

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into this 4th day of May, 2018, by and between the VIRGIN ISLANDS HOUSING FINANCE AUTHORITY ("VIHFA"), an independent instrumentality of the Government of the United States Virgin Islands located at Demarara Plaza, Suite 200, St. Thomas, U.S. Virgin Islands 00802, and the VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY ("VIPFA"), an independent instrumentality of the Government of the Virgin Islands located at No. 5033 Kongens Gade, St. Thomas, U.S. Virgin Islands 00802 (each of VIHFA and VIPFA being a "Party," and collectively the "Parties").

### WITNESSETH:

WHEREAS, the Governor of the United States Virgin Islands has declared a state of emergency following two category five hurricanes, Irma and Maria, pummeling the islands within two weeks of each other, destroying homes and buildings, devastating the infrastructure, adversely impacting public services, and threatening the financial stability of the Virgin Islands by eliminating revenue streams; and recognizes that it may face similar emergencies in future years;

WHEREAS, the Governor of the Virgin Islands appointed VIHFA as the Lead Territorial Representative on the Unified Housing Task Force to implement (1) the Sheltering and Temporary Essential Power ("STEP") Pilot Program authorized by two intergovernmental agreements between the Federal Emergency Management Agency ("FEMA") and the Government of the Virgin Islands ("GVI"), denoted as Territory Agreement FEMA-4335-DR-VI and Territory Agreement FEMA-4340-DR, and (2) the Community Development Block Grant Disaster Recovery ("CDBG-DR") program; and

WHEREAS, VIPFA on behalf of the GVI conducted a competitive negotiation process to identify and retain one or more consultants and advisers to assist the Government in coordinating its recovery efforts from recent hurricanes, and from disasters that may occur in the future, with FEMA and other Federal agencies and ensuring that those efforts comply with applicable Federal statutes, regulations, and guidelines ("FEMA Consulting Services"); and

WHEREAS, upon the completion of the competitive negotiation process, VIPFA has entered into one or more contracts for professional services to provide FEMA Consulting Services on behalf of the Government, including but not limited to contracts with Witt O'Brien's LLP and Ernst & Young Puerto Rico LLC (such contracts being "FEMA Consulting Contracts"); and

WHEREAS, the funding for the FEMA Consulting Contracts shall be supported by administrative allocations from Federal programs, as well as local funds as authorized by the Virgin Islands Legislature; and

WHEREAS, the funding for the CDBG-DR program shall be supported by funds appropriated by the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub.



L. 115-56), approved September 8, 2017; the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-72), approved Oct.26, 2017; the Bipartisan Budget Act of 2018 (Pub. L. 115-123), approved February 9, 2018; and such other CDBG-DR funds as Congress may appropriate from time to time (collectively, the "CDBG-DR funds"); and

**WHEREAS**, the work to be done under the CDBG-DR program will be implemented upon approval by the Department of Housing and Urban Development ("HUD") of one or more Action Plans that are being or will be developed; and

**WHEREAS**, on or about February 5, 2018, the contract for the implementation of the STEP Pilot Program known as the Emergency Home Repair Program VI ("EHRVI," and together with the STEP Pilot Program, the "STEP/EHRVI Program") was executed by and between the VIHFA and AECOM Caribe, LLP, and work is underway throughout the Territory; and

**WHEREAS**, the work to be performed pursuant to the STEP/EHRVI Program and the CDBG-DR Program fall within the Scope of Work of one or more of the FEMA Consulting Contracts; and

**WHEREAS**, VIHFA has requested permission to utilize the services of Witt O'Brien's LLP and Ernst & Young Puerto Rico LLC (the "Consultants") operating under the FEMA Consulting Contracts for assistance with managing VIHFA's efforts relating to Federal disaster relief programs, and VIPFA has consented to VIHFA's request; and

**WHEREAS**, invoices for payment for any and all work performed by the Consultants for VIHFA shall be submitted by the Consultants to VIPFA for forwarding to VIHFA for review and approval, followed by processing and payment by VIPFA; and

**WHEREAS**, VIHFA and VIPFA may institute procedures for the invoicing by the Consultants;

**NOW, THEREFORE**, in consideration of the above, and the mutual covenants and agreements hereinafter contained, and intending to be legally bound by this written instrument, the parties agree as follows:

## **1. PURPOSE**

This MOU allows VIHFA to obtain the benefit of VIPFA's FEMA Consulting Contracts for the purpose of utilizing the Consultants for program management consulting services relating to the STEP/EHRVI Program and the CDBG-DR program (collectively, "Programs"). It sets forth the terms, responsibilities, and procedures for VIHFA's utilization of the Consultants, and provides for review and approval by VIHFA of the invoices submitted by the Consultants for services rendered pursuant to the Programs.



## 2. EFFECTIVE DATE

This MOU will become effective upon the date it has been executed by all Parties and approved in writing by the Governor of the Virgin Islands and the VIHFA Board of Directors.

## 3. TERM

This MOU shall commence upon the approval date and shall terminate upon on the expiration or termination of the FEMA Consulting Contracts between VIPFA and the Consultants.

## 4. DUTIES AND OBLIGATIONS OF THE PARTIES

During the term of this MOU, the Parties shall provide the following assistance and services to each other in furtherance of the goals set forth above, and each shall have the following duties and obligations hereunder:

### (a) Duties And Obligations Of VIPFA

#### (1) Payment Processing

VIPFA shall, upon receipt of invoices submitted by Consultants pursuant to FEMA Consulting Contracts for services rendered to VIHFA for work on the Programs, submit such invoices electronically to VIHFA for review and approval. Upon receipt of such approval in writing from VIHFA, VIPFA shall review and approve each invoice before arranging for processing and payment of same.

#### (2) Gross Receipts Tax Withholding

In accordance with Title 33, Section 44 of the Virgin Islands Code, VIPFA shall deduct gross receipt taxes (GRT) equal to five percent (5%) of each payment, and transmit the GRT to the Virgin Islands Bureau of Internal Revenue. A "payment" is defined as "(1) any single payment of at least \$30,000.00; and (2) any payment pursuant to a contract providing for a total expenditure of \$225,000.00 or more."

### (b) Duties And Obligations Of VIHFA

#### (1) Invoice Review and Approval

Upon receipt of invoices from VIPFA under paragraph (a) of this Section 4, VIHFA shall review each invoice to determine whether the work invoiced has been satisfactorily completed and the invoice prepared in accordance with the appropriate FEMA Consulting Contract. Upon making such determination, VIHFA shall return each invoice to VIPFA together with confirmation in writing that such invoice has been approved for payment. Such confirmation in writing shall include the vendor



name, vendor tax identification number, amount authorized for payment, and a certification statement that work has been satisfactorily completed.

(2) Access to Project Records

VIHFA shall provide reasonable access to VIPFA, and any of its authorized representatives, to review project records, documents, and procedures relating to work performed for VIHFA by Consultants pursuant to FEMA Consulting Contracts.

(3) Basic Records

VIHFA shall keep documented and precise records of time and money expended on Consultants pursuant to FEMA Consulting Contracts.

## 5. COORDINATORS

To ensure coordination and cooperation between the Parties and compliance with the terms and conditions hereof, each Party shall designate an individual to serve as coordinator hereunder, and may designate a substitute coordinator from time to time at its option by providing notice hereunder to the other Party. The initial coordinators hereunder shall be as follows:

**For VIPFA:** Valdamier O. Collens  
Executive Director  
Virgin Islands Public Finance Authority  
5033 Kongens Gade  
St. Thomas, VI 00802

Or his designee(s) in writing.

**For VIHFA:** Daryl Griffith  
Executive Director  
Virgin Islands Housing Finance Authority  
3202 Demarara Plaza, Suite 200  
St. Thomas, VI 00802

Or his designee(s) in writing.

## 6. NOTICE

Any notice required or permitted to be given pursuant to this MOU shall be hand delivered or sent by registered or certified mail, return receipt requested, to the individuals identified in Section 5 or their duly authorized successors.

## 7. TERMINATION BY PARTIES



This MOU may only be terminated upon mutual agreement in writing by the Executive Director of VIPFA and the Executive Director of VIHFA.


### 8. COOPERATION

The Parties agree to cooperate with each other in the performance of this MOU, and negotiation of any modifications thereto, to achieve and maintain timely compliance with all applicable laws and requirements, and to ensure the success of the professional services. Any disputes or disagreements regarding interpretation and performances of this MOU shall be resolved internally among the Parties hereto as soon as practicable through good faith negotiations, and any issues which the Parties are unable to resolve shall be submitted promptly to the Governor and/or his designated representative for a final determination which shall be binding.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding as of the dates indicated below.

**WITNESSES:**


**VIRGIN ISLANDS  
PUBLIC FINANCE AUTHORITY**

  
May 4, 2018

  
Valdamier O. Collens  
Executive Director


May 4, 2018  
Date

**REVIEWED FOR LEGAL SUFFICIENCY**

  
Flavia E Logie, Esq., General Counsel  
Dated: May 3, 2018.

**VIRGIN ISLANDS HOUSING FINANCE  
AUTHORITY**


  
Daryl Griffith  
Executive Director

5/3/18  
Date



*Memorandum of Understanding –VIHFA & VIPFA  
re: Utilization of Consultants under the FEMA Consulting Contracts  
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A handwritten signature in blue ink, appearing to be "RICE", is written over a horizontal line.