



# VIRGIN ISLANDS PORT AUTHORITY

*Gateways to the USVI's Economy*



**Request for Proposals**

**Payment Portal**

**2020-04**

**Issuance Date: January 11, 2021**

**Due Date: February 12, 2021**



## **TRANSMITTAL LETTER**

Dear Respondent,

The Virgin Islands Port Authority (“Authority” or “VIPA”) is seeking a qualified Respondent to create a payment portal for the Authority. The services under this Request for Proposals (RFP) will be under the direction of the Informational Technology (“IT”) Division.

The Purchasing Office is the Department responsible for coordinating all communications between the Authority and Respondents. The RFP limits the manner, method, and type of communications that the Authority and Respondents may have once an RFP process is initiated to ensure that the process is fair and impartial. Please review the RFP carefully and abide by all required deadlines, dates, and terms.

All Respondents are hereby notified that all updates, addenda and additional information, if any, shall be posted to the Authority’s website [www.viport.com](http://www.viport.com) and Respondents are responsible for checking the Authority’s website up to the time of the RFP submission deadline.

The Authority reserves the right to reject any or all responses to this RFP in whole or in part; to waive any informalities, technicalities, or omissions therein; and/or to cancel this process at any time. The Authority also reserves the right to reject any response when a parent, subsidiary, affiliate, or predecessor in interest of the Respondent has pending litigation or claims with the Authority, or if any response includes a proposed subcontractor or supplier that has pending litigation or claims with the Authority, if the Authority determines, in its sole discretion, such litigation or claims may adversely affect the ability of the parties to work efficiently and effectively under this RFP, or for any other reason as determined by the Authority. Any such responses will be returned to the Respondent. All Respondents must use forms provided by the Authority.

No Respondent may withdraw an opened Response without the Authority’s consent.

The Authority shall give a preference to businesses located in the Virgin Islands in awarding contracts and making purchases whenever the application of such a preference is reasonable in light of the valuation points/dollar-value of the proposal/bid received in relation to such valuation points/expenditures and pursuant to the terms and conditions that are outlined in the adopted policy as amended.

Should you have questions regarding this RFP, the RFP sets forth a process by which you may submit your questions and receive answers. Thank you for your participation in this process. We look forward to receiving your response.

Sincerely,

Carlton Dowe  
Executive Director



## Table of Contents

<b>1</b>	<b>Background .....</b>	<b>5</b>
<b>2</b>	<b>Request for Proposals Timeline, Communications and Process.....</b>	<b>5</b>
2.1	RFP Timeline .....	5
2.2	Communication with the Authority during this RFP .....	6
2.3	Addenda.....	6
2.4	Pre-Proposal Conference .....	6
2.5	Questions Regarding RFP .....	6
2.6	RFP and Response Submissions.....	6
2.7	Rejection of Responses / Cancellation of RFP.....	7
2.8	RFP to Bind Respondent.....	7
2.9	Sole Responsibility .....	7
2.10	Sole Contact .....	7
2.11	Response Modification or Withdrawal.....	7
2.12	Response Costs .....	8
2.13	Protest.....	8
<b>3</b>	<b>Respondent Assurances.....</b>	<b>8</b>
3.1	No Hidden Parties .....	8
3.2	No Collusion in Any Form.....	8
3.3	No Inducement to Submit False Proposals.....	9
3.4	No Inducement to Refrain from Response.....	9
3.5	No Financial Interest .....	9
3.6	No Contact .....	9
3.7	Addenda.....	9
<b>4</b>	<b>Local Preference .....</b>	<b>9</b>
<b>5</b>	<b>Disadvantaged Business Enterprise (DBE) Requirements .....</b>	<b>9</b>
<b>6</b>	<b>Insurance Requirements.....</b>	<b>9</b>
<b>7</b>	<b>Bond Requirements (Not Applicable for this RFP) .....</b>	<b>10</b>
7.1	Surety .....	10
7.2	Proof of Surety .....	10
7.3	Proposal Bond .....	11
7.4	Performance Bond .....	11
7.5	Contractor's Responsibility .....	11
<b>8</b>	<b>Security and Access .....</b>	<b>11</b>
8.1	General Requirements .....	11
8.3	Operations of Others .....	12
<b>9</b>	<b>Terms of Performance .....</b>	<b>12</b>
9.1	Contract Negotiations and Contract Form .....	12
9.2	Cancellation.....	12
9.3	Term of Contract.....	12
9.4	Convenience Termination of Contract .....	13
9.5	Payment and Billing Requirements .....	13
9.5.1	Invoice Submittal .....	13
9.5.2	Payment Terms .....	13
9.5.3	Taxes .....	13
<b>10</b>	<b>Scope of Services .....</b>	<b>13</b>
10.1	General Overview .....	13
10.2	Functional Requirements .....	15
<b>11</b>	<b>Response Structure .....</b>	<b>18</b>
<b>12</b>	<b>Award.....</b>	<b>20</b>
12.1	Solicitation .....	20



12.2	Evaluation Criteria .....	20
12.3	Oral Presentation May be Required.....	20
12.4	Final Selection .....	20
12.5	Authority's Right to No Award or Partial Award .....	21
12.6	Non-Exclusive Contract: .....	21
12.7	Cancellation .....	21
12.8	Anticipated Contract Date .....	21
<b>13</b>	<b>Request for Proposals Forms .....</b>	<b>22</b>
13.1	Respondent Information Form (Required).....	22
13.2	Contract Document Checklist (Required) .....	23
<b>14</b>	<b>Sample Contract .....</b>	<b>24</b>



## 1 BACKGROUND

The Virgin Islands Port Authority (“VIPA” or the “Authority”) is an autonomous agency that owns and manages the two airports and the majority of the public seaports in the United States Virgin Islands. We are also charged with maintaining the harbors in the territory.

VIPA derives its operating revenues from user fees and rental fees charges to users of its airport and marine facilities on St. Thomas, St. Croix, and St. John, U.S. Virgin Islands. The agency is expected to be financially self-sufficient, and does not receive nor does it contribute any funds to the USVI government. Federal and state government grants are given to the Authority to support its capital construction programs - provided that VIPA meets all eligibility requirements. The federal government also offers Passenger Facility Charges (PFC's) to fund airport projects only. These airport related improvements must be approved by the Federal Aviation Administration.

Just about everything that is used or consumed by the residents of the U.S. Virgin Islands enters the islands through boat or by plane. Food, clothing, machinery, mail, furniture, vehicles, building supplies, medical - it all enters through the ports. Therefore, the Port Authority touches the lives of every single resident and visitor in the Virgin Islands. In addition, the territory's major economic contributor is a bustling tourism industry that blossomed in the 1960s. Tourism accounts for about 80 percent of the islands' gross domestic product and employment. The islands are a popular destination for travelers from every corner of the world seeking the perfect vacation. These key factors make the airports and seaports in the territory a critical component in the strength and growth of the islands' economy. Any investment or improvement to our port facilities secures our territory's economic future.

The Port Authority is governed by a Board of Governors which sets policy. The executive director is responsible for implementing these policies and overseeing the day-to-day operation of the agency. Board meetings are held every third Wednesday of each month. At these meetings, the board reviews the Authority's financial reports, review and approve requests to lease port property, award contracts for port development projects and set policies that will efficiently manage our resources as well as keep our port facilities competitive with other destinations.

## 2 REQUEST FOR PROPOSALS TIMELINE, COMMUNICATIONS AND PROCESS

### 2.1 RFP Timeline

While this timeline sets forth important dates for this Request for Proposals (RFP) process, the entire RFP should be consulted for additional information and requirements concerning these deadlines. The schedule below is subject to change without liability to the Authority.

January 11, 2021	Release of RFP Documents
January 21, 2021	Pre-Proposal Meeting 10:00 AM
January 27, 2021	Questions Due from Respondents
January 29, 2021	Questions and Answers posted on Authority website
February 12, 2021	Response Due to Authority by 4:00 PM



## **2.2 Communication with the Authority during this RFP**

The Authority's Purchasing Office will be responsible for coordinating communications between the Authority and Respondents. Respondents should direct all communications to [vipaprourement@viport.com](mailto:vipaprourement@viport.com). Respondents are further advised that any communication, either verbally or in writing, direct or indirect, subsequent to the date of issuance of the RFP by a prospective Respondent or any of its owners, officers, employees, or agents, or any individual or entity acting on its behalf, with any member of the Board of Directors or any officer or employee of the Authority, except as provided in this section, is **strictly prohibited** and may be cause for disqualification of the prospective Respondent. This restriction on communication will govern until the RFP process has been completed and a contract has been fully executed for these services. The Authority prefers all communication to be in writing.

## **2.3 Addenda**

All updates, addenda and other information, if any, shall be posted to the Authority's website, [www.viport.com](http://www.viport.com). Respondents are responsible for checking the Authority's website up to the time of the RFP submission deadline.

## **2.4 Pre-Proposal Conference**

A pre-proposal conference will be held on January 21, 2020, at 10:00 AM. The Meeting will be held via web conference at: <https://global.gotomeeting.com/join/862795277>

**You can also dial in using your phone.**

United States: [+1 \(872\) 240-3311](tel:+18722403311)

**Access Code:** 862-795-277

## **2.5 Questions Regarding RFP**

Questions regarding this RFP must be submitted in written form via email to [vipaprourement@viport.com](mailto:vipaprourement@viport.com). Questions will be accepted until January 25, 2021. Responses will be provided by January 29, 2021. Responses will be posted only on the Authority's website, [www.viport.com](http://www.viport.com)

## **2.6 RFP and Response Submissions**

A copy of this RFP will be distributed to prospective Respondents. This RFP also will be available on the Authority's website, [www.viport.com](http://www.viport.com). Responses must be submitted electronically by **4:00 PM Local Time on February 12, 2021**. The Authority reserves the right to extend the opening date or time provided no RFP responses have been previously opened. Late responses will NOT be considered and will be rejected with notice sent to the Respondent.

Respondents shall prepare responses in compliance with all the instructions outlined in this RFP providing the requested information and returning the completed document to the Authority by the deadline.

Respondents shall submit their electronic responses to: [vipaprourement@viport.com](mailto:vipaprourement@viport.com)



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Attn: Request for Proposals, Payment Portal, RFP Number

**2.7 Rejection of Responses / Cancellation of RFP**

The Authority reserves the right to reject any or all responses to this RFP; including but not limited to, any response that contains exceptions to the minimum requirements and/or specifications or fails to meet the minimum requirements and/or specifications in whole or in part. Responses containing terms and conditions other than those specified herein may be considered nonresponsive. Partial or incomplete responses may be rejected. The Authority reserves the right to reject responses or penalize Respondents who do not follow the requirements of the RFP and, likewise, to waive any informalities, technicalities, or omissions therein. Responses having any erasures or corrections shall be initialed in ink by the Respondent. Unsigned responses will be considered nonresponsive.

The Authority also reserves the right to reject any response when a parent, subsidiary, affiliate, or predecessor in interest of the Respondent has pending litigation or claims with the Authority, or if any response includes a proposed subcontractor or supplier that has pending litigation or claims with the Authority, if the Authority determines, in its sole discretion, such litigation or claims may adversely affect the ability of the parties to work efficiently and effectively under any contract resulting from this RFP, or for any other reason as determined by the Authority. The Authority further reserves the right to cancel this RFP process at any time.

**2.8 RFP to Bind Respondent**

The response must contain the signature of a duly authorized officer of the Respondent with the legal right to bind the Respondent. All submitted responses shall be binding for a period of one hundred twenty (120) days from the response submission deadline. Further, the successful Respondent will be bound by the Proposal terms quoted pursuant to the Contract (Contract) between the successful Respondent and the Authority, in excess of one hundred twenty (120) days.

**2.9 Sole Responsibility**

The successful Respondent, if any, shall assume responsibility for meeting all requirements agreed to in the response to this RFP.

**2.10 Sole Contact**

The Authority will consider the selected Respondent to be the sole point of contact with regard to contractual matters and the payment of any and all charges resulting from Contract obligations. Upon Contract award, the selected Respondent will be directly responsible for all of its subcontractors, if any, and the selected Respondent shall designate a project manager who will serve as the point of contact for the Authority for billing, additions, deletions, or any other requests or inquiries.

**2.11 Response Modification or Withdrawal**

Responses may be modified or withdrawn in writing prior to the deadline for RFP submission. After the submission deadline, no modifications will be accepted and responses may only be withdrawn with the Authority's consent.



### **2.12 Response Costs**

All costs incurred in preparing the response to this RFP, participating in this process and negotiating with the Authority, whether or not a contract is awarded, shall be solely the responsibility of the Respondent. All materials and documents submitted by Respondents in response to this RFP become the property of the Authority and shall not be returned to the Respondents.

### **2.13 Protest**

Any protest must be filed in writing and received by the Authority within seven (7) calendar days of the date of the occurrence of the event that is the subject of the protest, *e.g.*, the opening of responses, the award, or a determination that a respondent is not responsible or that a response is not responsive.

Any protest must be actually delivered to the Authority during the Authority's regular business hours in order to be deemed to be received by the Authority as required under this Section. A protest must be submitted in hard copy and addressed as follows:

Virgin Islands Port Authority  
Attention: Procurement and Contract Manager  
8074 Lindberg Bay  
St. Thomas, VI 00802

Any protest sent by telegraphic or facsimile transmission or by email or other electronic means will not meet the filing requirements set forth herein and will not be deemed to be received by the Authority.

No objections with regard to the application, meaning, or interpretation of the specifications contained herein will be considered after the opening of the subject RFP.

## **3 RESPONDENT ASSURANCES**

By submitting the RFP response and participating in this process, the Respondent asserts that he/she has read, understands and agrees to the terms and conditions contained in this RFP document and has full authority to submit the written and verbal responses on behalf of the entity for whom they are acting and that the information submitted to the Authority in the response is true, accurate and complete to the fullest extent possible and to the best of his/her knowledge and abilities. The Respondent further certifies:

### **3.1 No Hidden Parties**

Response is genuine and that no other person, firm, or corporation than the one herein named has any interest herein or in the Contract proposed to be taken; that it is made without any connection with any person, firm, or corporation making a response for the same work; and that it is in all respects fair as to each item proposed and to the response as a whole;

### **3.2 No Collusion in Any Form**

Respondent has not sought by collusion or fraud to obtain any advantage over any other Respondent or over the Authority;





**3.3 No Inducement to Refrain from Response**

Respondent has not induced or solicited any other person, firm, or corporation to refrain from submitting a proposal;

**3.5 No Financial Interest**

No Authority employee or member of the Board is directly or indirectly interested herein, or in the furnishing of the service or doing the work to which it relates; or in any portion thereof. Respondent asserts that no Authority employee or member of the Board of Directors shall receive or has received any financial benefit arising out of this RFP or its Contract, if awarded, either directly or indirectly. Further, any fees paid to any person or entity by Respondent for assistance in obtaining the Contract with the Authority must be fully disclosed to the Authority in writing.

**3.6 No Contact**

There has been no communication, either verbally or in writing, directly or indirectly, subsequent to the date of issuance of the RFP by a prospective Respondent or any of its owners, officers, employees, or agents, or any individual or entity acting on its behalf, with any member of the Board of Directors or any officer or employee of the Authority. Respondent understands and agrees any communication except as provided in Section 2.2 of the RFP is strictly prohibited and may be cause for disqualification of the prospective Respondent.

**3.7 Addenda**

Respondent has reviewed and agrees to any and all Addenda, if applicable, posted by the Authority on its website, [www.viport.com](http://www.viport.com) in regards to this RFP. The information contained in all Addenda that may be issued shall become a part of this RFP and, to the extent specified, shall amend and supersede the similar information in the original RFP document. All other terms, provisions, and conditions of the RFP shall remain unchanged.

**4 LOCAL PREFERENCE**

The Authority shall give a preference to businesses located in the Virgin Islands in awarding contracts and making purchases whenever the application of such a preference is reasonable in light of the valuation points/dollar-value of the proposal/bid respectively that is received in relation to such valuation points/expenditures and pursuant to the terms and conditions that are outlined in the adopted policy as amended.

**5 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

The Authority is a participant in the federal Disadvantaged Business Enterprise (DBE) Program which is administered through the Virgin Islands Department of Public Works (DPW). The purpose of the program is to ensure that DBEs, as defined in 49 CFR Part 26 have an equal opportunity to receive and participated in DOT-assisted contracts. DPW is the administrator of the DBE program in the U.S. Virgin Islands in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.



## 6 INSURANCE REQUIREMENTS

The successful Respondent shall submit evidence of required insurance on an original ACORD certificate or comparable insurance certificate form(s) acceptable to the Authority, with required endorsements attached, the earlier of: fifteen (15) working days following award notification or prior to the scheduled commencement of work. Failure to submit the required document(s) may result in rescinding the award. The Contract may thereafter be awarded to the next qualified Respondent. A certificate of insurance is not required at the time of the response; however, an approved insurance certificate and amendatory endorsements are required to be on file prior to the start of the work. In addition, a copy of the policy or policies shall be provided by the successful Respondent upon request. The insurance requirements are established in Section 19 of the Sample Contract, which is set forth in Section 15 below.

## 7 BOND REQUIREMENTS – (This Section is Not Applicable for this RFP)

### 7.1 Surety

Any bond provided to the Authority in connection with the response to this RFP or any resulting agreement shall be executed by the Principal and Surety, and duly issued by an insurer or corporate surety which:

- a. Is authorized to conduct insurance business and provide surety bonds in the Virgin Islands; and
- b. Is otherwise in compliance with the provisions of the Virgin Islands Code; and
- c. Is authorized by the United States Department of Treasury pursuant to 31 U.S.C. § 9304-9308; and
- d. Has an A- or better rating and a Financial Size Category of “Class VII” or higher according to the most current edition of Best’s Key Rating Guide; and
- e. Notwithstanding the provisions of (d) above, an insurer or corporate surety which is or is not rated by Best’s Key Rating Guide may be accepted by the Authority following a review or investigation of the insurer's or corporate surety's financial and performance standing, including without limitation, its capital adequacy, assets, earnings, liquidity, and such other factors as the Authority may deem appropriate.

### 7.2 Proof of Surety

Any Proposal and/or Performance Bond submitted must include an original or certified copy of the Power of Attorney authorizing the Attorney-in-Fact to execute the Proposal and/or Performance Bond on behalf of the Surety.

### 7.3 Proposal Bond

Each response shall include a **Proposal Bond**, at no cost to the Authority, in the amount of **five (5) percent of the first year Proposal price or Ten Thousand Dollars (\$10,000.00), whichever is greater**, payable to the Virgin Islands Port Authority. Failure of the Successful Respondent to execute the Contract within thirty (30) days after receiving the Contract document and furnish acceptable surety bonds and proof of required insurance prior to the Contract execution shall be just cause for cancellation of the award and forfeiture of the Proposal Bond, not as a penalty,



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but as liquidation of damages to the Authority.

Certified/cashier's checks **will not be** accepted in lieu of a Proposal Bond.

Proposal Bonds provided to the Authority in connection with the RFP shall be duly issued by an insurer or corporate surety (a) on a bond form provided by the Authority in Section 13.2, or on a form substantially the same as the Authority's form, and which obligates the Surety for at least one hundred twenty (120) days following the date on which responses to this RFP are publicly opened; and (b) which is authorized to conduct insurance business in the Virgin Islands. Failure to furnish a Proposal Bond with a valid Power of Attorney, as specified, will result in rejection of Proposal for non-compliance.

#### **7.4 Performance Bond**

The successful Respondent will be required to furnish a **Performance Bond** at the time of Contract execution and prior to the start date of the Contract, in an amount **equal to the cost of the first year of the Contract** to guarantee the principal's performance of the Contract. The Performance Bond shall be made payable to the Virgin Islands Port Authority and shall remain in force for the duration of the Contract.

#### **7.5 Contractor's Responsibility**

The successful Respondent is solely responsible for providing surety bonds in connection with the RFP and its resulting contract. Subcontractors are not required to provide any type of surety bond to the Authority in connection with this RFP and or its resulting contract.

### **8 SECURITY AND ACCESS (This Section only applies to Respondents Performing Work at our Airports)**

#### **8.1 General Requirements**

The successful Respondent shall comply with all airport security requirements concerning access to restricted areas of the buildings or airfield. Access to certain areas of the buildings may be restricted to off-peak working or operational hours or other reasons, and the Respondent will conduct their work accordingly. If the Authority determines that any employee(s) of the successful Respondent should not work on Authority property or on the Contract, the successful Respondent will immediately comply with Authority's request to remove employee(s).

The successful Respondent and all employees performing duties under the Contract shall conform to all applicable aviation security procedures regarding the issue, wearing, replacement, and return of personal identification badges, as defined in the Airport Security Program (available through the Airport Identification Office) approved by the Transportation Security Administration (TSA) and amended from time to time.

All employees working under the Contract will be required to display on their person, at all times while on duty, an identification badge issued by the Authority. Identification badges will be worn on the outermost garment above the waist.

The successful Respondent will provide the Authority with a badge application signed by the certifying official of the successful Respondent.

Prior to the issuance of the airport identification badge, an airport badge application must be



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prepared and submitted to the Airport Identification Office. The application form for airport identification will be provided by the Authority and properly completed by the successful Respondent.

All employees must be able to meet the requirements of the TSA in order to receive an airport identification badge. Individuals will be issued a badge by the Airport Identification Office only after they have met all necessary security and training requirements including the appropriate certifications of the fingerprint-based background check and the Security Threat Assessment. The successful Respondent will be responsible for the cost of the badging requirements.

## **8.2 Operations of Others**

During the time that successful Respondent is performing under the Contract, other persons may be engaged in other operations on or about the work site including facility operations, pedestrian, bus, and vehicular traffic and other contractors performing at the work site, all of which shall remain uninterrupted.

The successful Respondent shall so plan and conduct its operations to work in harmony with others engaged at the site and not to delay, endanger, or interfere with the operations of others, whether or not specifically mentioned above, and in the best interests of the Authority. All operations should be conducted in a manner that ensures the safety and well-being of others.

# **9 TERMS OF PERFORMANCE**

Multiple Respondents may be selected for contract negotiations.

## **9.1 Contract Negotiations and Contract Form**

Respondents will be selected for contract negotiations in accordance with Section 12.4 below. Realizing that the final basis for agreement between the successful Respondent(s) and the Authority must be a contract, Respondents shall indicate their willingness to negotiate a Contract acceptable to both Parties. This RFP and specified portions of the successful Respondent's response shall be incorporated into such Contract. The successful Respondent shall be required to execute a written contract with the Authority. The Authority will not execute the successful Respondent's standard contract. A sample contract may be found in Section 15 of this document. Please review the sample contract as it contains the Authority's standard terms and conditions. The Authority intends to negotiate additional terms with the successful Respondent as appropriate and these terms will be incorporated into the Contract. The Authority reserves the right to change the sample contract; however, if changes are requested to this sample contract by the Respondent, the Respondent must submit those proposed changes under Tab M - Contract Changes for review and possible approval by the Authority. The successful Respondent(s) will not be allowed to change the content of the sample contract terms which may be incorporated in the final contract unless those proposed changes are submitted under Tab M - Contract Changes and approved by the Authority. Do not return the sample contract with your response.

## **9.2 Cancellation**

Should the successful Respondent fail to meet the requirements of the Contract after it is executed, the Authority may cancel the Contract at once and award the remainder of the



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contract term to the next qualified Respondent. If the Contract is cancelled, all materials provided to Contractor shall be returned to the Authority.

### **9.3 Term of Contract**

The initial term of this Contract shall be for a period of three (3) years commencing on the start date of the Contract (Contract Term). The Authority, in its sole discretion, reserves the option to extend the Contract Term for two (2) additional periods of one (1) year each (Renewal Terms) by giving written notice to the Company at least ninety (90) days before the expiration of the Contract Term or any Renewal Term. At the sole option of the Authority, the Contract may be extended beyond the two (2) year Renewal Terms. The Contract shall be amended to reflect any negotiated and agreed upon Compensation for any such extension of this Contract.

### **9.3 Convenience Termination of Contract**

Authority may, at any time upon thirty (30) days written notice to successful Respondent specifying the effective date of termination, terminate the Contract, in whole or in part, when the Authority deems it to be in Authority's best interests.

### **9.5 Payment and Billing Requirements**

#### **9.5.1 Invoice Submittal**

Invoices for payments related to the services rendered under the Contract shall be presented monthly or quarterly as described below. Payment will be made only for correct invoices presented with a complete itemization of the services rendered. Incorrect invoices will be returned for correction, unpaid.

#### **9.5.2 Payment Terms**

Authority shall use its best efforts to pay invoices within net thirty (30) days from the receipt of a correct invoice.

#### **9.5.3 Taxes**

The Authority is exempt from local, State, and Federal taxes.

## **10 SCOPE OF SERVICES**

### **10.1 General Overview**

The successful Respondent shall be responsible for furnishing all labor, parts, materials, necessary to implement an e-payment card services to allow:

- The Authority's tenants and other customers to make payments online, review and download payment history, review and update profile information.
- Allow VIPA cashiers to maintain revenue collections services from walkup customers.
- Allow VIPA employees to review, analyze and create reports of all financial transaction processed in the system.

The E-Payment card services shall include processing common credit cards, including products



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with the Visa or MasterCard logo, and American Express cards. The E-Payments shall be provided in accordance with all applicable Card transaction security rules and regulations including payment card industry and data security standards (“PCI DSS”) compliance, all laws, and any other governing authority requirements as may apply.

The system shall be able to integrate with the Authority’s ERP software—SAP Business One Accounting System, which is currently utilized for recording and billing. These services shall be offered 24 hours a day, 7-days a week, 365 days a year and should have a robust customer portal to allow the customer to establish a login to manage on-going payments to single or multiple accounts, store remittance data and review billing history.

The successful proposer shall provide and maintain an electronic payment processing system that meets the following:

1. **System Configuration.** The successful proposer will be responsible for all system configuration needed for implementation of the system. The system must provide all functional requirements listed in Section 10.2.
2. **Data Integration.** The vendor will be responsible for all data integration/data interfaces needed to “talk” with the Authority’s billing system. It is required that this data integration be real time so that customers will always see the most current balance due in a given account and the Authority’s staff will see payments posted on the account once the transaction has been completed.
3. **Project Management.** The Authority requires that the selected vendor assign a project manager to this project to direct the configuration and implementation of this project. The project manager should have a minimum of three successful implementations of the proposed system for similar sized communities.
4. **Implementation Schedule and Timeline.** A project schedule and implementation timeline to meet this deadline should be provided. The schedule should incorporate all aspects of the project implementation. The final schedule and timeline will be finalized by the Authority and the selected vendor once the project has been awarded.
5. **Licensing.** The Authority should have unlimited licensing.
6. **Training.** The Authority requires initial on-site or web-based training for the system administrator(s) and the Authority’s designated key end users. Describe what training materials will be utilized and what documentation is provided within the system. Itemize all system administrator and end user training recommended to use the system. Describe on-going training opportunities to include follow-up, on-site training, vendor hosted webinars, and online computer based training.
7. **Hosting/ Maintenance Fees.** Proposers should include a detailed description of annual hosting fees and what is included in these fees. Applicable maintenance options and their related costs should also be presented.  
Proposer should also include alternate cost for in-house hosting by the Authority.
8. **Technical Support.** Technical support must be available at an appropriate level to support business functions. The Authority requires all support calls be fielded by knowledgeable support staff. The proposer should provide a description of technical support levels and functions, including how to access technical support, how calls are



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logged and tracked, and the escalation process for problem resolution.

9. **Audit Capabilities.** The proposer should describe the audit capabilities of the system. Specifically, to identify internal users of the system by login name, date and time, and to identify their activity within the system. Also, the proposer should demonstrate activities by the customer that are tracked and stored in the system.
10. **References.** Proposers shall provide a minimum of three (3) references that are using the proposed system. References should be operating a similar size and type organization. Provide contact names and phone numbers for the person(s) responsible for the operation of the systems.
11. **Qualifications.** The Proposer shall demonstrate its knowledge and experience in providing the solution and/or services listed above in the response.
12. **Demonstrations.** If requested by the Authority, the Proposer must be available to provide an on-site demonstration of the proposed system.
13. **Costs.** The proposer must detail all cost items for software, implementation costs, and training. Include line item costs for any required hardware and all software. Define licensing structure and costs. Define banking service fees and vendor transactions fees. The first year's maintenance and support should be included in the initial cost. Also the yearly costs for years two (2) through five (5) that may be required for support, maintenance and upgrades.

## **10.2 Functional Requirements**

The following components represent the system functionality that is required. Respond to each item with a description of how the proposed system provides that functionality. Incorporate screenshots or diagrams as needed to describe the functionality.

### **1. Transaction Security**

The proposer shall be responsible for ensuring that appropriate organizational, procedural, and technical controls are in place to safeguard the Authority and its customer's information.

### **2. Level-1 Payment Card Industry (PCI) Standards**

The proposer must provide certification of compliance with these standards.

- The proposer must ensure the security, confidentiality, and integrity of electronic personal data and personal information by meeting all PCI Level 1 requirements.
- The proposer must demonstrate how it will prevent interception and manipulation of data during transmission to and from any servers.
- The proposer must demonstrate how it will prevent unauthorized access to electronic personal data or personal information or any other data from any public or private network.
- No customer electronic personal data will be stored within the Authority's billing systems.

### **3. PABP Compliance**

The proposer must provide certification of compliance with all current Payment Application Best Practices (PABP) Standards.

### **4. Transaction Processing**





- Payments: The proposed solution must be capable of supporting smart chip credit card and debit cards, branded prepaid cards, ACH, and EFT.
- Payment Methods: The proposed solutions should allow for payments from all the following vendors/platforms: AmEx, Visa, MasterCard, branded prepaid cards, ACH, and EFT. The Authority will have the capability to choose which of these vendors/platforms to offer to its customers.
- Payment Platforms: The proposer must be able to demonstrate that payments can be made via the following platforms:
  - Web (PC-based)
  - Mobile Device

**5. Banking Transaction Fees**

The Proposer must present a schedule of banking transaction fees associated with each vendor payment option listed above. The system should allow the Authority to decide to either absorb or pass processing fees onto the customer.

**6. Convenience Fees**

The Proposer must present a schedule of Convenience fees (flat or percentage) that would be associated with each vendor payment option and payment platform listed above. The system should allow the Authority to decide to either absorb or pass processing fees onto the customer.

**7. Real Time Processing**

- The proposed solution must be able to authorize credit/debit and prepaid card transactions in real time.
- The proposed solution must be able to validate ABA routing and transit numbers for ACH payments in real time
- The proposed solution must be able to transmit completed payment details back to the Authority's billing system real time.

**8. Batch Processing**

The proposed solution must be able to transmit payment details to the bank based on a batch as defined by the Authority. Batches should close at 5:00 p.m. each business day (Monday – Friday).

**9. Payments Accepted**

The proposed solution shall allow flexibility when applying payment rules (full payment/partial payment) and minimum requirement dependent on the account type and status.

**10. Customer Service/Customer Portal**

The customer portal must be easy to use, have limited steps in the payment process and be intuitive to the customer. The customer portal should provide the following customer service functions:

- Single Payment Option: The solution should provide the ability to make a one-time payment without having to establish a login account. The proposer and the Authority will determine what information is appropriate for the customer to present to identify the appropriate account (Account number, invoice number, etc.)
- Customer Account Option: The solution should provide the ability for the customer to establish a login account to be able to:
  - Store credit card/bank routing data for recurring future payments.





- Schedule payments to be made against stored payment method information.
- View billing and payment history.
- Select to opt in to paperless billing status.

#### **11. Email Notifications**

The solution should provide the ability to send email notifications to customers who have established accounts with the online billing system.

#### **12. Payment Confirmation**

Regardless of payment platform or payment method, the customer will get confirmation from the system that the payment was successfully completed.

#### **13. Billing History**

The solution should provide the capability of presenting up to 24 months of billing and payment history to the customer.

#### **14. Paperless Billing**

The solution should have a process for the customer to elect paperless billing through online self-service.

#### **15. Administrative Tools and Reporting**

- The solution will provide a web-based administrative tool that will provide designated Authority staff with access to review system activity. User authentication level will determine access to activity system-wide or by billing subsystem.
- Administrative functions should include inquiry capabilities, on-demand reporting, multi-account set ups, and if necessary password resets.
- It is anticipated that the solution will provide a process for the customer to reset a password through a self-serve function
- The system will provide administrative interfaces that support the following payment processing functions such as authorizations, charges, settlement, credits, refunds, and voids, and chargeback and reject notices.
- The administrative tool would also have a real-time payment dashboard component with transaction detail for each billing sub-system.
- Reporting needs to be established for all transactions made as well as by billing sub-system. Reports should be able to identify payments by the following:
  - Payment channel
  - Payment type
  - Cashier accepting the payment
  - Billing sub-system
  - Payment method
  - Day, week, month, year
  - Summary with drill down capability to individual transaction or groups of transactions.
  - Voids and corrections.

#### **16. Technical Support**

- Describe the service level agreements offered by the proposer. The Authority expects technical support to provide assistance to authorized Authority staff to respond to batch posting and processing issues as well as assistance in managing customer



accounts.

- The proposer will provide technical support that includes guaranteed response times and a documented escalations process for unresolved issues.
- Describe the proposer's resources to assist the Authority with promotion of online services to e-payments and promote e-adoption rates.

#### 17. Training

- Describe what training materials are used and what documentation is provided with the system.
- The Authority requires initial on-site or web based training for the system administrator(s) and Authority-designated key end users. List all system administrator and end user training recommended to use the system.
- Describe on-going training opportunities to include follow-up, on-site training, vendor hosted webinars, and online computer based training.

## 11 RESPONSE STRUCTURE

It is not the intent of the Authority to restrict response preparation; however, to enable the Authority to evaluate each response in a uniform manner, all Respondents shall structure their response by submitting a marked reference tabs containing the data requested and the forms provided in Section 13 below. **Submit data as requested in the following sections:**

### ***Table of Contents***

Respondent shall submit a Table of Contents outlining the response and shall include the tabs listed below.

### ***Tab A – Company Information***

Submitted under Tab A – Company Information, Respondent shall provide a brief company description, history, and financial status. In addition, Respondent should submit the following information on the Respondent Information form found in Section 13.1 below.

#### **Name**

The name under which the Respondent is licensed to do business. Provide copy of license from the Government of the Virgin Islands Department of Licensing and Consumer Affairs, or information from the state in which Respondent is licensed.

#### **Principal Address**

The address of the Respondent's principal place of business (headquarters).

#### **Local Address**

The address of the Respondent's local office responsible for the proposed work, if different from the headquarters office.

#### **Company Contact**

Name, title, telephone number, and email address of the Respondent contact for this RFP.

### ***Tab B – Qualifications***



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Your proposal must specifically address each of the questions/issues that are listed below. The quality and detail of your responses will figure significantly in the overall evaluation of your

proposal. Proposers are encouraged to give examples and provide additional information to support your compliance on each point.

**Project Team Structure**

Provide a description of the proposed project team structure to be used during the course of the project, including any subcontractors. Provide an organizational chart of the project team indicating lines of authority for personnel involved in performance of the project. This chart must also show lines of responsibility to the next senior level of management and include who will have prime responsibility and final authority for the work.

**Staff Qualifications / Experience**

Identify staff, including subcontractors, who will be assigned to the project, indicating the responsibilities and qualifications of such personnel. Provide resumes (not to exceed two pages per person) for the named staff. Resumes must include information on the individual's particular skills related to the project, and any other pertinent information.

***Tab C – References***

The Proposal must contain a list of project references.

***Tab D – Technical Approach***

Provide a response of the technical approach to this project. Please provide a response to the functional Requirement list.

***Tab E – Executive Summary***

Describe your team's approach to providing the services in this RFP, identifying any unique or distinctive features, or alternatives to which the Respondent wishes the evaluation committee to give particular attention. Please limit to one (1) page or less.

***Tab F – Additional Data***

Submit additional data, exhibits, statements, and drawings necessary to assure the Authority has a total understanding of the Response. Include any other material which your team believes would be helpful in evaluation the quality of your firm and its overall operations. The Authority may require an interview with short-listed Respondents to obtain a better understanding of their Response.

***Tab G – Cost***

The proposer must detail all cost items for software, implementation costs, and training. Include line item costs for any required hardware and all software. Define licensing structure and costs. Define banking service fees and vendor transactions fees. The first year's maintenance and support should be included in the initial cost. Also the yearly costs for years two (2) through five (5) that may be required for support, maintenance and upgrades.



## 12 AWARD

### 12.1 *Solicitation*

Responses are solicited from all companies that wish to be considered for the services outlined in this Request for Proposals document. The Authority will make its selection from the information contained in the responses to the Request for Proposals submitted by the due date. All parties are encouraged to respond in depth with statements containing specific experience and qualifications related to this RFP in the format described herein.

### 12.2 *Evaluation Criteria*

The following criteria, although not exhaustive, may be used in the evaluation. The Authority reserves the right to change or modify the criteria. The following list in alphabetical order illustrates some of the criteria that may be used in the evaluation process.

- a. Qualifications and experience in providing systems to similarly sized Companies (25 points)
- b. System Capabilities—Ability to meet function requirements (30 points)
- c. Fees—to include the cost of implementation, integration, training, maintenance and support (25 points)
- d. References (15 points)
- e. Corporate documents (5 points)

### 12.3 *Oral Presentation May be Required*

Written submittals and oral presentations, if considered necessary, will be utilized in selecting the winning Response. The Authority, in its sole discretion, may elect to select the top scoring finalists from the written submittals for an oral presentation and final determination of Contract award. Should the Authority elect to hold oral presentations, the Authority will contact the top-scoring Respondent(s) to schedule a date, time, and location.

### 12.4 *Final Selection*

Once the Respondents are short-listed, the Authority staff will attempt to contract with the top ranked firm(s). If a satisfactory Contract is agreed by the parties, a Contract will be awarded. If efforts to agree upon a fair and reasonable Contract are unsuccessful with the top ranked firm(s), negotiations shall cease with that firm(s) and the Authority may either begin with the next ranked firm, and so on, until a satisfactory Contract has been reached, or the Authority may at any time terminate this RFP process.

### 12.5 *Authority's Right to No Award or Partial Award*

Award will be made to the best qualified, responsive Respondent(s), if awarded. The Authority may contract with multiple Respondents to provide services outlined in this RFP. The Authority reserves the right to reject all responses, reject portions of any response, or accept the response deemed most advantageous to the Authority



**12.6 Non-Exclusive Contract:**

This is a non-exclusive Contractual Agreement. In the Authority best interests, the Authority reserves the right to purchase the same materials and services through other procurements.

**12.7 Cancellation**

Should the successful Respondent fail to execute or meet the requirements of the Contract after it is executed, the Authority may cancel the Contract at once and award the Contract to the next best qualified, responsive Respondent.

**12.8 Anticipated Contract Date**

The Authority anticipates the commencement date of the Contract to be March 1, 2021.



## 13 REQUEST FOR PROPOSALS FORMS

### 13.1 Respondent Information Form (*Required*)

If Respondent is an INDIVIDUAL, fill out the following:

Individual's name: \_\_\_\_\_

If Respondent is a PARTNERSHIP, fill out the following:

Partner Name:

Partner Address:

_____	_____
_____	_____
_____	_____
_____	_____

If Respondent is a CORPORATION, fill out the following:

NAME OF CORPORATION PRESIDENT: \_\_\_\_\_

NAME OF CORPORATION SECRETARY: \_\_\_\_\_

All Respondents fill out the following:

NAME OF COMPANY: \_\_\_\_\_

PRINCIPAL BUSINESS ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

LOCAL STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

FEDERAL TAX ID #: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

SIGNATURE OF RESPONDENT: \_\_\_\_\_



### 13.2 Contract Document Checklist (Required)

Name of Respondent: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Telephone Number: Office \_\_\_\_\_ Mobile \_\_\_\_\_  
Email Address: \_\_\_\_\_

#### 1. \_\_\_\_\_ Respondent Formation Documents

- \_\_\_\_\_ **Corporation**                      \_\_\_\_\_ Copy of Trade Name Certificate (if applicable)  
   \_\_\_\_\_ Copy of Articles of Incorporation & By Laws  
   \_\_\_\_\_ Copy of Certificate of Resolution  
   \_\_\_\_\_ Certificate of Good Standing (valid from July 1st thru June 30th)
- \_\_\_\_\_ **LLC**    \_\_\_\_\_ Copy of Trade Name Certificate (if applicable)  
   \_\_\_\_\_ Copy of Articles of Organization  
   \_\_\_\_\_ Copy of Operating Agreement  
   \_\_\_\_\_ Certificate of Good Standing (valid from July 1st thru June 30th)
- \_\_\_\_\_ **General Partnership**                      \_\_\_\_\_ Copy of Trade Name Certificate (if applicable)  
   \_\_\_\_\_ Copy of Partnership Agreement (if applicable)  
   \_\_\_\_\_ Certificate of Good Standing (valid from July 1st thru June 30th)
- \_\_\_\_\_ **L.P, LLP, LLLP**    \_\_\_\_\_ Copy of Trade Name Certificate (if applicable)  
   \_\_\_\_\_ Certificate of Limited Partnership or Statement of Qualification for  
   LLP and LLLP  
   \_\_\_\_\_ Certificate of Good Standing (valid from July 1st thru June 30th)
- \_\_\_\_\_ **Sole Proprietorship**                      \_\_\_\_\_ Copy of Trade Name Certificate (if applicable)

2. \_\_\_\_\_ Current USVI business license    Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_

   Type of business license: \_\_\_\_\_

3. \_\_\_\_\_ Employer Identification Number (EIN)/Social Security Number (SSN): \_\_\_\_\_

4. \_\_\_\_\_ Insurance                      \_\_\_\_\_ Certificate of General Liability & Endorsement                      Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_  
   \_\_\_\_\_ Proof of Automobile Insurance                      Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_  
   \_\_\_\_\_ Copy of Professional Liability Coverage  
   Errors and Omissions                      Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_  
   Malpractice Insurance                      Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_

5. \_\_\_\_\_ Workers Compensation Insurance    Expiration date: \_\_\_\_/\_\_\_\_/20\_\_\_\_



## **14 SAMPLE CONTRACT**

**CONTRACT NUMBER**  
**FOR**  
**PAYMENT PORTAL BY AND BETWEEN**  
**THE VIRGIN ISLANDS PORT AUTHORITY AND**  
**[SUCCESSFUL RESPONDENT]**

**THIS CONTRACT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Contract”), by and between the **successful Respondent**, (“Company”) and **Virgin Island Port Authority**, a body politic and corporate organized and existing under and by virtue of the laws of the Virgin Islands, (“Authority”). The Authority and the Company may be referred to herein individually as a “Party” and collectively as the “Parties”.

**WITNESSETH THAT:**

For and in consideration of the mutual promises, covenants, and stipulations of each Party to the other, the Company agrees to provide the Authority with services on the terms and conditions set forth herein as follows:

### **1 SERVICES TO BE PERFORMED**

Company shall provide (“Services”) to the Authority in accordance with the Scope of Services (“Scope of Services”), which is attached hereto as Exhibit A and incorporated herein by reference. The Authority and the Company agree that from time to time it may be necessary to add to, delete from, or amend the Scope of Services in order to better meet the needs of the Authority, as determined by the Authority in its sole discretion. In such event, the Parties shall in writing, amend this Contract if the Parties reach an agreement on modifications of the Scope of Services and Compensation, which is defined in Section 2 below.

### **2 COMPENSATION**

For satisfactory performance, the Authority agrees to pay the Company in accordance with the Schedule of Compensation (“Compensation”) which is attached hereto as Exhibit B and incorporated herein by reference. The Authority agrees to remit payment to Company within thirty (30) days of receipt of a properly submitted and approved invoice with a complete itemization of the charges, including any and all supporting documentation. However, if Company has an outstanding debt with the Authority for any fees or expenses





related to this Contract, and the debt is over thirty (30) days past due, the Authority reserves the right to deduct the amount owed from the Company's submitted invoice.

### **3 TERM AND RENEWAL**

The initial term of this Contract shall be for a period of three (3) years commencing on the start date of the Contract ("Contract Term"). The Authority, in its sole discretion, reserves the option to extend the Contract Term for two (2) additional periods of one (1) year each ("Renewal Terms") by giving written notice to the Company at least ninety (90) days before the expiration of the Contract Term or any Renewal Term. At the sole option of the Authority, the Contract may be extended beyond the four Renewal Terms. The Contract shall be amended to reflect any negotiated and agreed upon Compensation for any such extension of this Contract.

### **4 BREACH OF CONTRACT TERMS**

Any violation or breach of the terms of this Contract on the part of the Company or their subcontractors may result in the termination of this Contract or such other action that may be necessary to enforce the rights of the Parties to this Contract. The duties and obligations imposed by the Contract Documents, as defined in Section 26 below, and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

### **5 TERMINATION OF CONTRACT**

The Authority may, at any time upon thirty (30) days written notice, terminate this Contract in whole or in part at any time, either for the Authority's convenience or because of failure by Company to fulfill the Contract obligations. Upon receipt of such notice, services shall be discontinued on the effective date of termination (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in progress, delivered to the Authority.

If the Authority terminates this Contract, the Authority shall be liable under the payment provisions of this Contract only for payment for services rendered and expenses incurred before the effective date of termination.

Company may terminate this Contract upon thirty (30) days written notice to Authority if Authority is in material breach of this Contract and fails to cure the breach before the end of the thirty (30) day notice period.

If, after notice of termination for failure to fulfill contract obligations, it is determined that the Company had not so failed, the termination shall be deemed to have been effected for the convenience of the Authority.

The rights and remedies of the Authority provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

### **6 UPON TERMINATION**

If this Contract is terminated prior to Company's completion of the services to be performed hereunder, then all finished or unfinished documents or other materials prepared or obtained by Company pursuant to this



Contract shall become the Authority's property to the extent allowable by law and accounting standards. If this Contract is terminated prior to Company's completion of the services to be performed hereunder, Company shall return to Authority any sums paid in advance by Authority for services that would otherwise have had to be rendered between the effective date of termination and the original ending date of the Contract. Company shall prepare an accounting of the services performed and money spent by Company up to the effective date of termination and shall return to Authority any remaining sums within thirty (30) days of such date.

## **7 DEFAULTS AND REMEDIES**

### **7.1 DEFAULTS**

Company shall be in default of this Contract upon the occurrence of any of the following events:

- a. If Company fails to comply with any of the provisions required of Company under this Contract, and such failure continues for a period of twenty-four (24) hours after written notice thereof is given to Company by the Authority; or
- b. If, by operation of law or otherwise, the right, title, or interest of Company in this Contract is transferred to, passes to, or devolves upon any other person, firm, or corporation without prior written consent of the Authority; or
- c. Upon the levy of any attachment or execution of any process of a court of competent jurisdiction which does or will interfere with Company's performance under this Contract, and which attachment, execution, or other process of such court is not enjoined, vacated, dismissed, or set aside within a period of thirty (30) days; or
- d. Upon the suspension, revocation, or termination of any power, license, permit, or Authority that has the effect of preventing Company from performing under this Contract.

### **7.2 REMEDIES**

Upon the occurrence of any one or more of the events as set forth above, or upon any other default or breach of this Contract by Company, the Authority may, at the Authority's sole option, exercise concurrently or successively, any one or more of the following rights and remedies without waiving such default or breach:

- a. Interplead funds to a court or pay any sum required to be paid by Company to parties other than the Authority, and which Company has incurred in connection with this Contract and failed to pay. Any amount so paid in good faith by the Authority, together with interest thereon at the maximum rate provided by law from the date of such payment, and all expenses connected therewith shall be repaid by Company to the Authority on demand; or
- b. Enjoin any breach or threatened breach by Company of any covenants, sections, terms, provisions, or conditions hereof; or
- c. Bring suit for the performance of any covenant devolving upon Company for performance or damage thereof, all without terminating this Contract; or



- d. Terminate this Contract upon ten (10) days written notice to Company, specifying date of termination and upon payment of all fees and expenses incurred prior to termination.

## **8 RIGHTS AND REMEDIES CUMULATIVE AND NOT EXCLUSIVE**

All rights and remedies granted to Authority herein and any other rights and remedies which Authority may have at law and in equity are hereby declared to be cumulative and not exclusive, and the fact that Authority may have exercised any remedy without terminating this Contract shall not impair Authority's rights thereafter to terminate or to exercise any other remedy herein granted or to which Authority may be otherwise entitled.

## **9 RECOVERY OF FEES AND EXPENSES**

In the event of any claim or other matter in question between the Authority and Company arising out of, or relating to, this Contract or the breach thereof and in addition to any other remedies or recoveries provided herein, the Company shall be liable for and shall promptly reimburse the Authority for any cost or expense incurred by the Authority, including fees and expenses of its attorneys, consultants, and experts, as a result of (i) Company's failure to perform in accordance with the terms of this Contract; (ii) breach of the warranties and guaranties set forth in this Contract; or (iii) any successful action taken by the Authority to enforce the terms of this Contract.

## **10 WAIVER**

Waiver by the Authority of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant, or condition. No term, covenant, or condition of this Contract can be waived except by written consent of Authority, and forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of same to be performed by Company to which the same may apply and, until complete performance by Company of the term, covenant, or condition, Authority shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

## **11 ASSIGNMENT**

The Company shall not assign the Contract or any part hereof or any monies due or to become due hereunder without the prior written approval of the Authority.

## **12 SUCCESSORS AND ASSIGNS**

The Authority and the Company each binds itself and its partners, successors, executors, administrators and assigns, to the other Party of this Contract and to the partners, successors, executors, administrators, and assigns of such other Party with respect to all covenants, terms, provisions, and conditions of this Contract. Neither the Authority nor the Company shall assign, sublet, or transfer its interest in this Contract without the prior written consent of the other; provided, however, that claims for money due, or to become due the Company from the Authority under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of such assignment or transfer shall be furnished promptly in writing to the Authority. Except as provided for above, if Company should subcontract, assign, or transfer any part of Company's interests or obligations under this Contract without



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the prior written approval of Authority, it shall constitute a material breach of this Contract.

### **13 INDEPENDENT COMPANY**

Company is an independent contractor with respect to all services performed under this Contract. Company accepts full and exclusive liability for the payment of any and all premiums, contributions, or taxes for workers' compensation, Social Security, unemployment benefits, or other employee benefits now or hereinafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid to persons employed by Company on work performed under the terms of this Contract. Company shall defend, indemnify, save, and hold harmless the Authority from any claims or liability for such contributions, benefits or taxes. Nothing contained in this Contract, nor any act of the Authority or Company, shall be deemed or construed to create any third-party beneficiary or principal and agent association or relationship with the Authority. The Company is not the Authority's agent and the Company has no Authority, express, apparent or otherwise, to take any action or execute any documents on behalf of the Authority.

### **14 NO FINANCIAL INTEREST**

Company understands and agrees that no Authority employee or member of the Board of Directors of the Authority, shall receive any financial benefit arising out of this Contract, either directly or indirectly. Further, any fees paid to any person or entity by the Company for assistance in obtaining this Contract with the Authority have been fully disclosed to the Authority in Company's Response, as defined in Section 25 below, and supplemented in writing as necessary throughout this process.

### **15 INDEMNIFICATION**

Company shall defend, indemnify, and hold harmless the Authority and its commissioners, directors, officers, agents and employees, from and against all claims, damages, demands, liability, losses, costs, fines, and expenses of any nature whatsoever, including reasonable attorneys' fees, arising out of or resulting from any negligent acts or omissions in connection with Company's performance of this Contract, to the extent caused in whole or in part by Company or its employees, officers, agents, or subcontractors, or caused by others for whom Company is liable except to the extent of negligence of the Authority or any of its commissioners, directors, officers, agents or employees. The indemnity set forth in this Section 16 shall survive the expiration or earlier termination of this Contract.

### **16 LAWS, PERMITS AND LICENSES**

Company shall abide by and observe all laws, ordinances, and regulations relating to the work to be done pursuant to this Contract. Company shall secure all permits and pay all license fees required by law.

### **17 Condition Precedent**

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Executive Director

### **18 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

#### **18.1 OVERVIEW**



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The Authority participates in the federal Disadvantaged Business Enterprise (DBE) Program to ensure full and fair opportunities in Authority contracting for businesses owned by socially and economically disadvantaged individuals. The information contained in this section is not intended to, nor does it, supplement or amend any federal regulation. Company is responsible for compliance with all applicable federal and Authority rules and requirements.

## 19 INSURANCE REQUIREMENTS

Prior to commencing work, the Company shall procure and continuously maintain, at its sole cost and expense, with insurers' financially acceptable and lawfully authorized to do business in the Virgin Islands and any other states where work or operations are performed on behalf of the Authority, the insurance coverage required herein. The minimum limits for the insurance coverage required herein are listed below unless higher limits are required by law.

### 19.1 MINIMUM SCOPE AND LIMITS OF INSURANCE

Any General Liability and Pollution Liability policies of insurance as respects work to be performed under the Contract and submitted by the Company, whether it be two separate policies or on a combined form, must be written on an occurrence basis and shall not contain a sunset provision, commutation clause or any other provision which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. Acceptance by Authority of insurance submitted by the Company does not relieve or decrease in any manner the liability of the Company for performance of the work required under the Contract. The Company shall increase such minimum limits upon notice in writing from the Authority. The Company is responsible for any losses, claims, and costs of any kind which the Company's insurance does not cover.

#### 19.1.1 COMMERCIAL GENERAL LIABILITY

Company's insurance coverage shall be on an occurrence coverage form and shall provide coverage for premises and operations, products and completed operations. Other than standard exclusions applicable to pollution, asbestos, lead, mold, employment practices, ERISA and professional liability, there shall be no limitations or exclusions beyond those contained in the standard policy forms which apply to property damage, products and completed operations, or contractual liability.

Company shall maintain Commercial General Liability not less than:

**\$1,000,000** bodily injury and property damage per occurrence  
**\$2,000,000** general aggregate

If Commercial General Liability Insurance or another equivalent coverage form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate shall be twice the required loss limit.

#### 19.1.2 AUTOMOBILE LIABILITY

Company shall maintain coverage, including follow form umbrella liability insurance if necessary, covering liability with respect to the use or operation of any auto,



including those owned, hired or otherwise operated or used by or on behalf of the Company. If Company's scope of services includes the transportation of hazardous materials to or from Airport premises, as determined by the Authority, Company shall also include pollution coverage by procuring and continuously maintaining current editions of standard endorsements **MCS-90** and **CA 9948**, or their equivalents.

**\$1,000,000** per occurrence, bodily injury and property damage liability  
**\$5,000,000** if hazardous materials are to be transported

If Company's operation/work is on the Airside Operations Area (AOA), coverage shall be not less than \$10,000,000 per occurrence, combined single limit for bodily injury and property damage.

### **19.1.3 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Company shall maintain Workers' Compensation coverage in accordance with the statutory regulations of the Virgin Islands, and shall voluntarily provide workers' compensation coverage for proprietors, partners or others not statutorily required to maintain workers compensation insurance.

Company shall maintain Employer's Liability not less than:

**\$1,000,000** each accident  
**\$1,000,000** disease policy limit  
**\$1,000,000** disease each employee

### **19.1.4 UMBRELLA AND EXCESS LIABILITY**

Company shall maintain excess liability coverage on a follow form basis for Commercial General Liability, Automobile Liability and Employer's Liability coverage required herein of not less than:

**\$5,000,000** per claim  
**\$5,000,000** annual aggregate

If Company's operation/work is on the Airside Operations Area (AOA), coverage shall be not less than **\$10,000,000** per occurrence, combined single limit for bodily injury and property damage for the Umbrella and Excess Liability coverages.

### **19.2.1 WAIVER OF SUBROGATION**

To the fullest extent permitted by law, Company agrees to waive all rights of subrogation against the Authority, including the Authority's commissioners, officers, directors, employees and agents and shall cause each of its subcontractors to waive their rights of subrogation against the Authority, including the Authority's commissioners, officers, directors, employees and agents for all costs or expenses, losses, damages, claims, suits or demands, howsoever caused:

- a. To real or personal property, including but not limited to vehicles,



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and tools owned, leased or used by the Company or the Company's employees, agents or subcontractors; and

- b. To the extent such loss, damage, claims, suits or demands are covered, or should be covered, by the required or any other insurance, except professional liability to which this requirement does not apply, maintained by the Company.

This waiver shall apply to all first party property, vehicle and workers compensation claims, unless prohibited under applicable state statutes, and all third party liability claims. This waiver shall also apply to all deductibles, retentions or self-insured layers applicable to the required or any other insurance, except professional liability to which this requirement does not apply maintained by the Company. If necessary, the Company agrees to endorse the required insurance policies to permit waivers of subrogation in favor of the Authority as required hereunder. The Company further agrees to hold harmless and indemnify the Authority for any loss or expense incurred as a result of the Company's failure to obtain such waivers of subrogation from the Company's insurers.

### **19.2.2 NOTICE OF CANCELLATION**

Should the Company cancel, fail to renew or make changes to any insurance policy required herein, and/or receive advance written notice from the insurer prior to the cancellation, termination, revocation of or any adverse material change to any insurance coverage required hereunder, the Company shall immediately notify Authority in writing of same. If any of the insurance is cancelled, the Company shall cease operations until such insurance can be provided.

### **19.2.3 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers having an A- or better rating and a Financial Size Category of "Class VII" or higher according to the most current edition of Best's Key Rating Guide authorized to do business in the Virgin Islands.

### **19.2.4 VERIFICATION OF COVERAGE**

The Company shall furnish the Authority with a certificate of insurance evidencing the required coverage prior to the commencement of work or operations. The Company agrees to submit an insurance certificate(s) such that Authority has a certificate evidencing current required coverage at all times. The certificates are to be signed by a person authorized by the insurer(s) to bind coverage on Company's behalf. **Copies of endorsements providing coverage for additional insureds, permitting waiver of subrogation, and earlier notice of cancellation shall also be provided to Authority.** Renewal certificates shall also be provided to the Authority prior to the expiration of the required insurance policies.

If required by the Authority's legal counsel, the Company agrees to provide true and certified copies of the required insurance policies within fifteen (15) days of receipt of written request from the Authority. In the event renewal policies have not been issued by insurer(s), the Company agrees to provide complete copies of insurance binders issued to evidence coverage required by this Contract until such





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time as the actual policies are received from insurer(s).

Failure of the Authority to request such certificates or other evidence of Company's compliance with insurance requirements, or failure of the Authority to identify deficiencies from evidence that is provided, shall in no way limit or relieve Company of its obligations to maintain such insurance.

## **19.2.5 SUBCONTRACTORS**

The Company shall require their subcontractors to maintain similar insurance coverage and minimum limits as is herein required of the Company, as well as provide proof of subcontractors' insurance coverage to Authority.

## **19.2.6 NO REPRESENTATION OF COVERAGE ADEQUACY**

In specifying minimum Company insurance requirements, the Authority does not represent that such insurance is adequate to protect Company for loss, damage or liability arising from its work. Company agrees that it is Company's responsibility to identify its own risks and protect itself accordingly, and understands that Authority accepts no liability for any such uninsured risks howsoever arising.

The insurance requirements set forth in minimum amounts shall not be construed to relieve Company for liability in excess of such coverage, nor shall it preclude the Authority from taking such other actions as is available to it under any other provision of the Contract. Any acceptance of certificates of insurance by the Authority shall in no way limit or relieve Company of its duties and responsibilities under the Contract, including the duty to indemnify and hold harmless the Authority.

## **20 DAMAGE TO AUTHORITY PROPERTY**

Company agrees to promptly notify Authority of any damage caused to Airport property arising from Company's activities at the Airport. Company also agrees to comply with any request made by the Authority for reimbursement of costs associated with any damage to Airport property arising from the use of the

Airport by Company or any of Company's representatives, managers, employees, agents, contractors, subcontractors, licensees or invitees or from the conduct of same. This provision shall survive the termination of this Contract.

## **21 AUDIT**

The Authority shall have the right to audit this Contract along with any and all books, documents, and records relating thereto, as deemed necessary by the Authority, in its sole discretion. The books, documents, and records of Company in connection with this Contract shall be made available to the Authority in the Authority's offices, within ten (10) days after a written request is made. The Authority may audit the Company's records at any time within three (3) years of each year ended June 30. The provisions of this Section 21 shall survive the expiration or earlier termination of the Contract by a period of no less than three (3) years.





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## **22 GOVERNING LAW**

This Contract shall be interpreted, construed and performance shall be governed by and in accordance with the laws of the Virgin Islands. Authority and Company irrevocably agree that should any litigation arise out of this Contract, it shall be brought in the state or federal courts in the Virgin Islands.

## **23 SURVIVAL OF OBLIGATIONS**

All obligations of the Parties that either expressly or by their nature survive the expiration or termination of this Contract shall continue in full force and effect subsequent to, and regardless of, this Contract's expiration or termination and until they are fully satisfied or by their nature expire.

## **24 INCORPORATION OF AUTHORITY'S REQUEST FOR PROPOSALS**

The Authority's Request for Proposals, shall be incorporated in its entirety herein by reference. Accordingly, the Company shall be obligated to meet all requirements including, but not limited to, DBE requirements and Performance Bonds as described in the Request for Proposals; provided, however, that where an express provision of this Contract conflicts with any provision of the Request for Proposals, this Contract shall control.

## **25 INCORPORATION OF COMPANY'S RESPONSE**

Company's timely response to the Authority's Request for Proposals ("Company's Response") shall be incorporated in its entirety herein by reference. Company and Authority acknowledge that Company's Response was a valuable consideration in the award of this Contract to the Company, and is an authoritative reference for understanding the intention of the Parties to this Contract. Accordingly, Company shall be obligated to meet all specifications described in Company's Response; provided, however, that any conflict between an express provision of this Contract and any provision of Company's Response shall be resolved in the following order: (1) the provisions of this Contract, (2) Scope of Services, and (3) Schedule of Compensation.

## **26 SEVERABILITY**

In the event any provisions of this Contract shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the Parties. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.

## **27 NOTIFICATION**

All written notices, demands or requests of any kind that either Party desires to serve on the other Party in connection with this Contract may be served by hand-delivery or by mail at the addresses below or such other addresses as may be provided in writing. Any such notice or demand so served by mail shall be mailed or delivered by certified or registered mail with postage or fees thereon fully prepaid, and addressed to the Parties as follows:

If to Authority:

Virgin Islands Port Authority  
8074 Lindberg Bay  
St. Thomas, VI 00802



If to Company:

Company

Attn:

Address

City, State, Zip Code

Any notice to either Party relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by certified or registered mail to the other Party at its last given address or delivered in person to the other Party or to its authorized representative.

### **28 ENTIRE AGREEMENT**

This Contract constitutes the complete agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations, stipulations, representations, or agreements, whether written or oral. The provisions of this Contract may only be modified, amended or waived by a written instrument executed by the Parties. If any provision or term of this Contract shall be determined to be illegal, invalid or unenforceable, the remainder shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

### **29 DEBARMENT CLAUSE**

By execution of this Contract, the Contractor 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 contracts with any federal agency. The Contractor 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 the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Authority for any progress payments heretofore made.

### **30 NOTICE OF FEDERAL FUNDING**

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



## Virgin Islands Port Authority

*Gateways to the USVI's Economy*

**IN WITNESS WHEREOF**, the signatures of the respective Parties by their duly authorized officers on the date first above written.

### **VIRGIN ISLANDS PORT AUTHORITY**

By: \_\_\_\_\_

Printed Name: Carlton Dowe

Title: Executive Director

Date: \_\_\_\_\_

### **COMPANY**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Leona E. Smith, Chairwoman  
Governing Board of the  
Virgin Islands Port Authority

Date: \_\_\_\_\_

### **Approved as to Form and Legality**

By: \_\_\_\_\_

General Counsel

Date: \_\_\_\_\_



**EXHIBIT A**  
**SCOPE OF SERVICES**



**EXHIBIT B**  
**SCHEDULE OF COMPENSATION**