



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE VIRGIN ISLANDS DEPARTMENT OF HEALTH
&
THE FEDERAL EMERGENCY MANAGEMENT AGENCY
DEPARTMENT OF HOMELAND SECURITY
THROUGH
THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 27th day of January 2021, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands Department of Health and Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS), each a "Party" or collectively "Parties," through the Department of Property and Procurement.

WITNESSETH:

Whereas, the Virgin Islands Department of Health is responsible for ensuring the health of the public due to the COVID-19 Pandemic pursuant to Title 3, Chapter 23 and Title 19, Chapter 1, Part 1, of the Virgin Islands Code; and

Whereas, the Federal Emergency Management Agency Region II is responsible to help people before, during, and after disasters, within New Jersey, New York, Puerto Rico and the U.S. Virgin Islands. In support of its mission, FEMA Region II may deploy Federal personnel in a surge to a discrete area of operations in response to all-hazards; and

Whereas, this Agreement is authorized under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207, et seq; and

Whereas, the agencies desire to combine efforts to combat the spread of COVID-19 by coordinating efforts with the vaccination program; and

Whereas, the agencies desire to combine efforts to combat the spread of COVID-19 and ensuring mass vaccination, by entering into this MOU.

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 upon the date of execution and shall be effective until terminated in writing with fifteen (15) days' notice or for a period of six (6) months from the date of execution, whichever is earlier.

MOU No. G018DOHT21

Initials: 



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** shall be responsible for:

- (a) VIDOH may utilize the Premises (as defined below at Section 3.2(a)) as a site for mass vaccinations.
- (b) Limit its use of the premises to the purpose at Section 3.1 (a) and during the days and times determined by the parties on a weekly basis.
- (c) At no cost to FEMA, maintain the premises in good repair and condition, and promptly advise FEMA and make arrangements to repair any damage caused to the property including to heat, air conditioning, light, or ventilation systems;
- (d) Maintain the Premises in clean and orderly condition;
- (e) Surrender the Premises in the same state and condition as it was in at the commencement of use and occupancy;
- (f) Provide for any required security or cleaning services;
- (g) Maintain insurance for liability, and for loss of or damage to the property, arising from the wrongful or negligent acts or omissions of VIDOH employees and contractors in accordance with Virgin Islands Code. Title 33, Chapter 118, Sections 3401 through 3417;
- (h) Inoculate Federal Emergency Response Officials when provided under VIDOH policy; and
- (i) Not obstruct FEMA's access to the Premises.

3.2 **Federal Emergency Management Agency Region II** shall be responsible for:

- (a) FEMA is leasing the Nissan Dealership, La Grande Princess, Christiansted, St. Croix, USVI 00820 ("Premises"). The Premises are being utilized by FEMA.
- (b) FEMA agrees to permit VIDOH's non-exclusive use of the Premises as a site for distribution of Covid-19 vaccinations.
- (c) FEMA will authorize VIDOH the use of the specific areas identified as a site for mass vaccinations.



(d) FEMA shall abide by the conditions of Section 3.1 (a).

(e) Additionally, FEMA shall ensure VIDOH has access to the Premises.

3.3 Other Provisions

- a) **Liability.** To the extent allowed by law, VIDOH agrees to be responsible for the negligent or wrongful acts or omissions of its employees, agents, invitees, independent contractors, successors or assigns arising under this agreement, the Government's liability exposure is limited by the Virgin Islands Tort Claims Act (33 VIC Sections 3410-3417). VIDOH acknowledges it is responsible for any accidents that occur on the Premises during its occupancy, including during its delivery of the vaccine to patients. The parties agree—subject to any limitations imposed by law, rule, or regulation—to cooperate in good faith to resolve any claims promptly and, whenever appropriate, without litigation. For all claims or suits arising under this agreement, each party's designated legal representatives will, within (7) calendar days of receipt, provide each other's designated legal representatives copies of any documents memorializing such claims. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346 (b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.
- b) **Compliance with Applicable Law:** VIDOH, as set forth above, shall comply with all Federal, State and local laws applicable to this Agreement including, without limitation, laws applicable to operation pursuant to this Agreement and each party will obtain and maintain all required permits, licenses and similar items, at no cost to FEMA. United States law will be applied to resolve any dispute or claim.
- c) **Proper Use of Premises.** Nothing in this Agreement shall be construed to create a duty on FEMA to inspect for toxic material or latent environmental conditions present on the Premises or which could be affected by VIDOH's intended use of the Premises. VIDOH shall be responsible for any toxic material or latent environmental conditions introduced to the Premises as a result of use. There are no known environmental conditions which could affect VIDOH's use of the Premises, known to FEMA.

4. DESIGNATED REPRESENTATIVE

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

Department of Health designates:

Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner
Department of Health
3500 Estate Richmond

MOU No. G018DOHT21

Initials: 



Christiansted, St. Croix VI 00820



OPCMR

FEMA Region II designates:

John W. Covell
Acting Recovery Director/Disaster Recovery Manager
Federal Emergency Management Agency
Department of Homeland Security
(202) 374-4659
Email: john.covell@fema.dhs.gov

5. ASSIGNMENT

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

6. 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.

7. 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.

8. 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.

9. TERMINATION

Either party will have the right to terminate this MOU with or without cause on fifteen (15) days written notice to the other party specifying the date of termination.

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OPCMR

10. 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. The use of Federal facilities, supplies and services undertaken under this MOU will be in compliance with regulations promulgated by FEMA under the Stafford Act guaranteeing non-discrimination and prohibiting duplication of benefits. (See 44 CFR 206.11 and 206.191.).

11. 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.

12. 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 electronic mail or certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

Anthony D. Thomas, MBA
Commissioner
Department of Property and Procurement
8201 Subbase, Suite 4
St. Thomas Virgin Islands 00802
Email: anthony.thomas@dpp.vi.gov

Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner
Department of Health
3500 Estate Richmond
Christiansted, St. Croix VI 00820
Email: justa.encarnacion@doh.vi.gov

John W. Covell
Acting Recovery Director/Disaster Recovery Manager
Federal Emergency Management Agency
Department of Homeland Security
(202) 374-4659
Email: john.covell@fema.dhs.gov



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.

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

WITNESSES

GOVERNMENT OF THE VIRGIN ISLANDS

Justa E. Encarnacion
Justa E. Encarnacion, Commissioner
Department of Health

1/26/2021
Date

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

1/27/2021
Date

FEDERAL EMERGENCY MANAGEMENT AGENCY REGION II

MARK A
WALTERS

Digitally signed by
MARK A WALTERS
Date: 2021.01.26
08:46:32 -04'00'

JOHN W
COVELL

Digitally signed by JOHN W
COVELL
Date: 2021.01.26 07:40:33
-05'00'

John Covell
John Covell, Acting Recover Director/
Disaster Recovery Manager
FEMA / DHS

1/26/2021
Date

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

Paul E. McNeil
Assistant Attorney General

Date 1/27/2021