

# Marianas Visitors Authority

## REQUEST FOR PROPOSALS

REPRESENTATION, PROMOTIONAL AND PUBLIC  
RELATIONS SERVICES FOR THE JAPAN MARKET

**MVA-RFP-21-2023**



Date of Publication: July 20, 2021

**DEADLINE FOR RECEIPT OF PROPOSALS:**

**September 10, 2021 by 3:00PM ChST**

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# SECTION 1- INTRODUCTION

## 1.01 Introduction

The Marianas Visitors Authority hereinafter referred to as the “MVA”, is issuing this request for proposals (RFP) to seek companies that capable of providing full range of comprehensive marketing, advertising, internet, and public relation services to the MVA and assist the MVA with its mandate to promote tourism to the Commonwealth of the Northern Mariana Islands “CNMI” or “The Marianas” as requested in this RFP.

The representation, promotional and public relations services proposals being solicited include but not limited to:

- Develop and deploy representation, promotional and public relations plan that will increase visitors arrivals to The Marianas from Japan;
- Integrate activities with the travel trade and consumers through multi-faceted, traditional and non-traditional means;
- Develop and facilitate partnerships or other relationships with The Marianas industry partners;
- Promote The Marianas as a destination of choice.

## 1.02 Background

The Marianas is comprised of fourteen islands located in the Micronesian region of the northwestern Pacific. The Marianas population is concentrated on the three main islands of Saipan, Tinian and Rota.

The Marianas Visitors Authority (MVA) is the CNMI national tourism office (NTO) and maintains representative offices in the main source markets of Korea, Japan, and Taiwan. As the lead government agency tasked with the growth and sustainability of tourism in The Marianas, the MVA has the greatest visibility and represents the best interests of the CNMI’s residents, stakeholders, industry partners, and visitors.

## 1.03 The Marianas’s Tourism Economy

The tourism industry in the CNMI is the main economic driver. The tourism industry is expected to provide economic benefits for the CNMI residents into the foreseeable future. The tourism industry provides jobs and income for residents, access to and from the rest of the world, and attributes of the islands' natural resources, history, culture, and people.

## 1.04 Funding for This Services

1. The U.S. Department of Housing and Urban Development (HUD) allocates Community Development Block Grant disaster recovery (CDBG-DR) funds to address unmet disaster recovery needs through activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” (MID) areas resulting from a qualifying major disaster.
2. The Marianas Visitors Authority (MVA) was created by statute for the purpose of enhancing tourism in the Commonwealth of the Northern Mariana Islands. Created by District Law 4-145 during the Trust Territory years under the title of Marianas Visitors Bureau and amended through Public Law 11-15 to Marianas Visitors Authority. The MVA is charged with the responsibility of promoting tourism and travel to the Northern Mariana Islands.

MVA funding source is primarily through its entitlements. This is mandated under 4 CMC § 1803 authorizing the MVA to receive twenty percent (20%) of the taxes collected under 4 CMC § 1405(B) or Alcoholic Beverage Containers Tax; and eighty percent (80%) of the taxes collected under 4 CMC § 1502 or Hotel Occupancy Tax.

## **SECTION 2- OVERVIEW AND TIMELINE**

### **2.01 Scope of Work**

Agency shall provide marketing, advertising, internet, and public relation services to the MVA and assist the MVA with its mandate to promote tourism to the Commonwealth of the Northern Mariana Islands as requested in MVA- RFP- 21-2023.

Agency will only provide these services after the agency and the MVA mutually agree in writing to the proposed approach and a comprehensive and integrated marketing plan. Any invoices submitted prior to the written agreement of the marketing plan will not be paid. Agency's services shall include, but not be limited to the following:

#### **Introductory**

1. Provide all assistance as requested by MVA necessary to further any and all promotional activities;
2. Use best efforts and best practices to ensure that the contractor fulfills the needs and interest of MVA and the people of The Marianas;

#### **Office Requirements**

3. Provide office and communication facilities as necessary to effectuate all activities required by this Contract;
4. Provide storage facilities for MVA collaterals;
5. Answer mail and telephone inquiries concerning The Marianas and provide information on the tourist attractions and facilities via a dedicated MVA phone line;
6. Have a brochure display area in its offices for consumers and travel trade representatives who are seeking to collect information on The Marianas tourism;
7. Review draft brochures for accuracy and to ensure that the information contained therein furthers the promotion of The Marianas;
8. Provide translation services on brochures and documents as requested by MVA between English and the national languages of Contractor's territory;
9. Maintain visual materials (positive films, a stills library and promotional videos) concerning The Marianas for free use by media and the travel trade. These materials shall be kept in the cloud and as hard copies to be shared with MVA;
10. Provide the MVA with a set of two master copies of all creative products produced. Ensure that all such products are to be wholly owned by the MVA and can be used in any manner deemed necessary



for leveraging tourism from Asia and other travel markets. The Contractor will ensure that the MVA acquires worldwide rights to all works created by or for the Contractor under this contract;

#### **Programs and General Responsibilities**

11. Promote investment from Contractor's territory in The Marianas and target lifestyle market segment that have the greatest measurable return of investment;
12. Conduct programs to advertise, publicize and promote tourism from Contractor's territory to The Marianas, with the objective of increasing the number of visitors from Contractor's territory to the CNMI;
13. Make regular sales calls on travel agents, tour wholesalers, airlines, and tour operators on a nationwide basis in each source country;
14. Maintain current contact with airlines serving The Marianas, hotel representatives, Guam Visitors Bureau, Hawaii Tourism Authority and other appropriate organizations in order that important information may be gathered, shared and reported to MVA;
15. Coordinate meetings for the source country tourism clubs and associations on a regular basis;
16. Prepare, print, and distribute a printed monthly newsletter and a digital version;
17. Coordinate effective media and familiarization (FAM) trips to The Marianas making sure all personnel on these trips are fully insured, whether Contractor's employees or not;
18. Provide incentive programs to stakeholders in Japan and the CNMI for Airlines, Hotels, Travel & Tour Agencies, Tourist Travel Bucks in support of their business competitiveness and growth;
19. Maintain the cultural integrity of the Chamorro/Carolinian language, customs and practices, music, dance, cultural and historic sites, and imagery in all marketing materials.

#### **(Subcategory- Advertising and PR)**

20. Coordinate and monitor a media plan with advertising agencies to ensure that The Marianas receives the best appropriate exposure and ensure that the media plan is implemented within the identified time period;
21. Secure at least two unpaid mass media programs on The Marianas in Japan;
22. Prepare, print and distribute at least four press releases per month concerning tourism to The Marianas to key media representatives in Japan;
23. Assign one or more representatives in Japan to work with tour operators, airlines, personnel of different magazines, TV, Radio, newspapers, other media and advertising agencies so The Marianas will receive maximum positive publicity;

#### **(Subcategory – Air Lift Support and Acquisition)**



24. Plan and coordinate joint marketing activities with airlines serving The Marianas, with either direct or indirect flights, from Japan;
25. Plan and coordinate the acquisition of new airline partners flying regular and/or chartered flights direct from each source country to The Marianas. Maintain and grow these air seat relationships once established;

**(Subcategory –Trade Show, Seminars, Consumer Events)**

26. Coordinate and represent MVA at regional and national trade shows. The budget of each is inclusive of contract amount and as agreed upon in the proposal;
27. Coordinate annual trade seminars in major cities as well as joint sales promotion seminars with the different airlines, tour operators and hotel representatives servicing The Marianas, to ensure that current information on The Marianas' tourist attractions and facilities are timely given to those with interest in The Marianas and to selected travel trade companies;
28. Coordinate and represent MVA on other travel industry functions and consumer promotions as approved by MVA;

**Analyze and Recommend**

29. Make promotional/marketing recommendations that will be used to develop plans to promote The Marianas tourism industry to tourists from Japan;
30. Make recommendations to the MVA regarding ways to further promote tourism from Japan, and investment in tourism facilities in, The Marianas;
31. Advise MVA on travel trends and developments in Japan impacting The Marianas' tourism industry;
32. Advise MVA on the economic development in source countries and its impact on tourism and investment in The Marianas;
33. Recommend to MVA policies relating to advertising and promotion of The Marianas in Japan;
34. Recommend to MVA advertising and promotional strategies to enable The Marianas to receive maximum promotional exposure to further enhance and improve the CNMI' tourism industry;
35. Monitor monthly travel statistics of outbound travel in Japan and to recommend courses of action necessary to counteract any perceptible tourist traffic decline to The Marianas;

**Required Reports**

36. Submit a monthly activity report, in English, detailing the following:
  - a. Number of telephone inquiries received;
  - b. Number of mail inquiries received;



- c. Number of walk-in visitors;
  - d. Names of tour operators, tour wholesalers, airlines personnel met during the month with a brief summary of such meetings;
  - e. Names and addresses of potential investors with a brief summary outlining the interest such investors have in The Marianas;
  - f. Steps taken to seek and acquire new airlift to The Marianas from all source countries as needed to enhance or replace current or lost lift;
  - g. Market competitiveness;
  - h. Information about the tourism industry in Japan, including tourism industry personnel changes, new developments considered by the industry, market conditions, changes in airline schedules and routes; and
  - i. Recommendations to further promote tourism and investment in The Marianas.
37. Monitor media coverage of The Marianas and submit summary English translations of all coverage in the form of a monthly clipping report from each source country;
38. Study and survey tourist preferences and needs, focusing on the outbound tourism market in Japan, and report these findings to MVA;
39. Provide on a monthly basis the promotional and public relations activities and other relevant information conducted in Japan. This information will be included in the MVA monthly newsletter and disseminated to MVA members and the public sector;
40. Provide a detailed summary and pictures of the highlights of activities undertaken in each market in Japan during the fiscal year to be included in the annual report;

#### **Digital and IT Responsibilities**

41. Provide ongoing website support and development of current language specific site and maintain Social Media Sites and develop new websites and social media sites as market conditions dictate in Japan. Responsibilities should include but are not limited to the following:
- a. Integrate the online environment with all of MVA's traditional marketing activities as well as enhance MVA's operational structure;
  - b. Develop a graphic look that matches the MVA branding and improves the overall download time of the site;
  - c. Market web-sites in Japan to maximize number of hits per month, including search engine optimization, key word registration, internet marketing, links programs, etc.;
  - d. Track, monitor and report to MVA the site traffic and users data on a monthly basis;



- e. Provide monthly maintenance of the website including, but not limited to, content and imagery updates and links maintenance;
- f. Provide on-going monitoring and updating of all relevant Social Media portals in Japan on a daily basis and report trends and specifics to MVA monthly;
- g. Provide online promotion, contests etc.; and
- h. Report all results to MVA via the Monthly reports required above.

#### **Travel**

- 42. Attend general membership meetings held in The Marianas and make presentations on market updates;
- 43. Travel to The Marianas upon request by MVA. The expenses incurred shall be paid by MVA from budgeted funds other than funds allocated under the contract; and

#### **Special Financial Responsibilities and Conditions**

- 44. Audit and make payment of all charges not enumerated within this scope of work and incurred on MVA's behalf to be paid to subcontractors following the written pre-approval of MVA.
- 45. Prior to entering into any commitment of more than USD\$2,500 with a third party on MVA's behalf, the agency shall inform the MVA, in writing, of all terms and conditions of said commitment, including, but not limited to, advertisement cancellation fee provisions, in such manner as mutually agreed between the party and the contractor. Furthermore, the agency shall obtain written pre-approval of MVA prior to commencing services for any project;
- 46. The requirements of full disclosure to MVA do not apply to the release of media fees charged in contractor's territory, however, the agency shall always disclose any media cost to the full extent that such costs are disclosed to the agency;
- 47. Media commissions will be limited to 15% or less of the total charge to MVA. Production commission will be limited to 15% or less of the total charge to MVA.

#### **2.02 Applicant Qualifications**

This RFP is open to interested individuals and or companies in the CNMI (must have a representation office in Japan) and Japan home based companies.

#### **2.03 Procurement Timeline**

The Procurement Timeline represents the MVA's best estimates. Dates may be subject to change.

| <b>MVA- RFP- 21- 2023 REPRESENTATION, PROMOTIONAL AND PUBLIC RELATIONS SERVICES FOR THE JAPAN MARKET</b> |                                 |
|--|---------------------------------|
| <b>Activities</b>  | <b>Tentative Scheduled Date</b> |
| Publication of RFP   | July 20, 2021                   |

|  |  |
|--|--|
| Deadline to submit written questions to MVA                            | August 13, 2021                                |
| RFP Addendum- MVA to Issue Responses to Written Questions.             | August 31, 2021                                |
| Notice of Intent to submit proposals from individuals outside the CNMI | August 30, 2021 by 3:00PM, ChST                |
| <b>Deadline to Submit RFP</b>  | <b>September 10, 2021 by 3:00PM, ChST</b>      |
| Notice of Selection for Oral Presentation                              | September 29, 2021                             |
| Oral Presentation  | October 13, 2021                               |
| Notice of Award Selection  | End of October                                 |
| Deadline for applicant to Protest Non-Award                            | Within 10 business days of notice of non-award |
| Start of Initial Contract Period                                       | November 01, 2021                              |
| End of Contract Period   | December 31, 2022                              |

## 2.04 RFP Point of Contact

Applicants to this RFP are to communicate only with the point of contact listed below. MVA is not responsible for misinformation or reliance on other sources. E-mail is the preferred mode of communication. Please include the RFP number in the subject line of all communications. The point- of- contact for this RFP is:

Lenette F. Maratita, Procurement Officer

Email: [lmaratita@mymarianas.com](mailto:lmaratita@mymarianas.com)

Phone: 1 (670) 664-3200

Address: Marianas Visitors Authority  
P.O. Box 500861  
Saipan, MP 96950

## SECTION 3- PROPOSAL SUBMISSION REQUIREMENTS

This section outlines the procedural requirements for submission.

### 3.01 Submission Method

MVA will only accept submission in person or via U.S. Postal Services or certified Courier Mail service. NO EMAILED SUBMISSIONS. NO FAX SUBMISSIONS. LATE PROPOSALS WILL NOT BE ACCEPTED!

- a) All proposals must be sealed and marked MVA-RFP-21- 2023 and submitted with one (1) original and five (5) copies, which must be clearly marked on each document. All proposals must be submitted in English.
- b) Proposals may be hand- delivered. Delivery must be made to the Marianas Visitors Authority ATTN: Procurement Office, San Jose Professional Building, Beach Rd., San Jose, Saipan, no later than 3:00PM Chamorro Standard Time (ChST) on September 10, 2021. Late proposals will not be accepted.

- c) Proposals may be mailed to the following address: Marianas Visitors Authority ATTN: Procurement Office, P.O. Box 500861, Saipan, MP 96950. Proposals must be received at MVA Procurement Office, no later than 3:00 p.m. (ChST) on September 10, 2021. Late proposals will not be accepted.
- d) Proposals submitted from individuals outside the CNMI must be postmarked by the U.S. Postal Service or certified courier mail service on or before September 10, 2021, and must be received within seven (7) working days of that date. Late proposals will not be accepted. Proposers from outside the CNMI must notify in writing the MVA Procurement Officer, Lenette Maratita, of their intent to submit in order to receive the additional seven (7) days for the receipt of the actual proposal documents. This notice of intent may be submitted by any mode of written communication including facsimile (+1-670-664-3237) or email (lmaratita@mymarianas.com) and must be received no later than 3:00 p.m. (ChST) on August 30, 2021.

### 3.02 Submission of Questions

Applicants may submit written questions to [lmaratita@mymarianas.com](mailto:lmaratita@mymarianas.com) by the date specified in the timeline that appears in Section 2.03 of this RFP or as may be otherwise amended.

(a)Written Questions. MVA welcomes written questions from applicants in order to ensure openness and transparency and improve understanding of the RFP. Applicants may submit written questions in an electronic format to the email address of the MVA Procurement Officer identified in this RFP. To expedite responses, applicants are asked to submit questions in a Microsoft Word document. Each question should cite the section/paragraph number that is the source of the question. MVA will respond to written questions as discussed below.

(b)Deadline. The deadline for submission of written questions is listed in the timeline in Section 2.03. Any questions/clarifications submitted after the deadline will not be entertained.

(c) Responses. The MVA Procurement Officer will combine questions/clarifications from all proposing firms regarding the contents of the RFP packet into a single list. Related questions/clarifications may be combined and responded to as a single question. Questions will be published anonymously, along with MVA's answers in a "Question and Answer" format, in a RFP Addendum. The MVA will act in good faith in providing responses but may decide, in its sole discretion, not to respond to some questions. MVA may also reword questions for relevance. The Addendum will be shared with all proposers.

### 3.03 Submission Deadline

The deadline for submission is listed in the Timeline in Section 2.03 of this RFP. The MVA will not accept any submissions after the deadline. Applicants who wait until the last minute to submit their proposals do so at their own risk.

### 3.04 Multiple or Alternate Proposals Not Allowed

Multiple or alternate Proposals from the same applicant are not allowed. In the event alternate or multiple Proposals are submitted, all of the applicant's submissions may be rejected at the discretion of the MVA Procurement Officer.



### 3.05 Rejection of Proposals

- a) Requirements must be met: MVA reserves the right to consider as acceptable, responsible, and responsive only those proposals submitted in accordance with the requirements set forth in this RFP.
- b) Changing Terms: Any proposal requiring any contract terms or conditions contradictory to those in this RFP may be rejected in its entirety without further notice.
- c) Reasons: A proposal may be automatically rejected for the following reasons:
  - Failure to cooperate or deal in good faith;
  - Late proposals submission;
  - Failure to submit in accordance with the RFP requirements, or failure to supply an adequate response to the RFP;
  - Refusal to abide by the MVA's Standard Terms & Conditions and MVA's Chapter 90-20 Procurement Rules and Regulations;
  - Lack of demonstrated experience or expertise;
  - Inadequate accounting system or internal controls;
  - Failure to maintain standards of responsibility: Falsification of information. Felony conviction related to procurement contracting with any unit of government. Failure to maintain a necessary licensure or meet its tax or other obligations to a government agency.
- d) Waiver: MVA reserves the right to waive any or all informalities, irregularities, or deficiencies when it considers a waiver to be in the best interest of the MVA.

### 3.06 Public Records and Public Disclosure

- a) RFP Submittals Become the Property of the MVA. All Proposals and other materials submitted shall become the property of the MVA.
- b) Management Contract. All or part of the RFP and the selected applicant's response to the RFP may, by reference, become a part of the final Contract between the selected applicant and the MVA resulting from this solicitation process.
- c) Public Disclosure. All documents submitted by the applicant and maintained by the MVA will be subject to public disclosure. Specific redactions may be executed as the law permits, but the applicant should assume that any and all information will be subject to disclosure.

### 3.07 Conflicts of Interest Disclosure Statement

The applicant will be required to provide a Conflict of Interest Disclosure Statement in writing and it must be signed.

A real or perceived conflict of interest occurs when the applicant has:

- a) Tourism Industry Members. Are you or your associates primarily and directly employed in or employed by the tourism, travel, transportation, or hospitality industry outside the CNMI?



- b) **Destination Specific.** Are you or your associates primarily and directly employed in or employed by any specific entities within the CNMI, such as hotels, resorts, restaurants, retail, transportation companies, attractions, activities, entertainment, or cultural groups?
- c) **Other Relationships.** Do you or your associates have any existing or planned relationships (direct or indirect, including financial, organizational, contractual, or otherwise) with any entity other than MVA that could affect any way your performance under this contract?
- d) **Competing Markets.** Do you or your associates perform work for, or have a direct or indirect relationship with, any entity responsible for or providing global branding and marketing services to any destination that may be a competitor to the CNMI?
- e) **CNMI Contracts.** Do you or your associates currently have, or have you had during the last five years, any arrangements (for example, contracts and cooperative agreements) awarded, administrated, or funded-wholly or partly- by the MVA or any other the CNMI government or agency which are in any way related to this RFP?
- f) **Restrictions.** Do you or your associates have any contracts, agreements, special clauses, legal prohibitions, or other arrangements that may restrict your effort or independent judgment in proposing or performing any part of the work that you may need to perform under this RFP?
- g) **Other Conflict.** Are you aware of any other potential conflict of interest not described above?

### 3.08 Expenses

Each applicant is solely responsible for all expenses incurred for the preparation of the proposal and any expenses related to the evaluation process. This includes, but is not limited to, the development and submission of the Proposal and subsequent responses to MVA requests for more information, and participation in any pre-award oral presentation, including travel and lodging expenses. An applicant shall not bill the MVA for any costs or expenses associated with its response to this RFP. Any incumbent under any MVA contract may not use MVA-funded resources to prepare its Proposal.

### 3.09 Disclaimer: Cancellation

MVA reserves the right to cancel all or any component of this RFP at any time. MVA assumes no responsibility and bears no liability for costs incurred by an applicant in the preparation and submittal of proposals in response to this RFP.

The MVA shall have the right to cancel an award without liability to the bidder or offeror, except the return of any deposit, guarantee or other security, at any time before a contract had been fully executed by all parties.

## SECTION 4 – FIXED PRICE AND PROPOSAL STRUCTURE

### 4.01 Fixed Price

An Applicant shall submit a Fixed Price Proposal.

#### 4.02 Submission Content

All proposals shall include the following documents in the order listed below. Proposals that fail to submit any one of these documents may be considered non-responsive. Description of proposal elements appears below in subsequent sections.

- Cover Page;
- Table of Contents;
- Cover letter;
- Organizational Capacity;
- Professional Experience;
- Proposed Approach and Marketing Plan (PAMP);
- Client References;
- Fixed Price Proposal;
- Conflicts of Interest Disclosure Statement.

#### 4.03 Cover Page

The cover page should include:

1. RFP number and name: MVA- RFP-21- 2023; REPRESENTATION, PROMOTIONAL AND PUBLIC RELATIONS SERVICES FOR THE JAPAN MARKET
2. Applicant firm name and address;
3. RFP Primary Contact Information including name, Title, Mailing Address, Phone, Facsimile, & email address

#### 4.04 Table of Contents

Please present the materials in the order outline in Section 4.02. Please include page numbers.

#### 4.05 Cover Letter

The cover letter is your opportunity to make a personal statement to the MVA and the evaluation committee.

#### 4.06 Organizational Capacity

- 1) ORGANIZATION.
  - a) Personnel Management
    - i. Organizational chart of proposed staffing, including position titles, names, lines of responsibility/supervision, and time allocation to MVA account.
    - ii. Project Manager (Key Point of Contact) to be assigned to the MVA account. As part of this contract, MVA will require a 100% dedicated project manager (MVA's Key Point of Contact). List detailed qualifications related to this RFP, and qualifications as it relates to marketing/PR or other related services.
    - iii. Additional Staffing. The applicant shall identify other key members who will be assigned to the MVA account. List detailed qualifications for each position (including experience, time with the agency, resume/bio demonstrating qualifications related to this RFP and qualifications as it relates to the marketing and PR), propose allocations of staff to key locations and key accounts, and the planned geographic locations of staff. Describe the proposed full organization



- capacity appropriate for the initial operations, full performance, and surge capability.
- iv. Supervision and Training. The applicant shall describe its ability to supervise, train and provide administrative direction relative to the delivery of the proposed services.
- b) Major Subcontractors. The applicant shall provide a list of each intended major subcontractor expected to work on this project.
    - i. Name, Location, and contact information.
    - ii. The number of years this subcontractor has been used by your company.
    - iii. The services that will be provided.
- 2) CAPACITY. Applicant's establishment, development, and accomplishments:
- a) Business entity.
    - i. Entity type. Years in business. Headquarter location and contact info.
    - ii. Branch offices and/or divisions.
    - iii. Facilities, office space, and other physical assets available to the applicant to perform the work described in this RFP.
    - iv. Company history. Opportunity to provide more detailed experience and case studies as it relates to the scope of this RFP will come later in the "Experience" section of your proposal.
  - b) Accounting System. Describe how the applicant's accounting system will:
    - i. Accurately estimate and timely record actual expenditures for this contract;
    - ii. Accurately allocate and timely record all actual expenditures to the various budget categories;
    - iii. Accurately estimate and timely record actual expenditures of change orders and modifications; and
    - iv. Make certain only expenses that are allowable and allocable are charge against any reimbursable expense, change order, or modification of the contract issues under this RFP.
  - c) Firewalls and other Protections.
    - i. Applicant shall describe processes and procedures to provide an information barrier, such as a "white room" or other forms of firewall, within contractor's company or entity to prohibit the disclosure of competitively sensitive information acquired or provided through the performance of this contract on behalf of the MVA to any of the contractor's clients or affiliates representing or associated with a competitor list agreed to by MVA.
    - ii. Applicant shall describe specific directives and procedures for its employees and other personnel assigned to the MVA to prevent the respective team, group, or individuals from using MVA information for the advantage of a competitor, either by exchanging information in either formal or informal settings with employees assigned to competing markets or by independent use of information by those who may have other assignments outside of MVA.
    - iii. Management and executive decisions must not disadvantage MVA against other clients. The Marianas best interests must be judged independent of other company interests or, if not, must be placed at the highest priority within the organization.

#### 4.07 Professional Experience

The applicant shall provide a complete description of its relevant experience in destination marketing described below:

- a) Describe the company's experience and past performance history in representation, promotional and public relations services for other destinations (if the company provide services to MVA prior to this RFP, please include it).
- b) Creative Content: Provide at least three (3) examples of creative content prepared for clients by the company. The company may, in addition, reference web addresses; however, evaluators are not obligated to view websites.
- c) Case Studies: The company shall also provide no fewer than two (2) case studies representing the following areas:
  - i. Demonstrating your familiarity with both Japan and The Marianas tourism industry.
  - ii. Demonstrating your familiarity with The Marianas: attractions, tourist sites, hotels, optional tours, and Chamorro and Carolinian cultures.
  - iii. Demonstrating experience in finding and using market research conducted within Japan.
  - iv. Demonstrating experience in creating intergraded target marketing projects deployed within Japan (including target market identification strategy, supporting online and offline activities, digital/social media strategy, trade collaboration, and travel industry marketing).
- d) Key Performance Indicators (KPIs): Describe a minimum of three (3) past work experiences that reflect the tracking of key performance indicators to target results, including the measurement methodology used.

#### 4.08 Proposed Approach and Marketing Plan (PAMP)

Applicant must present a comprehensive representation, promotional and public relations plan, hereinafter referred to as a Proposed Approach and Marketing Plan (PAMP) for the period from November 01, 2021 to December 31, 2022. This plan will lay out all the strategies and activities that the contractor will accomplish during the contract period.

The contractor will be responsible for formulating and executing the PAMP. The PAMP must describe what will be created and how it should be executed by showcasing the anticipated deliverables aimed at fulfilling Key Performance Indicators (KPI). The PAMP should be clear and concise in communicating all initiatives and sought any outcomes supporting the KPIs to the MVA.

PAMP should include but not limited to:

- a) Project Overview;
- b) Market Conditions Overview;
- c) Japanese Tourism in the CNMI;
- d) Strategic Approach (Marketing goals, Japanese visitors' arrival target, demographic targets, SWOT analysis, Trade activities, PR and Consumer activities-events coordination and promotion/brand tie-up, market intelligences, KIP and reporting, etc.);





- e) Trade Activities (partnership development, education programs, seminars and workshops, trade media promotion and sales guide, product development/co-op promotions, FAM tours, trade shows and Expos, newsletters and press releases, etc.);
- f) PR and Consumer Activities (key goal, objective, target audience, target media, story angles, PR programs, social media, website, etc.);
- g) Calendar;
- h) Budget.

#### 4.09 Client References

The company shall provide three (3) references and related contact information of customers who have used or are currently using the company services in the area of representation, promotional and public relations. For each reference include the following information:

- a) Client's name, address, phone number, email, main contact;
- b) Types of services provided;
- c) Geographic coverage of services provided.

#### 4.10 Conflict of Interest Disclosure

The applicant will be required to provide a written Conflict of Interest Disclosure letter. Please refer to Section 3.07.

## SECTION 5 - SCORING, EVALUATION CRITERIA AND CONTRACT AWARD

#### 5.01 Threshold Consideration

In addition to meeting the requirements of the RFP, the proposal must pass a threshold judgment of whether it fills the needs of the service being solicited. If the proposal is evaluated to be unfit it may be put aside as nonresponsive. This judgment may be made by MVA prior to scoring, or it may be made during the scoring process by the evaluators themselves.

#### 5.02 Evaluation Committee

Proposals will be evaluated by a committee whose members include MVA representatives and may include industry experts. All committee members may participate in decision-making on award recommendations provided they have no direct personal interest in the proposal in question.

#### 5.03 Procurement Officer

The MVA's primary point of contact is the Procurement Officer identified in Section 2.04 of this RFP. The Procurement Officer does not serve as a voting member of the evaluation committee. Your point of contact will change once the contract has been fully executed bearing signatures of all parties.

#### 5.04 Violations

Evaluation committee member identities are kept confidential during the RFP process. Applicants are forbidden from contacting any member of the Evaluation Committee regarding this RFP during the RFP process. Applicants will not be penalized for inadvertent communication with committee members. However, applicants may be disqualified if they seek the identities of the committee members, or

knowingly seek out or contact committee members for advice or favor. Applicants should only communicate with, and rely on information from, the point of contact identified in Section 2.04 of this RFP. MVA is not responsible for misinformation provided by anyone other than the Procurement Officer.

### 5.05 Proposal Evaluation Criteria and Scoring Guidelines

Written proposals will be reviewed, evaluated and scored by an evaluation committee based on five scoring criteria, each criterion is designated a scoring range. The evaluators are free to score anywhere within the scoring range. There is no separate weighting. The evaluation committee has the option of selecting finalists to give oral presentations. In the event of an oral presentation round, the evaluators will fill out fresh score sheets for the finalists. This will be the same score sheet as in the first round. The evaluation criteria and scoring guidelines are as follows:

| <b>EVALUATION OF PROPOSAL</b>  | <b>Scoring Range<br/>Maximum</b> |
|--|----------------------------------|
| <b>OVERALL CAPABILITIES OF FIRM</b><br>The evaluation will include an assessment of the history of your company, your experience as it relates to the requirements of this RFP, evidence of past performance, and related items.   | <b>20</b>                        |
| <b>PROPOSED APPROACH and MARKETING PLAN (PAMP)</b><br>The evaluation will include an assessment of the quality of proposed strategies, creativity, vision, and knowledge as demonstrated through the content of the PAMP and related items.  | <b>30</b>                        |
| <b>FAMILIARITY WITH THE MARIANAS</b><br>The evaluation will include an assessment of your understanding of The Marianas, the Chamorro and Carolinian culture, attractions, hotels, optional tours, and tourist sites; how you integrate this knowledge into your proposal, cultural fit, and related items. Note: this is not a separate section of the proposal, but is an analysis of your whole presentation. | <b>20</b>                        |
| <b>QUALIFICATIONS OF PERSONNEL</b><br>The evaluation will include an assessment of the qualifications, experience, and specific knowledge of your managerial team, and staff as it relates to the requirements of this RFP and related items, and the overall percentage of staff time dedicated to The Marianas   | <b>20</b>                        |
| <b>COST-EFFECTIVENESS</b><br>The evaluation will include an assessment of the maximum services provided in relation to the fees charged and the budget ratio of programs to the administrative fee (staffing, office, profit/retainer) to ensure that it is reasonable and appropriate.  | <b>10</b>                        |
| <b>TOTAL SCORE</b>   | <b>100</b>                       |

### 5.06 Evaluation and Award Process

Submittals shall not be examined for evaluation purposes until the submittal deadline. Deadlines will be enforced even-handedly. The RFP evaluation process will consist of at least two rounds.

Round 1: Proposals will first be evaluated by the Procurement Officer to have met the threshold considerations outlined in Section 5.01. Members of the Evaluation Committee will then score the proposals using the scoring criteria described in this Section 5.05 of the RFP. Applicants will be ranked based on scores.

Round 2: A limited number of finalists will be selected by the evaluation committee based on the average score of the first-round proposals. In the second round, the evaluation committee may request "Additional Information," which may consist of any combination of question and answer sessions, oral presentations, requests for clarification, best and final offers (BAFO), or anything else that the evaluation committee may find useful in coming to a decision. The evaluation committee reserves the right but is not required, to perform reference checks. At the end of the second round, evaluators will turn in fresh score sheets. The new scores will reflect the applicants' overall performances in the first and second rounds.

The contract will be awarded based on what is deemed best for the MVA and the CNMI. The evaluation committee, based on the aforementioned process as well as on the outcome of any post-award negotiations, will make a recommendation to the MVA's Chairperson of the Board and MVA's Managing Director for their approval. Once that selection is made, a contract will be written and executed based on the process outlined in Section 6 of this RFP. The evaluation committee reserves the right to dispense with a second-round and to base its recommendation solely on the first-round proposals.

#### **5.07 Post Selection and Contract Execution**

The awardee will receive a letter and the contract. Once the contract is signed by the awardee the awardee will be introduced to the team that they will be working with and advising them of any documents that are due.

#### **5.08 Debriefing**

Non-awardees will receive a debriefing letter that documents the selection process that took place for this RFP, and that provides protest policies and procedures.

#### **5.09 Protest**

(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Managing Director (the protest time period provided in section 2.03 of this RFP). For more information regarding protest please refer to Northern Marian Islands Administrative Code (NMIAC) Title 90-20.

Managing Director: Priscilla M. Iakopo

Procurement Officer: Lenette F. Maratita

Mailing Address: Marianas Visitors Authority  
P.O. Box 500861  
Saipan, MP 96950

Email Addresses: Managing Director - [piakopo@mymarianas.com](mailto:piakopo@mymarianas.com)

Procurement Office – [lmaratita@mymarianas.com](mailto:lmaratita@mymarianas.com)



## SECTION 6 – CONTRACTING PROCESS AND PERFORMANCE

### 6.01 Contract Execution Process

The contract execution process consists of the following steps:

1. MVA received the contractor's additional information or documents that may be required by MVA.
2. MVA sends the contract to the MVA's legal counsel and CNMI Attorney General Office for review and approval.
3. MVA signs the contract.
4. A PDF format of the contract is emailed to the Contractor along with instructions. If the contractor accepts all terms and conditions of the contract, the contractor will print, sign, date, fill out any other additional information, and notarize the contract.
5. Contractor will mail the signed original contract to the Marianas Visitors Authority Office, P.O. Box 500861 Saipan, MP 96950.
6. A scanned copy will be emailed to MVA's procurement officer, Lenette F. Maratita at [lmaratita@mymarianas.com](mailto:lmaratita@mymarianas.com).
7. All additional instructions will be provided.

### 6.02 Contractor Name

The contract will be between the MVA and the Contractor.

### 6.03 Fixed Price

This contract is a fixed price contract. The contractor will be responsible for completing all the work agreed to in the Proposal and Contract within the budget agreed to in the Proposal and the contract unless otherwise agreed to by the MVA. See Section 4 for information on the fixed price.

### 6.04 Standard Terms and Conditions

The MVA Standard Terms & Conditions which is attached to this RFP will be incorporated into the contract. The MVA reserves the right to reject, without further notice, submittals that do not include an agreement to accept these amended Standard Terms and Conditions in their entirety.

### 6.05 Unauthorized Work

Unless otherwise agreed, a contractor may not perform any work prior to the execution of a written contract by the MVA and a contractor. The contractor may engage in preparation and planning, but all unauthorized work performed by the contractor prior to the execution of a written contract shall be at the contractor's sole cost and expense.

### 6.06 Payment

The contract will have a "not to exceed" amount. The MVA has allocated a maximum amount of funds for this contract. It is expected that the contractor will be able to achieve all the goals set out in the proposal without the need for any additional funding and will be responsible for delivering and completing all work agreed to within the proposed budget.



The Contractor may directly provide subsidy funding from the Marianas Visitors Authority to stakeholders in Japan and the CNMI for Airlines, Hotels, and Travel & Tour Agencies, as part of the marketing plans & representation services to support, develop, and sustain tourism in the CNMI.

The contractor will be put on a payment schedule and each payment will have associated deliverables tied to it. The contractor will be required to submit an invoice along with any related deliverables in order to receive payment. There is often a delay between services and payment, so the contractor agrees to utilize its own financial resources to fund at least two months of the services described in its Proposal and the proposed Budget.

The official invoice date is the date that the invoice and all deliverables are received and accepted by the MVA. The invoice must include the name of the CONTRACTOR exactly as it appears on the contract. The invoice must also include the MVA contact number as well as a contractor-generated invoice number. All required deliverables must be received along with, or prior to, receipt of invoice. Invoices must be signed by Contractor in blue ink. Invoices submitted prior to receipt of the necessary deliverables will not be accepted and will have to be resubmitted.

### 6.07 Contract End Date and Time of Performance

The contract will remain in effect until December 30, 2022. The MVA may extend the term of contract by written notice to the contractor 30 days before the contract expires. This extension provision may be exercised with an option to renew for two (2) additional one (1) year periods, at the sole discretion of the MVA. If MVA exercises its option to extend the contract, then the Contract will continue without any changes in the terms and conditions.

### 6.09 Evaluation of Contract Performance

The success of the Marianas Visitors Authority and its contractor Global Branding efforts will be measured by:

- Increase of visitors' arrivals
- Number of posted advertisement for tourism initiatives
- Number of distributed materials
- Number of unique weekly visitors to the destination website
- Number of overall website monthly visits and average website visit rate
- Number of ad views and social media posts
- Number of vacation guide requests/downloads
- Organic or Paid searches: increase or decrease in destination search
- Display/Targeted Ads: reach and click-through rate (CTR)
- Social Media: Reach/Engagement rate for Facebook and Instagram
- Website: Google Analytics for New Visitors (and top page visits, as well as digital downloads)
- Email Campaigns: open and click rates
- Earn media – Number of placements (local newspaper, television coverage) examples of positive media reflecting positive steps toward recovery
- Number of companies holding conferences contacted; the number of total companies contacted
- Number of events held
- Number of overall visitors for each event
- Increase hotel bookings
- Average stay of visitors from Japan (nights/days)
- Number of The Marianas education meetings, conferences, presentations, and exhibitions hosted or participated

- Surveys to assess how travelers feel about The Marianas (minimum 3)

The contractor will be evaluated on the quality of the proposed PAMP, the effectiveness of approved PAMP execution, timeliness of deliveries, the accuracy of forms and expenditure reports, responsiveness to MVA requests, and good communication in general.

Meetings either in person, via internet available tools (for example Zoom), or via teleconference will be required as deemed necessary by the MVA.



Ellsbeth Viola Alepuyo  
Chairperson, MVA Board of Directors



Priscilla M. Iakopo  
Managing Director, MVA



## **Addendum A**

### **HUD GENERAL PROVISIONS ("HUD RIDER")**

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development ("HUD"). In addition, Marianas Visitors Authority shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>.

#### **1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then, upon the application of either Party, the Agreement shall forthwith be amended in writing to make such insertion or correction.

#### **2. STATUTORY AND REGULATORY COMPLIANCE**

Marianas Visitors Authority shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2017 (Pub. L. 115-56) and the Bipartisan Budget Act of 2018 ("BBA"), (Pub. L. 115-123), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

#### **3. BREACH OF CONTRACT TERMS**

The CNMI CDBG-DR Program reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents 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.

#### **4. REPORTING REQUIREMENTS**

The Marianas Visitors Authority shall complete and submit all reports, in such form and according to such schedule, as may be required by the CNMI CDBG-DR program. The Marianas Visitors Authority shall cooperate with all CNMI CDBG-DR program efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.

#### **5. ACCESS TO RECORDS**

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits,





examinations, and making excerpts, copies and transcriptions.

6. MAINTENANCE/RETENTION OF RECORDS

All records connected with this contract will be maintained in a central location and will be maintained for a period of at least three (3) years following the date of final payment and close-out of all pending matters related to this contract.

7. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Marianas Visitors Authority will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 C.F.R. Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

9. ENERGY EFFICIENCY

The Marianas Visitors Authority shall comply with mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

10. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Marianas Visitors Authority shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974



The Marianas Visitors Authority shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

12. SECTION 504 OF THE REHABILITATION ACT OF 1973

The Marianas Visitors Authority shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 94), as amended, and any applicable regulations.

The Marianas Visitors Authority agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

13. AGE DISCRIMINATION ACT OF 1975

The Marianas Visitors Authority shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

14. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Marianas Visitors Authority represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. part 2424.

15. CONFLICTS OF INTEREST

The Marianas Visitors Authority shall notify the CNMI CDBG-DR program as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The Marianas Visitors Authority shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The Marianas Visitors Authority shall provide the CNMI CDBG-DR program any additional information necessary for the CNMI CDBG-DR program to fully assess and address such actual or potential conflict of interest. The Marianas Visitors Authority shall accept any reasonable conflict mitigation strategy employed by the CNMI CDBG-DR program, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

16. SUBCONTRACTING

When subcontracting, the Marianas Visitors Authority shall solicit for and contract with such Marianas Visitors Authorities in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,

- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Non-competitive pricing practices between firms or between affiliated companies,
- (iv) Non-competitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a *brand name* product instead of allowing an *equal* product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

The Marianas Visitors Authority represents to the CNMI CDBG-DR program that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

The Contractor will include these HUD General Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flowdown such terms to all lower-tiered subcontractors.

17. ASSIGNABILITY

The Marianas Visitors Authority shall not assign any interest in this contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the CNMI CDBG-DR Program.

18. INDEMNIFICATION

The Marianas Visitors Authority shall indemnify, defend, and hold harmless the CNMI CDBG-DR program and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Marianas Visitors Authority in the performance of the services called for in this contract.

19. COPELAND "ANTI-KICKBACK" ACT (Applicable to all construction or repair contracts)

Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

20. SECTION 503 OF THE REHABILITATION ACT OF 1973 (Applicable to contracts exceeding \$10,000)

The Marianas Visitors Authority shall comply with section 503 of the Rehabilitation Act of 1973 (29



U.S.C. § 793), as amended, and any applicable regulations.

**Equal Opportunity for Workers with Disabilities**

- A.** The Marianas Visitors Authority will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Marianas Visitors Authority agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
- i. Recruitment, advertising, and job application procedures;
  - ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
  - iii. Rates of pay or any other form of compensation and changes in compensation;
  - iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
  - v. Leaves of absence, sick leave, or any other leave;
  - vi. Fringe benefits available by virtue of employment, whether or not administered by the Subcontractor;
  - vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
  - viii. Activities sponsored by the contractor including social or recreational programs; and
  - ix. Any other term, condition, or privilege of employment.
- B.** The Marianas Visitors Authority agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- C.** In the event of the Marianas Visitors Authority's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- D.** The Marianas Visitors Authority agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's/Subcontractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Marianas Visitors Authority must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Marianas Visitors Authority may have the notice read to a visually disabled individual or may lower the posted notice so that it might be read by a person in a wheelchair).



- E. The Marianas Visitors Authority will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Marianas Visitors Authority is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- F. The Marianas Visitors Authority will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Marianas Visitors Authority will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

21. EXECUTIVE ORDER 11246

(Applicable to construction contracts and subcontracts exceeding \$10,000)

The Marianas Visitors Authority shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapter 60).

During the performance of this contract, the Marianas Visitors Authority agrees as follows:

- A. The Marianas Visitors Authority shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Marianas Visitors Authority shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. The Marianas Visitors Authority shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Marianas Visitors Authority shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The Marianas Visitors Authority will, in all solicitations or advertisements for employees placed by or on behalf of the Marianas Visitors Authority, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- D. The Marianas Visitors Authority will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Marianas Visitors Authority will comply with all provisions of Executive Order 11246

of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

- F. The Marianas Visitors Authority will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- G. In the event of the Contractor's/Subcontractor's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Marianas Visitors Authority may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- H. Marianas Visitors Authority shall incorporate the provisions of A through G above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such Marianas Visitors Authority. The Marianas Visitors Authority will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Marianas Visitors Authority may request the United States to enter into such litigation to protect the interests of the United States.

22. LOBBYING (Applicable to contracts exceeding \$100,000)

The Marianas Visitors Authority certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Marianas Visitors Authority, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Marianas Visitors Authority shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.



This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

23. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (As required by applicable thresholds)

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The *Marianas Visitors Authority* agrees to send to each labor organization or representative of workers with which the *Marianas Visitors Authority* has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The *Contractor* agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The Contractor will not subcontract with any subcontractor where the subcontractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.
- E. The *Marianas Visitors Authority* will certify that any vacant employment positions, including training positions, that are filled: (1) after the *Marianas Visitors Authority* is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the *Marianas Visitors Authority's* obligations under 24 C.F.R. part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.



G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

24. FAIR HOUSING ACT

*Marianas Visitors Authority* shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Please visit [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_11868.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11868.pdf) for more information.

25. Federal Funding Accountability and Transparency Act (FFATA)

The Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended, was signed with the intent of reducing wasteful government spending and providing citizens with the ability to hold the government accountable for spending decisions. 2 C.F.R. Part 170 outlines the requirements of recipients in reporting information on subawards and executive total compensation under FFATA legislation. Any non-Federal entity that receives or administers Federal financial assistance in the form of: grants, loans, loan guarantees, subsidies, insurance, food commodities, direct appropriations, assessed and voluntary contributions; and/or other financial assistance transactions that authorize the non-Federal entities' expenditure of Federal fund, is subject to these requirements.

Prime contract awardees and prime grant awardees are required to report against subcontracts and subgrants awarded in the FFATA Subaward Reporting System (FSRS), the reporting tool for Federal prime awardees. This information reported will then be displayed on a public and searchable website: [www.USASpending.gov](http://www.USASpending.gov).

26. Procurement

The Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D) went into effect on July 1, 2018. These requirements are applicable to CDBG-DR funded projects, or as provided by 83 Federal Register 5844 VI A(1)(b)(2) permits a state grantee to elect to follow its own procurement policy. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price. Standards for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services are outlined in NMIAC §90-20 MVA Procurement Regulations.

27. Change Orders to Contracts

Change orders are issued when the initial agreed upon pricing or work to be completed requires

modification. First, the contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the Project Manager for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the contractor for execution. Change orders are only invoiced on the final draw and categorized as "change order." The amount listed on the invoice must match the previously approved amount and must be cost reasonable. The Project Manager is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

28. Environmental Review

Every project undertaken with Federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 C.F.R. Part 58- ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any Federal funds can be accessed for program-eligible activities.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce program-specific environmental review procedures in a program that can vary greatly in terms of scope of work.

29. Duplication of Benefits

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. The Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. § 5121 et seq., established the requirements for Duplication of Benefits (DOB) analysis.

30. Anti-Fraud, Waste and Abuse Checks

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk-relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse.

31. Affirmatively Furthering Fair Housing

The Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, et seq., dictates that grantees are required to administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Per the regulations of 24 C.F.R. § 570.601 and in accordance with Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et seq., for each community receiving a grant under Subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's Assessment of Fair Housing (AFH) plan, conducted in accordance with the requirements of 24 C.F.R. § §§ 5.150-5.180 (Affirmatively Furthering Fair Housing) and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

32. Drug Free Workplace





The Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 81, as implemented by 24 C.F.R. § Part 24, Subpart F, §§ 983.251-983.262, requires that any grantee other than an individual must certify that it will provide a drug-free workplace. Any grantee found in violation of the requirements of this act may be subject to suspension of payments under the grant, suspension or termination of the grant or suspension or debarment of the grantee.

33. Timely Distribution of Funds

The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, requires that funds provided under the Act be expended within two (2) years of the date that HUD obligates funds to a grantee unless otherwise authorized via waiver of this requirement by the Office of Management and Budget (OMB). The OMB waived the two (2) year expenditure requirement under 83 Fed. Reg. 40314 (Aug. 14, 2018); however, the provision to expend one hundred percent (100%) of the total allocation of CDBG-DR funds on eligible activities within six (6) years of HUD's initial obligation of funds remains in effect. The six (6) year expenditure period commences with the initial obligation of funds provided under 83 Fed. Reg. 5844 (Feb. 14, 2018). Additionally, per 83 Fed. Reg. 5844, the provisions at 24 C.F.R. §§ 570.494 and 570.902, regarding timely distribution and expenditure of funds, are waived and an alternative requirement was established.

Furthermore, consistent with 31 U.S.C § 1555 and OMB Circular No. A-11 (2017), if the Secretary of HUD or the President of the United States determines that the purposes for which the appropriation was made have been carried out and no disbursement has been made against the appropriation for two (2) consecutive fiscal years, any remaining unobligated balance shall be cancelled and will be made unavailable for obligation or expenditure for any purpose.

34. Property Management and Distribution

Regulations governing property management and distribution of real property, equipment, financial obligations and return of un-obligated cash post program closeout can be found in 24 C.F.R. § 570.506, 2 C.F.R. § 200.310, 2 C.F.R. § 200.343 and 2 C.F.R. § 200.344(b). The standards of 24 C.F.R. § 570.506 apply to any real property under a CDBG award recipient's control acquired in whole or in part with CDBG funds in excess of \$25,000.00. The recipient may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it either meets one of the national objectives as defined in 24 C.F.R. § 570.208 or if not, the recipient may either retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following such reimbursement, the property will no longer be subject to any CDBG requirements.

35. Limited English Proficiency

Executive Order No. 13166, signed on August 11, 2000, requires programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Fair access is ensured through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Vital documents are



defined as depending on the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

36. Personally Identifiable Information

In accordance with 2 C.F.R. § 200.303, regarding internal controls of a non-Federal entity, a grantee must guarantee the protection of all Personally Identifiable Information (PII) obtained. The program will enact necessary measures to ensure PII of all applicants is safeguarded as to avoid release of private information. If a contractor or employee should experience any loss or potential loss of PII, the program shall be notified immediately of the breach or potential breach.

38. Complaints and Appeals

Citizen comments on the CNMI CDBG-DR program published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other issues related to the general administration of CDBG-DR funds are welcomed throughout the duration of the grant. The Citizen Participation Plan is posted as a stand-alone document at [www.cnmi-cdbgdr.com](http://www.cnmi-cdbgdr.com). Complaints regarding fraud, waste, or abuse of government funds shall be addressed to the HUD Office of Inspector General Fraud Hotline by phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov).

39. Monitoring

As per CDBG regulation, 24 C.F.R. § 570.501(b), grantees of CDBG-DR funds are responsible for carrying out their programs to meet compliance with CDBG Program, statutory and regulatory requirements, including monitoring their project administrators, contractors and subcontractors. As such, throughout the application, planning, design, and implementation phase of the program, THE CNMI CDBG-DR PROGRAM will conduct internal monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases.

40. Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**EXHIBIT A  
MARIANAS VISITORS AUTHORITY  
STANDARD TERMS AND CONDITIONS**

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**I. TAXES, INSURANCE, AND PERMITS**

The Contractor is responsible for all applicable Commonwealth or federal taxes and fees which may become due and owing by the Contractor by reason of this contract. The Contractor is also responsible for obtaining all insurance, licenses, permits, and certificates that may be required in order to perform this Contract.

**II. INTEGRATED AGREEMENT**

The Contract is an integrated agreement and constitutes the entire agreement between the Contractor and the MVA. It supersedes any prior or contemporaneous oral or written agreements.

**III. LITIGATION**

If the MVA, without any fault on its own part, becomes a party to any litigation by or against the Contractor in connection with this contract, the Contractor shall pay all costs and expenses incurred by the MVA, including reasonable attorneys' fees.

**IV. CONTRACT SUBJECT TO FUNDING**

Continued funding of this Contract beyond the present fiscal year is contingent on availability of funding in future years. In the event that such funding does not become available, the MVA may terminate the contract without any further liability.

**V. SATISFACTION OF EXPENDITURE AUTHORITY REQUIRED**

The Contractor agrees to complete the contract according to the terms of the contract and to the full satisfaction of the Expenditure Authority.

**VI. REGULATIONS CONTROLLING**

This contract is void if either the procurement processes or contract execution fails to comply with the MVA Procurement Regulations, codified at NMIAC Title 90, Chapter 20. Any procurement action of a MVA official or employee in violation of said regulations is not authorized by the MVA and is an act for which the MVA will not take responsibility or be liable for in any manner. The Contractor and the MVA Contracting Officer hereby certify that they have both read and understand said procurement regulations and have complied with all such regulations.

**VII. DEBARMENT, SUSPENSION, AND PERSONAL LIABILITY FOR VIOLATION OF PROCUREMENT REGULATIONS**

If the contract is in violation of the MVA Procurement Regulations codified at NMIAC Title 90, Chapter 20, then the Contractor may be subject to debarment or suspension from government

contracting including MVA. Any person found to be violating the MVA Procurement Regulations may be personally liable for any damages incurred, in addition to other penalties provided for by law or regulation.

### **VIII. CONTRACT DISPUTES**

1. Any dispute arising under this contract between the MVA and the Contractor shall be submitted to administrative review and appeal as provided for by the MVA Procurement Regulations codified at NMIAC Title 90, Chapter 20.
2. Commonwealth law governs this contract.
3. The MVA will not be held liable for interest on any judgment taken as a result of any legal action in connection with this contract.
4. The MVA will not be held liable for any punitive damages as a result of any legal action in connection with this contract.
5. The MVA will not be held liable for any attorneys' fees incurred by the Contractor as a result of any legal action in connection with this contract.

### **IX. GRATUITIES**

It shall be a breach of contract for the Contractor to offer, give, or agree to give a gratuity or an offer of employment to any employee or former employee in connection with the execution of this contract.

It shall be a breach of contract for any government employee to solicit, demand, accept, or agree to accept from the contractor, a gratuity, or an offer of employment in connection with the execution of this contract.

### **X. RIGHT TO AUDIT**

The Contractor and subcontractor or grantee and sub-grantee at all levels shall provide the Public Auditor of the Commonwealth of the Northern Mariana Islands with access to and the right to examine and copy any records, data or papers relevant to this contract or grant until three (3) years have passed since the final payment pursuant to this contract or grant.

### **XI. KICKBACKS PROHIBITED**

It shall be a breach of contract for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

### **XII. CONTINGENT FEES**

The Contractor hereby represents that it has not retained any person to solicit or secure government contracts upon an agreement or understanding for a commission percentage, brokerage or contingent fee except for the retention of a bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.



### **XIII. CONTRACT MODIFICATIONS**

Any modifications of this Contract or additional obligations by either party in connection with this Contract shall be binding only if prepared and approved in accordance with Commonwealth laws and regulations and agreed upon in advance and in writing between the MVA and the Contractor.

### **XIV. TERMINATION FOR DEFAULT**

1. If the Contractor refuses or fails to deliver the goods or services as required or fails to deliver the goods or services within the time period specified by this contract, then the MVA may terminate this contract by providing written notice of termination to the Contractor. If the MVA terminates this contract for default, then the Contractor will be liable for damages. In the alternative, the MVA may insist upon the performance of this contract and the payment of damages for its delay. Failure to deliver the goods or services as required and within the time limits provided by this contract may subject the Contractor to suspension, disbarment, or any other remedy provided by law.
2. The MVA will not terminate the contract for failure to deliver the goods or services within the specified time if the failure is caused by an act of god, acts of the public enemy, acts of the government, fires, floods, epidemics, or unusually severe weather.
3. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### **XV. TERMINATION FOR CONVENIENCE**

1. The MVA may, when its interests so require, terminate this contract in whole or in part for the convenience of the MVA. The MVA shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when the termination becomes effective.
2. If the contract is terminated, then the MVA will not incur any further obligation in connection with the terminated contract. The MVA will work to terminate outstanding orders and subcontracts as they relate to the terminated contract and will settle the liabilities and claims arising out of the termination. The MVA will limit and mitigate its damages as much as possible.
3. If the contract is terminated for convenience, then the parties may enter into a settlement regarding the payment due under this contract. Otherwise, the amounts due under the contract will be as follows, provided that the MVA may not be held liable for more than the amount to be paid under this contract:
  - a) Costs incurred in preparing to perform and performing the terminated contract.
  - b) Costs of settling and paying claims arising out of termination of subcontracts.
  - c) The reasonable settlement costs of the Contractor.



## **XVI. ASSURANCES**

The Contractor, by signing the contract, affirms that this Contract is in compliance with the following federal laws and regulations:

1. **Equal Employment Opportunity.** For all Contracts that qualify as “federally assisted construction contracts” as defined in 41 CFR Part 60–1.3, Contractor agrees to comply with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
2. **Additional Equal Employment Opportunity Clause.** The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
3. **Davis Bacon Act,** as amended (40 U.S.C. §§3141—3148). If the Contract is in excess of \$2,000 and pertains to construction or repair, and further, if required by Federal program legislation, Contractor shall comply with the Davis-Bacon Act (40 U.S.C. §§3141—3148) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, the Contractor is required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor shall be required to pay wages not less than once a week.
4. **Copeland “Anti-Kickback” Act** (40 U.S.C. §3145). If the Contract is in excess of \$2,000 and pertains to construction or repair, Contractor shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. §3145), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides in part that Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which it is otherwise entitled.



5. Contract Work Hours and Safety Standards Act (40 U.S.C. §§3701-3708) – If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. §§3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5). Under 40 U.S.C. §3702 of the Act, Contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. §3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement – If the Contract is for the performance of experimental, developmental, or research work, Contractor shall provide for the rights of the Federal Government and the Commonwealth in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. §§7401—7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251—1387), as amended – If the Contract is in excess of \$150,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401—7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§1251—1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Energy Policy and Conservation Act (42 U.S.C. § 6201) – Contractor agrees to comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).
9. Byrd Anti-Lobbying Amendment (31 U.S.C. §1352) – If the Contract is for \$100,000 or more, Contractor and its subcontractors shall file the certification required by this statute and associated regulations. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. §1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Commonwealth.



10. Debarment and Suspension (E.O.s 12549 and 12689) – Contractor represents and warrants that it is not listed on the government-wide Excluded Parties List System in the System for Award Management (SAM) in accordance with OMB guidelines at 2 CFR 180 that implement E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549.
11. The Contractor certifies compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In particular, the requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.
12. If applicable, the Contractor certifies compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act by procuring solid waste management services in a manner that maximizes energy and resource recovery.
13. If the contracting agency is an EPA financial assistance agreement recipient, then the contract agrees that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor further agrees that it shall carry out the applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies. The contractor understands that it bears the final responsibility for determining whether the contracting agency is an EPA financial assistance agreement recipient.

**END OF DOCUMENT**

