

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made the 24 day of March, 2020 in the Territory of the United States Virgin Islands between the **Virgin Islands Waste Management Authority** at 3200 Demarara, St. Thomas, VI 00802 (hereinafter referred to as the "Authority") and **OASIS CONSULTING SERVICES**, 45 Woodstock Road St., Rosewell, Ga. 30075 (hereinafter referred to as the "Contractor").

WITNESSETH:

WHEREAS, the Authority, is in need of the services of the contractor to provide professional engineering and environmental consulting services on a task order basis, and such other duties and activities described in the Scope of Services (**ADDENDUM I**), and the Terms of Payment, (**ADDENDUM II**), all of which are attached hereto, and incorporated herein by reference; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor shall provide professional engineering and environmental consulting services on a task order basis, described in **ADDENDUM I**. Contractor may perform the services through a combination of its own employees and employees of its affiliates and warrants that the use of such affiliates' labor shall not be deemed a subcontract for purposes of this contract.

2. TERM

This contract shall commence upon execution of the Interim Executive Director, and shall continue for a term of three years, and if necessary, continue on a month to month basis thereafter, until the services and any additional services, as **ADDENDUM I** and **II** may be modified, are completed.

3. COMPENSATION

The Authority, in consideration of the Contractor's satisfactory performance of the services described in **ADDENDUM I**, agrees to pay the Contractor in accordance with the rates and detailed method of compensation set forth in **ADDENDUM II**.

4. RECORDS

The Contractor shall present documented, precise records of time and/or expenses under this contract.

5. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to engineering and environmental consultants doing business in the United States Virgin Islands.

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6. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this contract shall become the property of the Authority and shall be turned over to it at the termination of this Contract. The abovementioned materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Authority. Authority acknowledges that Contractor has developed systems, processes, apparatus, analytical tools and methods, which are proprietary to Contractor and used in its business. Such systems, processes, apparatus, analytical tools and methods, including software, patents, copyrights and other intellectual property, and all derivations, enhancements or modifications thereof made by Contractor, including those as a result of work performed by Contractor for Authority hereunder ("Intellectual Property"), shall be and remain the property of Contractor. This Agreement shall not confer any grant of a license to any such Intellectual Property of Contractor, right of use by the Authority independently or other Authority contractors or consultants without the express written consent of Contractor.

7. LIABILITY OF OTHERS

Nothing in this contract shall be construed to impose any liability upon the Authority to persons, firms, associations, or corporations engaged by the Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make the Authority liable to any such persons, firms, associations or corporations for the acts, omissions, liabilities, obligations and taxes of the Contractor of whatsoever nature; including but not limited to unemployment insurance and social security taxes for the Contractor, its servants, agents or independent contractors.

8. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract, except to current affiliates of the Contractor, without the prior written consent of the Authority.

9. INDEMNIFICATION

The Contractor agrees to investigate, defend (and for Professional Liability claims, shall reimburse defense costs to the proportionate extent of its liability) and hold harmless the Authority from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges, expenses (including attorney's fees) and causes of action of whatsoever character which the Authority may incur, sustain or be subjected to, arising out of the negligent acts errors, omissions, gross negligence, or willful misconduct in the performance of services to be performed by Contractor under this contract. The parties agree that neither party shall be liable to the other for any form of consequential damages, and further, the Authority agrees to limit the liability of Contractor to no more than one million dollars (\$1,000,000).

10. INDEPENDENT CONTRACTOR

The Contractor shall perform this contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

11. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction and venue are exclusive in the United States Virgin Islands.

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12. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of the Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

13. ENTIRE AGREEMENT

This contract constitutes the entire agreement between the parties hereto, and all prior understandings or communications, written or oral, with respect to the services which is the subject matter of this contract, are of no effect.

14. RIGHT TO WITHHOLD

If work under this contract is not performed in material accordance with the terms hereof, the Authority will have the right to withhold, in good faith, out of any payment due to the Contractor, such sums as the Authority may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, the Authority may apply such sums in such manner as the Authority may deem proper to secure itself or to satisfy such claims. The Authority will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold. No such withholding or application shall be made by the Authority if and while the Contractor gives satisfactory assurance to the Authority that such claims if valid, will be paid by the Contractor or its insurance carrier, if applicable, in the event that such contest is not successful.

15. CONDITION PRECEDENT

This contract shall be subject to the availability and appropriation of funds, and the approval of Governing Board, which shall be a condition precedent to Contractor's obligation to perform the services.

16. TERMINATION

Either party shall have the right to terminate this Contract with or without cause by giving 30 days written notice to the other party specifying the date of termination.

17. PARTIAL TERMINATION

The performance of work under this contract may be terminated by the Authority, in part, whenever the Authority shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services and documented expenses provided to the date of termination.

18. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to

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discrimination in the performance of this Contract on account of race, disability, creed, color, sex, sexual orientation, religion, or national origin.

19. CONFLICT OF INTEREST

19.1 The Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

19.2 The Contractor further covenants that it is:

(a.) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the legislature or any other territorial official; or an officer or employee of the legislature, executive or judicial branches of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); and

(b.) has:

(i) familiarized itself with the provisions of Title 3, Chapter 37, Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof,

(ii) not made negotiated or influenced this contract, in its official capacity,

(iii) no financial interest in the contract as that term is defined in Title 3, Chapter 37, section 1101, (1) of the Virgin Islands Code.

20. EFFECTIVE DATE

The effective date of this Contract is upon the signature of the Interim Executive Director of the Authority.

21. INSURANCE

The Contractor shall secure and maintain in force for the term hereof, and any extensions thereof, insurance policies which will protect the Contractor, its agents, the Authority, the Authority's employees, agents and the authorized agents and employees from claims for bodily injury, death, or property damage which may arise from the Contractor's operations under this contract, whether such operations be by the Contractor, subcontractor, or by any agent of the Contractor or anyone employed by him directly or indirectly. The policies shall be for not less than the following amounts:

MINIMUM INSURANCE REQUIREMENTS

(a.) Worker's Compensation: Statutory Requirement

(b.) Public Liability/Bodily Injury and Property Damage Insurance: \$1,000,000

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(All items to carry the above specified limit of liability)
Injury or death of one person
Property Damage
Premises and Operations
Contractual Liability
Combined Loss Agreement
Joint Venture
Defense Costs

(c.) Automobile Liability: \$1,000,000

(d.) Additional Insured: The Virgin Islands Waste Management Authority

(e.) Professional Liability Insurance: \$1,000,000 per claim and in the annual aggregate.

If excessive risks are involved, additional coverage may be required. The insurance required under (b) and (c) above shall include the Authority, its officers and employees and each of them as additional insureds except with regard to occurrences that are the result of their proportionate negligence. To the extent the Contractor incurs costs for payment of premiums or deductibles for occurrences that are the result of the Authority's negligence, it shall be reimbursed by the Authority.

The insurance required under (b) and (c) above shall provide that it is primary coverage with respect to the Contractor, the Authority and all other additional insureds.

With respect to the coverages required herein, it is agreed the insurer shall have no recourse against the Authority, its officers and employees or any of them for payment of any premiums or premium assessments under any policy issued by a mutual insurance company.

Proof that the Authority is named as an additional insured shall be submitted to the Authority with a certified copy or other acceptable evidence of an endorsement to contractor's insurance policy naming the Authority as additional insured.

The Contractor shall be responsible for all deductibles in all insurance policies required hereunder.

It is further agreed that, unless otherwise set forth herein, the Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this contract.

It is further agreed failure of the Contractor to maintain the insurance required by this paragraph or to comply with any of the requirements of this paragraph shall constitute a material breach of the entire contract.

The Contractor shall not commence performance of this contract unless and until compliance with each requirement of these provisions is achieved.

The insurers for Public Liability and Automobile Liability shall waive under their policies any

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right of subrogation against the Authority which might arise by reason of any payment under either policy.

Such insurance companies and the form of insurance must be satisfactory to the Authority.

The Contractor shall ensure that all sub-contractors engaged or employed by the contractor, carry and maintain similar insurance in light of the services to be rendered by such sub-contractors, and with limits and coverages approved by the Authority. The maintenance by Contractor in full current force and effect of such forms of insurance, in such amounts, as the Authority shall have accepted, shall be a condition precedent to Contractor's exercise or enforcement of any rights under this contract. The insurance policies shall incorporate a provision requiring written notice to the Authority 30 days prior to any cancellation, non-renewal or material modifications to the policies.

22. FALSE CLAIMS

The Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Authority or the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claim to be false, fictitious, or fraudulent. The Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

23. NOTICE OF FEDERAL FUNDING

The Contractor acknowledges that this contract may be 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. The Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

24. AUTHORITY'S RESPONSIBILITIES:

- 23.1 The Authority shall designate in writing a person to act as its representative with respect to the services to be rendered under this agreement, who shall have complete authority to transmit instructions, receive information, and interpret and define policies and decisions with respect to the Contractor's services for individual tasks.
- 23.2 The Authority will provide access to authority property and, if possible, access to private property when required.
- 23.3 The Authority will provide access to and use of all existing and available reports, computations, survey data, and other information in the possession of the authority pertaining to this contract. The Contractor is responsible for the return of all original information made available, and the making of copies as needed.
- 23.4 The Authority will provide historical cost data, if available, to assist in estimating probable costs for the various task items of this contract.
- 23.5 The Authority will provide existing property surveys, if available, as applicable.

- 23.6 The Authority will provide written notice of acceptance of certain steps of various phases of services as specified.
- 23.7 The Authority will provide assistance in the event that the Contractor experiences difficulty in necessary approvals and permits from all government authorities having jurisdiction over the project(s) and such approvals and consents from others as may be necessary for completion of the project.
- 23.8 The Authority will notify the Contractor whenever the Authority observes or otherwise becomes aware of any circumstances that are likely to affect the timing of the Contractor's services.

25. NOTICE

Any notice required to be given by the terms of this contract shall be deemed to have been given when the same is sent by certified mail, return receipt required postage prepaid or personally delivered to the parties listed in this paragraph. The parties may elect through written agreement to exchange notices through electronic communications, including email.

Authority: Adrian W. Taylor
Interim Executive Director
Virgin Islands Waste Management Authority
3200 Demarara
St. Thomas, VI 00802

Contractor: Michael Monteleone
Executive Vice President
Oasis Consulting Services
45 Woodstock Street
Roswell, Ga. 30075

26. LICENSURE

The Contractor covenants that it has:

- 25.1 obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- 25.2 familiarized itself with the applicable provisions of Title 27 of the Virgin Code pertaining to professions and occupations.

27. 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 sub-contracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES

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EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the Contractor or 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 sub-contract and that the Contractor or subcontractor shall promptly reimburse the Authority for any progress payments heretofore made. If, during the term of this contract, the Contractor or subcontractor shall become ineligible to receive contract awards using federal funds, this contract shall be terminated forthwith, for cause, and the Contractor or subcontractor shall not be entitled to payment for any work performed under this contract or sub-contract after the effective date of such ineligibility.

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

WITNESSES:

OASIS CONSULTING SERVICES

Maria Royan March 16, 2020
Witness Date

Michael Monteleone 16 March 2020
Executive Vice President Date

VIRGIN ISLANDS WASTE MANAGEMENT
AUTHORITY

Chris Santey 3/30/2020
Witness Date

Adrian W. Taylor 3/24/2020
Interim Executive Director Date

Reviewed for Legal Sufficiency:

Trey Goldsmith
VFWMA General Counsel

X 04.01.2020
Date

Account Code:

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ADDENDUM I

Scope of Services

The contractor will provide the necessary professional engineering and environmental consulting services on a task order basis established in this contract to include, but not limited to, the following services subject approval in writing by the Virgin Islands Waste Management Authority (WMA):

Engineering:

Perform engineering studies as requested for wastewater and solid waste facilities throughout the Territory.

Provide design services for wastewater and solid waste facilities throughout the Territory.

Perform estimating services for construction projects proposed or ongoing.

Perform value engineering services for design or construction projects planned or in progress.

Perform miscellaneous engineering services that falls within the experience levels of the contractor.

Assist the Waste Management Authority with relevant permitting requirements.

Assist in the bidding and awarding of construction contracts as required.

Assist the Authority in writing RFP's, RFQ's, IFB's and other solicitations for services.

Assist the Authority with Federal Grant Project Reporting.

Construction Services:

The contractor shall provide a superintendent at the site during construction to assist and supervise the performance of the work items by contractors and/or subcontractors.

The contractor shall function in an oversight role of the project as well as actively function as a contractor and engineer to address the remedial actions required to adequately support the construction in progress.

The Contractor shall provide shop drawing review, data management and cost control services during construction will also be provided by the contractor.

Surveying Services:

The Contractor shall perform As Built/Boundary Surveys for wastewater and solid waste facilities throughout the Territory.

The Contractor shall perform property acquisitions for wastewater and solid waste facilities throughout the Territory.

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ADDENDUM II

Terms of Payment

In consideration for the satisfactory performance of the services described in this contract and **ADDENDUM I**, the Authority shall pay the Contractor as provided below:

- A. The Contractor shall prepare and submit detailed invoices for work performed on a monthly basis indicating the following:
 - 1. Contractor's Name, Tax Identification Number, Address and Telephone Number;
 - 2. Man hours expended in performing the tasks;
 - 3. Classification of each employee working on this contract for each month; and
 - 4. Standard billing rates in effect at the time that the work is performed.
- B. The Contractor's monthly fee shall be paid upon receipt of proper invoices and verification by the Authority that the work was satisfactorily performed.
- C. The Contractor shall receive payments on approved invoices within 30 consecutive calendar days of each such submittal.

The contractor shall be paid for labor and expenses to perform the necessary items of work as described in the Scope of Work set forth in the contract. The items of work will be defined further when each task order is defined and a request for a quotation has been made to the contractor for each task order prior to any work being performed for that task. Man-hour estimates and expense estimates shall be made for each individual task order and will be reviewed and approved by the Waste Management Authority's Project Manager before work may begin on a task. Contractor will primarily be assigned projects related to the Authority's Environmental Protection Agency (EPA) FY-2012 including subsequent Fiscal Years, Bipartisan Budget Act (BBA), Community Development Block Grant- Disaster Relief (CDBG-DR), Department of Interior (DOI) and all other grants.

The Contractor shall insure that all drafting design work provided by the contractor is reviewed by a licensed engineer in the Virgin Islands to ensure that the drawings produced meet the most current building codes including Americans with Disability Act (ADA) compliance, and that all drafting design work has been structurally engineered to protect the public or any individuals use of the design documents. As part of the compensation package as set forth, office space, photocopying scanning, computer terminals and installed software and phone service shall be

made available for use by the Contractor who shall perform the assigned tasks during the workday in said provided workspace.

The Authority's equipment will be signed out to the Contractor, who shall be responsible for return of such equipment in good working order. If equipment assigned to the Contractor requires repair or replacement upon return or loss, the costs of same will be withheld from payments due the contractor until such repair or replacement is effectuated. Transportation is the responsibility of the contractor. Contractor is required purchase a vehicle for use during the duration of this contract.

In addition, consultant or Engineering contractor should demonstrate expertise, experience and services for the Federally-mandated Territory wide sewer system infrastructure upgrades, in areas including but not limited to the following: Facility Assessment and Utility Construction, Wastewater facility upgrades, Mechanical and Electrical design, Planning, I/I analysis, CAD, GIS, Sanitary Sewer Evaluation Surveys and Permit acquisition, if necessary.

The contract period shall not exceed three (3) years, set in the contract as 1,095 calendar days, and will necessitate a monthly payment schedule with a 10% retainage held each month. A final payment and release of retainage will then be made upon project completion and acceptance by the Authority.

A Scope of Services, or a statement of the type of assistance required will be presented to the contractor to prepare a proposal for each individual task order. The proposal will be presented to the Authority's Project Manager indicating proposed rates of compensation for individuals or classification of individuals assigned to the *task* for negotiation and approval and execution of the Task Order prior to any work being started. A Task Order, once executed, cannot exceed the proposed costs without a duly executed amendment to the Task Order.

**VIRGIN ISLANDS WASTE MANAGEMENT
RATE SHEET**

DEPARTMENT	DESCRIPTION	HOURLY RATES
Engineering	Senior Project Manager	\$185.00
	Senior Engineer	\$155.00
	Resident Engineer	\$110.00
	Staff Engineer	\$ 85.00
	Architect	\$ 85.00
Design/CADD/GIS	Senior Draftsman	\$ 70.00
	GIS Technician	\$ 65.00
	CADD Technician	\$ 65.00
Other	Sub-Contractors	15% plus

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made available for use by the Contractor who shall perform the assigned tasks during the workday in said provided workspace.

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**VIRGIN ISLANDS WASTE MANAGEMENT
RATE SHEET**

DEPARTMENT	DESCRIPTION	HOURLY RATES
Engineering	Senior Project Manager	\$185.00
	Senior Engineer	\$155.00
	Resident Engineer	\$110.00
	Staff Engineer	\$ 85.00
	Architect	\$ 85.00
Design/CADD/GIS	Senior Draftsman	\$ 70.00
	GIS Technician	\$ 65.00
	CADD Technician	\$ 65.00
Other	Sub-Contractors	15% plus

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