) In the event any conflict or disagreement arises under this MOU, neither party shall file any claim or suit against the other party until it has first provided written notice to the other party of the alleged dispute and submitted the dispute to mediation in the U.S. Virgin Islands.



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- (c) No lawsuit claim or controversy shall be filed until the conclusion of the mediation and certification by the mediator that an impasse has been reached or until 90 days has passed, whichever comes first.
- (d) The mediation shall be conducted under the rules of the American Mediation Association and any mediator chosen by the parties must be certified by said Association.

3.9 LICENSES

During the term of this MOU, each party shall maintain its respective federal and state licenses, certifications, and accreditations required for the provision of services herein. The CDC Foundation will immediately notify VIDOH if a board, association, or other licensing authority takes any action to revoke or suspend the license, certification, or accreditation of CDC Foundation or CDC Foundation's employees or agents providing or performing services under this MOU.

3.10 SEVERABILITY.

The invalidity or unenforceability of any provision of this MOU shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect.

4. DESIGNATED REPRESENTATIVE

Each Party shall designate a representative to oversee its responsibilities under this MOU.

Department of Health, Public Health Preparedness Division designates:

Dr. Nicole Craigwell-Syms
Office of the Commissioner
V. I. Department of Health
3500 Estate Richmond
Christiansted, VI 00820-4370

CDC Foundation designates:

Melissa Bennett, Emergency Response Coordinator
CDC Foundation
600 Peachtree St, NE, Suite 1000
Atlanta, GA 30308

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5. LIABILITY OF OTHERS

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

6. ASSIGNMENT

Neither Party shall subcontract or assign any part of the services or responsibilities under this MOU.

7. INDEMNIFICATION

CDC Foundation agrees to indemnify, 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 CDC Foundation under this MOU and arising from any cause, except the sole negligence of Government.

8. GOVERNING LAW

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

9. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this MOU 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 MOU, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

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10. ENTIRE AGREEMENT

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

11. CONDITION PRECEDENT

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

12. TERMINATION

Either party will have the right to terminate this MOU with or without cause on thirty (30) days written notice to the other party specifying the date of termination.

VIDOH may terminate this MOU for cause, default, or negligence on the CDC Foundation part at any time without thirty days advance written notice. VIDOH may, at its option, allow the CDC Foundation a reasonable time to cure the default before termination.

13. 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 MOU on account of race, creed, color, sex, religion, disability or national origin.

14. CONFLICT OF INTEREST

Both Parties covenant 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 MOU.

15. NOTICE

Any notice required to be given by the Terms of this MOU 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, MBA
Commissioner
Department of Property and Procurement

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JAM



8201 Subbase, Suite 4
St. Thomas Virgin Islands 00802

JUSTA E. ENCARNACION, RN, BSN, MBA/HCM
Commissioner
Department of Health, Public Health Preparedness Division
3500 Estate Richmond
Christiansted, VI 00820

**NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE
CONTROL AND PREVENTION, INC.**

Helen Tovar
General Counsel and Compliance
CDC Foundation
600 Peachtree St, NE, Suite 1000
Atlanta, GA 30308

16. INSURANCE: National Foundation for the Centers for Disease Control and Prevention, Inc. shall maintain the following insurance coverages during the term of this MOU.

- (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 (\$1,000,000.00) for any one person 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) **PROFESSIONAL LIABILITY:** 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 (\$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.

17. FASCIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract 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

Derese A Dunlop-Harley

Justa Encarnacion

11/30/2020

Justa Encarnacion
Commissioner
Department of Health

Date

Angelina A. Thomas

Anthony D. Thomas

12/16/2020

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

Date

NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION, INC

DocuSigned by:

Sylvia Brooks

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DocuSigned by:

Dr. Judith A. Monroe

Judith Monroe, MD
President and CEO
CDC Foundation, Inc.

11/30/2020 | 9:54:06 AM EST

Date

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY: Paul E. McDermid Date 12/16/2020
Assistant Attorney General