



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE VIRGIN ISLANDS BUREAU OF CORRECTIONS
&
THE USVI EQUESTRIAN EQUINE THERAPY PROJECT, INC.
THROUGH
THE VIRGIN ISLANDS DEPARTMENT OF PROEPRTY AND PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 12th day of August, 2021, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, the Bureau of Corrections, and the USVI Equestrian Equine Therapy Project, Inc., each a "Party" or collectively "Parties," through the Department of Property and Procurement.

WITNESSETH:

Whereas, the Virgin Islands Bureau of Corrections is responsible for the security, custody, and rehabilitation of inmates pursuant to Title 3, Section 373(b), of the Virgin Islands Code; and

Whereas, the USVI Equestrian Equine Therapy Project, Inc. ("VIEETP") is responsible for the humane treatment of retired thoroughbred race horses; and

Whereas, VIEETP was selected in accordance with 31 V.I.C. § 239(a)(8); and

Whereas, the parties have a common interest in ensuring vocational training to inmates within the custody of the Bureau of Corrections; and

Whereas, the parties desire to combine efforts in ensuring the rehabilitation of inmates within the custody of the Bureau of Corrections, 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 of this MOU by the Commissioner of the Department of Property and Procurement and shall terminate TEN (10) YEARS thereafter. The Government in its sole discretion, shall have the option to renew this MOU for a period of one additional year subject to the same terms noted herein, by providing the USVI Equestrian Equine Therapy Project, Inc. with 60 days' written notice of the Government's election to renew.

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



OPCMR

this MOU.

3. RESPONSIBILITIES/ TASKS

3.1 The Bureau of Corrections shall be responsible for:

- (a) Making available to VIEETP, for the purpose of stabling and pasturing of horses for the inmate equine training and rehabilitation program, approximately two acres of land at the John A. Bell Adult Correctional Facility ("JABACF" or the "Facility") on St. Croix. Designation of land for purposes of this agreement will be made in conjunction with the property division of the Virgin Islands Department of Property and Procurement ("DPP");**
- (b) Authorizing the number of retired horses the farm can accommodate, after consulting with VIEETP;**
- (c) Providing all inmate labor and equipment, to the extent the Government deems possible, for building and maintaining paddocks, fencing, barns, and run-in sheds;**
- (d) Providing all necessary maintenance for pasture land, including, but not limited to, mowing, dragging, and fence maintenance;**
- (e) Providing a piped-in or potable water source in the stalls and the paddocks to be used as drinking water by the horses. The potable water source may also be used to wash the barn stalls and groom the horses;**
- (f) Providing and paying for utilities required for the program;**
- (g) Providing classroom space located within or adjacent to the stable area or at the Facility. The Government and VIEETP shall mutually agree to the design, size, equipment for, and location of the classroom. If, in the event that the parties are unable to agree, the Government shall have final authority to decide on the classroom specifications;**
- (h) Providing the necessary classroom equipment for learning aids used in conjunction with the program. In the event the parties are unable to agree on the equipment, the Government shall have final authority to decide such after consulting with VIEETP;**
- (i) Selecting and providing supervision of inmates to care for, feed, groom, and exercise the horses, to ensure their humane care and treatment;**
- (j) Providing supervision of inmates to observe and evaluate the well-being of the horses at various times throughout the day and night, but not less than twice a day, seven days a week, as determined by the Government. This is to ensure that the horses have adequate water and hay, and to detect problems;**



OPCMR

- (k) Incorporating the Program into its regular roster of vocational training programs offered to inmates;
- (l) Permitting VIEETP directors and officers to access the Facility with 24-hours advance notice, unless an emergency exists. If an emergency exists, the directors and officers shall be permitted immediate access to the Facility. Procedures for access shall be determined solely by the Government; and
- (m) Providing a full time Instructor/Farm Manager who will provide training to the inmates, as determined by the Parties; and

3.2 The USVI Equestrian Equine Therapy Project, Inc. shall be responsible for:

- (a) Owning and having full legal responsibility for the horses, including placing the horses in the care of the Government for purposes of the program;
- (b) Providing a minimum of 10 retired horses for the purpose of the program. The Government shall have the final authority to decide the number of retired horses the farm can accommodate, after consulting with VIEETP. The number of horses may increase at a later date if mutually agreed upon by VIEETP and the Government, and by making land available to the program;
- (c) Bearing all transportation costs to transport horses under its care and supervision to and from the program site;
- (d) Bearing all costs for all feed (including hay), supplies, veterinary and farrier care for the horses;
- (e) Providing all needed materials for dividing the farm into pasture and paddocks. The number and size of the paddocks will be based upon recommendations of VIEETP but must fit within the acreage designated by the Government for the program. In the event the parties are unable to agree on the materials for, or the number or size of paddocks or pastures, the Government shall have final authority to decide these, after consulting with VIEETP;
- (f) Consulting with the Government on the equipment needed for the program. If the Government determines that providing a particular piece of equipment is not possible for building paddocks, fencing, barns and run-in sheds as well as dividing the farm into pasture and paddocks, then the Government shall consult with VIEETP so that VIEETP can determine, in its sole discretion, whether VIEETP can provide the necessary equipment;
- (g) Bearing all transportation costs for all construction materials;



OPCMR

- (h) Providing all water troughs, feed troughs, hay racks and any other materials necessary for the feeding of horses;
- (i) Bearing all transportation costs for all feeding materials, including, but not limited to, water and feed troughs, hay racks, and feed;
- (j) Developing and providing to the Bureau a protocol for the VIEETP standard of care and treatment of horses as well as monitor the general scope and efficiency of training and supervision of inmates involved in the program;
- (k) Referring to and relying on VIEETP's veterinary care policy to complete any course of treatment or procedure, including, but not limited to, illness, euthanasia, de-worming, dental work, vaccinations, testing for infectious conditions, emergency care, lameness, and any diagnostic care related to the general care and well-being of horses involved in the program; and
- (l) Providing all materials as needed for constructing stalls in the existing barns, building paddocks, replacing fencing, as necessary, and erecting a run-in shed in each pasture used in the program.

3.3 Both parties shall be responsible for:

- (a) Meeting with the property division of the DPP to approve timelines for the construction of stables and confirming the availability of land before the program starts;
- (b) Establishing a schedule for erecting the necessary structures for the program;
- (c) Increasing at a later date, if mutually agreed upon, the number of horses and amount of land available to the program;
- (d) Scheduling the arrival of horses. The number of horses may vary over time and depend upon available land, Government resources, and materials necessary for the proper care of the horses. In the event the parties are unable to agree on the number of horses, the Government shall have final authority to decide after consulting with VIEETP;
- (e) Ensuring that the Government shall not be responsible for the health, welfare or care of the horses residing at the Facility, except as explicitly stated in this agreement. The Government shall not be liable in the event any horse is injured, becomes ill or dies;
- (f) Ensuring that VIEETP shall have no title or interest of any nature in any of the structures, goods, supplies, equipment or other personal property that the Bureau provides under this agreement;
- (g) Ensuring that all structures erected or modified and other improvements made at the



OPCMR

facility regardless of funding source as part of this program shall immediately become the property of the Government. Therefore, the Government shall carry and maintain appropriate property and casualty insurance on all structures and contents owned by the Government;

- (h) Agreeing that the Bureau has no title or interest of any nature in any of the horses, goods, supplies, equipment or other personal property that the VIEETP provides under this agreement; and
- (i) Agreeing, acknowledging, and documenting that VIEETP owns the horses, and has permission to transport the horses anywhere, including to the Bureau or any other Government property.

4. DESIGNATED REPRESENTATIVE

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

The Bureau of Corrections designates:

WYNNIE TESTAMARK
Director
Bureau of Corrections
RR 1, Box 9909
Kingshill, VI 00850

The USVI Equestrian Equine Therapy Project, Inc. designates:

CAROLYN SMITH POMERANZ
President
P.O. Box 538
St. Thomas, VI 00804

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 the USVI Equestrian Equine Therapy Project, Inc. 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 the USVI Equestrian Equine Therapy Project, Inc. of whatsoever nature, including, but not limited to, unemployment insurance and social security taxes for the USVI Equestrian Equine Therapy Project, Inc. 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

The USVI Equestrian Equine Therapy Project, Inc. agrees to indemnify, defend and hold harmless the 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 the USVI Equestrian Equine Therapy Project, Inc. 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.

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 sixty (60) days written notice to the other party specifying the date of 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:

ANTHONY D. THOMAS
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas, VI 00802

WYNNIE TESTAMARK
Director
Bureau of Corrections
RR 1, Box 9909
Kingshill, VI 00850

CAROLYN SMITH POMERANZ
President
USVI Equestrian Equine Therapy Project, Inc.
P.O. Box 538
St. Thomas, VI 00804

16. INSURANCE:

(a) COMMERCIAL GENERAL LIABILITY: Not applicable



- (b) PROFESSIONAL LIABILITY: Not applicable
- (c) WORKERS' COMPENSATION: Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

17. FACSIMILE, 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:

[Signature]

GOVERNMENT OF THE VIRGIN ISLANDS

[Signature]
 Wynnie Testamark, Director
 Bureau of Corrections

7/20/2021
 Date

[Signature]

[Signature]
 Carolyn Smith Pomeranz, President
 USVI Equestrian Equine Therapy Program, Inc.

July 22/21
 Date

[Signature]

[Signature]
 Anthony D. Thomas, Commissioner
 Department of Property and Procurement

8/12/2021
 Date

(Corporate seal, if Contractor is a corporation)

APPROVED AS TO LEGAL SUFFICIENCY
 DEPARTMENT OF JUSTICE BY:

[Signature]
 Assistant Attorney General

Date 8/12/2021