



MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("MOA" or "Agreement") is made this 10th day of October, 2023, 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 Department of Planning and Natural Resources (hereinafter referred to as "Government") and the University of the Virgin Islands (hereinafter referred to as "UVI"), (collectively the "Parties").

WITNESSETH:

WHEREAS, the Department of Planning and Natural Resources ("DPNR"), through its VI Beach Water Quality Monitoring Program (VIBWQM), is responsible for the weekly monitoring of various beaches throughout the territory:

WHEREAS, the VIBWQM program entails the monitoring of water biological and physical parameters at up to forty-five (45) designated beaches around St. Croix, St. John, St. Thomas, and Water Island, USVI (see Exhibit A);

WHEREAS, the primary goal of the VI Beach Water Quality Monitoring Program is to document a set of environmental indicators to estimate the condition of designated beaches in the USVI in relation to human health concerns, ecological condition, and designated uses, and provide weekly public notification of beach water quality to minimize human health impacts by pathogens, as well as a basis for the establishment of management policies that promote the protection, restoration, and wise use of surface-water resources;

WHEREAS, the Government is in need of the services of an entity to provide analytical laboratory services to support the VI Beach Water Quality Monitoring Program's water quality assessment initiatives in the USVI, which duties and responsibilities are more particularly described in Addendum I (Scope of Services) and Addendum II (Compensation) attached hereto;

WHEREAS, UVI through its Environmental Analysis Laboratory (EAL), represents that it is willing and capable of providing such services in an expeditious manner and in accordance with the specifications cited in Addendum I and Addendum II;

WHEREAS, UVI was selected in accordance with 17 V.I.C. § 467(a)(1), as well as being the best value of all vendors capable of providing such services in the Territory in accordance with the specifications cited in Addendum I and Addendum II; 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

UVI will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this MOA.

2. TERM AND EFFECTIVE DATE

This MOA shall be effective upon the date of execution of this MOA by the Governor of the Virgin Islands, for the period beginning October 1, 2022 and terminating on September 30, 2024. The Government in its sole discretion, shall have the option to renew the MOA for two (2) additional one-year periods, subject to the same terms noted herein, by providing UVI with thirty (30) 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 Services), agrees to pay UVI a sum not to exceed Five Hundred Nineteen Thousand, Two Hundred Dollars and no cents (\$519,200.00) for the period of FY23 and FY24, in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this MOA.

4. TRAVEL EXPENSES

Travel expenses are not included in this Agreement.

5. RECORDS

UVI, when applicable, will present documented precise records of time and/or money expended under this MOA.

6. PROFESSIONAL STANDARDS

UVI 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 MOA shall become the property of the Government and shall be turned over to it at the termination of this MOA. The above-described materials shall not be used by UVI or by any other person or entity except upon the written permission of the Government. Notwithstanding the foregoing, the Government recognizes that UVI is required by the terms of UVI's Standard Operation Procedures (SOP), Quality Assurance Project Plan (QAPP), and Quality Assurance Manual (QAM) to retain original records in paper and/or electronic form of each sample analyzed by the laboratory. UVI will provide, upon request, copies of each logbook record for each sample analyzed pursuant to this MOA. The Government acknowledges that UVI's Laboratory Information Management Software will remain the property of UVI.



8. LIABILITY OF OTHERS

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

9. ASSIGNMENT

UVI shall not subcontract or assign any part of the services under this MOA without the prior written consent of the Government.

10. INDEMNIFICATION

To the extent permitted by law, UVI 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 the Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by UVI under this MOA and arising from any cause, except the sole negligence of the Government.

11. INDEPENDENT CONTRACTOR

UVI shall perform this MOA as an independent contractor, and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This MOA 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 MOA 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 MOA, 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 MOA 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 MOA is not performed in accordance with the terms hereof, the Government will have the right to withhold out of any payment due to UVI, 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. The Government will immediately notify UVI 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 UVI gives satisfactory assurance to the Government that such claims will be paid by UVI or its insurance carrier, if applicable in the event that such contest is not successful.

If the Government fails to process for payment any invoice of amounts due to UVI within ninety (90) days of receipt of invoice, UVI shall have the right to refuse to collect additional samples under the MOA until satisfactory payment arrangements have been made.

16. CONDITION PRECEDENT

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

17. TERMINATION

Either party will have the right to terminate this MOA 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 MOA may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing thirty (30) days written notice to UVI. This partial termination shall be effected by delivering to UVI a Notice of Partial Termination specifying the extent to which the term and/or duties under this MOA are terminated and the date upon which such termination becomes effective. UVI shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the thirty (30) day notice.

19. CONFLICT OF INTEREST

UVI 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 MOA.



20. NOTICE

Any notice required to be given by the Terms of this MOA 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

Albert Bryan, Jr.
Governor
Office of the Governor
1105 King Street
Christiansted, Virgin Islands 00820

Lisa M. Alejandro
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, Virgin Islands 00820

Jean-Pierre L. Oriol
Commissioner
Department of Planning and Natural Resources
4611 Tutu Park Mall
Second Floor, Suite 300
St. Thomas, Virgin Islands 00802

UVI

Mindy Solivan, Director
Office of Sponsored Programs
University of the Virgin Islands
#2 John Brewer's Bay
St. Thomas, VI 00802

Paul Jobsis, Ph.D., Director
Center of Marine and Environmental Studies
University of the Virgin Islands
#2 John Brewer's Bay
St. Thomas, VI 00802

21. LICENSURE

UVI 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. OTHER PROVISIONS

22. OTHER PROVISIONS

Addenda I and II and Exhibit A attached hereto are part of this MOA and are incorporated herein by reference.

23. DEBARMENT CERTIFICATION

By execution of this MOA, UVI 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 agreements with any federal agency. UVI 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 UVI or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, UVI or the subcontractor agrees that it shall not be entitled to payment for any work performed under this MOA or any subcontract and that UVI or the subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

24. FALSE CLAIMS

UVI warrants that it shall not, with respect to this MOA, 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. UVI acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

25. NOTICE OF FEDERAL FUNDING

UVI acknowledges that this MOA is funded, in whole or in part, by federal funds. UVI warrants that it shall not, with respect to this MOA, make or present any claim knowing such claim to be false, fictitious, or fraudulent. UVI acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

26. 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]
Jean-Pierre L. Oriol, Commissioner
Dept. of Planning and Natural Resources

01-Sept-2023
Date

[Signature]

[Signature]
Lisa M. Alejandro, Commissioner Designee
Department of Property and Procurement

06-Sept-2023
Date

Paul Jobsis

Mindy Solivan
Mindy Solivan, Director
Office of Sponsored Programs
University of the Virgin Islands

8/29/2023
Date

Mindy Solivan

Paul Jobsis
Paul Jobsis, Ph.D, Director
Center for Marine & Environmental Studies
University of the Virgin Islands

8/28/2023
Date

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY: *[Signature]*

Date 9 / 7 / 2023

APPROVED: Assistant Attorney General

[Signature]

Date: 10-10-23

Albert Bryan Jr.
Governor, US Virgin Islands