

SERVICE CONTRACT

This **CONTRACT** (hereinafter referred to as the “Contract”), made in the Territory of the United States Virgin Islands, is by and between the **VIRGIN ISLANDS HOUSING FINANCE AUTHORITY**, a body corporate and politic constituting a public corporation and autonomous governmental instrumentality of the Government of the Territory of the United States Virgin Islands, whose address is 3202 Demarara Plaza, Suite 200, St. Thomas, U.S. Virgin Islands 00802-6447 (hereinafter referred to as “VIHFA”) and **MCE CONTRACTING, LLC**, a domestic limited liability company licensed to do business in the U.S. Virgin Islands, whose address is 9Q Gamble Nordsidevej, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00802. Contractor and the VIHFA may sometimes hereinafter be collectively referred to as the “Parties” and individually as a “Party.”

WITNESSETH:

WHEREAS, the Authority desires the services of a contractor to complete additional repairs at the Authority’s Frenchtown Storage Facility, in St. Thomas, U.S. Virgin Islands; and

WHEREAS, the Authority conducted an electronic bid and obtained bids from multiple contractors to perform the desired work; and

WHEREAS, Contractor submitted the lowest bid, in the amount of Forty-One Thousand Dollars and Zero Cents (\$41,000.00) to perform the work; and

WHEREAS, the VIHFA selected the Contractor to perform the work; and

WHEREAS, the VIHFA desires to enter into an agreement with the Contractor to complete the additional repairs and the Contract represents that it is willing and able to complete the repairs.

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

- 1. SCOPE OF WORK:** The Contractor shall be responsible for furnishing all labor, tools, materials, equipment, miscellaneous supplies, and the services necessary to complete the repairs described in *Exhibit A* entitled “Enclosure A – E-Bid Cost Sheet, Proposed Cost Form – Additional Repairs at Frenchtown Storage Facility”.
- 2. WORKMANSHIP/WARRANTY:** The Contractor shall complete all work in a substantial and workmanlike manner according to standards and practices in the Contractor’s trade and the work shall conform to all applicable codes and regulations which apply to the work to be performed. The Contractor warrants that the final product of Contractor’s work shall be fit for the purposes for which it is intended.
- 3. COMMENCEMENT DATE:** The Contractor agrees that time is of the essence and will commence work no less than ten (10) days after the date that the Notice To Proceed is issued.

Contractor’s Initials: 

VIHFA Initials: 

4. TERM: Contractor shall complete the Scope of Service described in Section 1, above, no later than **forty-five (45) calendar days** after the date that the Notice To Proceed is issued.

4.1 Contractor shall complete the Scope of Work described in Section 1, above, no later than **forty-five (45) calendar days** after the date that the Notice To Proceed is issued, excluding the period required to ship equipment to St. Thomas, subject to the VIHFA's option to extend the term of the contract for a similar term subject to satisfactory performance.

4.2 The VIHFA shall extend the completion date if there are delays caused by acts of God, unavoidable circumstances, or the negligence of the VIHFA or its agents or employees other than the Contractor. The extension shall equal the length of the delay by any of the above factors. However, there shall be no extensions to the completion date without the prior written consent from the VIHFA. The Contractor must submit the request for an extension of the completion date **within three (3) calendar days** of the event that caused the delay.

4.3 The VIHFA reserves the right to modify and/or terminate the contract if the Contractor fails to perform in a manner consistent with the terms of the contract. In addition, the VIHFA reserves the right to modify and/or terminate the contract if funding becomes unavailable.

5. LIQUIDATED DAMAGES: Should the Contractor fail to complete the terms of the Scope of Work described in Section 1.1 above, the Contractor agrees to pay to the VIHFA, as liquidated damages, **One Hundred Dollars and Zero Cents (\$100.00)** for each calendar day or portion thereof that the Contractor fails to commence or diligently perform the work in accordance with the contract documents and/or is in violation of the contract. The liquidated damages shall first be deducted from any contract monies due but not yet paid to the Contractor, to the extent available.

6. COMPENSATION: VIHFA, in consideration of satisfactory performance of the services described above, shall pay the Contractor **Forty-One Thousand Dollars and Zero Cents (\$41,000.00)** as compensation for the services rendered under this Contract.

6.1 TERMS OF PAYMENT: VIHFA shall pay Contractor:

- a. Mobilization in the amount of **Eight Thousand Two Hundred Dollars and Zero Cents (\$8,200.00)**.
- b. The balance of the contract amount will be paid after the Scope of Work is completed.
- c. Contractor shall allow enough time for the VIHFA to review and process payment requests, which can take an average of four (4) weeks.

7. LIEN WAIVERS: The Contractor agrees to protect, defend and indemnify the VIHFA from any claims for unpaid work, labor or materials with respect to the Contractor's performance under this Contract and shall execute a Lien Waiver upon receipt of each payment.

Contractor's Initials: *bc*

VIHFA Initials: 

8. CONTRACTOR'S REPRESENTATIONS: The Contractor warrants that it is fully informed regarding all the conditions affecting the work to be performed including labor and materials to be furnished for the completion of the Contract. The Contractor represents that it is fully equipped, competent, and capable of performing the work and is available to perform such work.

The Contractor further represents that it shall provide its services and meet its obligations under this Contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in the United States Virgin Islands and that it will provide a standard of care equal to, or superior to, care used by service providers similar to Contractor in the United States Virgin Islands.

9. REPRESENTATIONS, WARRANTIES, AND COVENANTS BY CONTRACTOR:
The Contractor covenants, warrants and covenants that:

(a) It is duly organized and existing and authorized, qualified and licensed to do business in the United States Virgin Islands.

(b) It will, during the term of this Contract, remain in good standing and qualified to do business under the laws of the Territory, including maintenance at all times of a valid V.I. business license, and will not cease doing business, dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it without the prior written consent of the Authority.

(c) It has the power to execute, deliver and perform, and to enter into the transactions contemplated by this Contract, and has duly authorized the execution, delivery and performance of this Contract.

(d) The execution and delivery of this Contract, the consummation of the transaction contemplated hereby and the fulfillment or compliance with the terms and conditions of this Contract do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of any legal restrictions or any Contract or instrument to which Contractor is now a party or by which it is bound or constitute a default under any of the foregoing.

(e) No information, statement, or report furnished in writing by the Contractor in connection with the negotiation of, or performance under, this Agreement and the consummation of the transactions contemplated hereby, contains any material misstatement of fact or omits to state a material fact that would make the information, statement or report misleading.

10. PROFESSIONAL STANDARDS: Contractor will complete all work in accordance with standard Construction Industry practices and the work shall conform to all local building codes and regulations which apply to the work being performed whether or not covered by the project specifications and drawings, including any Contractor registration requirements. Contractor warrants that the final product of Contractor's work shall be fit for the purposes for which it is intended. Contractor will warrant against defects in materials and workmanship for a period of

Contractor's Initials: 

VIHFA Initials: 

one year from the date of completion and upon acceptance of the work by the Architect and VIHFA.

11. **DEFECTIVE WORK:** The inspection of work shall not relieve the Contractor of any of its obligations to fulfill the terms and conditions of the Contract as herein prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by VIHFA's Project Manager and accepted or paid for. If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, or the final payment thereof, the Contractor shall forthwith make good such defect in a manner satisfactory to VIHFA's Project Manager and replace at its own expense damaged or unsuitable materials with the new material of satisfactory quality.

12. **MECHANIC'S LIEN:** Contractor agrees to protect, defend, and indemnify VIHFA from any claims for unpaid work, labor, or materials with respect to Contractor's Performance under this Contract and **shall execute a Lien Waiver upon receipt of each payment**. Final payment shall not be due until the Contractor has delivered to VIHFA a complete release of all liens for work completed arising out of Contractor's Performance or a receipt in full covering all labor and materials for which a lien could be filed or a bond satisfactory to VIHFA indemnifying VIHFA against any and all liens.

13. **CONSTRUCTION WARRANTY:** The Contractor shall fully guarantee all work under this Contract for a period of one (1) year from date of the final acceptance of the work, against all defects in both workmanship and materials, and shall promptly correct and/or replace such faulty work when so notified. The Contractor shall, within a reasonable time, which shall be no later than **thirty (30) days after receipt of a written notice of a defect**, promptly remedy and repair any defects in materials or workmanship, without expense to VIHFA, and shall warrant such repairs.

The Contractor shall require warranties from all subcontractors and shall deliver copies of all warranties along with all equipment warranties to VIHFA prior to the final inspection. The Contractor shall also deliver copies of all product manuals, specifications, and other instructional materials pertaining to any fixtures or equipment installed pursuant to this Contract.

14. **MAINTENANCE OF AREA/REMOVAL OF DEBRIS:** The Contractor agrees to maintain the work area free from major obstructions/hazards to the greatest extent possible and to ensure safe access at all times. The Contractor agrees to remove all debris and surplus material from the property and leave the area in a neat and clean condition.

15. **INSURANCE:** The Contractor shall obtain and maintain the following insurance coverage for during the term of this Contract:

- (a) **COMMERCIAL GENERAL LIABILITY:** Commercial general liability insurance, in a form acceptable to the VIHFA, on a "per occurrence" basis with a minimum limit of not less than one million dollars (\$1,000,000.00). The insurance policy shall name the Virgin Islands Housing Finance Authority as the certificate

Contractor's Initials: 

VIHFA Initials: 

22. FORCE MAJEURE: Neither party to this Contract shall be deemed to be in breach of this agreement for any delay or failure in performance caused by reasons out of its reasonable control, including acts of God or a public enemy; natural calamities; failure of a third party to perform; changes in the laws or regulations; actions of any civil, military or regulatory authority; power outage or other disruptions of communication methods or any other cause which would be out of their reasonable control.

23. LICENSURE: The Contractor covenants that:

(a) It is duly organized and existing and authorized, qualified and licensed to do business in the United States Virgin Islands.

(b) It will, during the term of this Contract, remain in good standing and qualified to do business under the laws of the Territory, including maintenance at all times of a valid V.I. business license, and will not cease doing business, dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it without the prior written consent of the VIHFA.

(c) It has the power to execute, deliver and perform, and to enter into the transactions contemplated by this Contract, and has duly authorized the execution, delivery and performance of this Contract.

(d) The execution and delivery of this Contract, the consummation of the transaction contemplated hereby and the fulfillment or compliance with the terms and conditions of this Contract do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of any legal restrictions or any Contract or instrument to which Contractor is now a party or by which it is bound or constitute a default under any of the foregoing.

24. ASSIGNMENT: The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the VIHFA.

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

26. DEFECTIVE WORK: The inspection of work shall not relieve the Contractor of any of its obligations to fulfill the terms and conditions of the Contract as herein prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by VIHFA's Project Manager and accepted or paid for.

Contractor's Initials: 

VIHFA Initials: 

If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, or the final payment thereof, the Contractor shall forthwith make good such defect

27. RIGHT TO WITHHOLD: If work under this Contract is not performed in accordance with the terms hereof, the VIHFA will have the right to withhold, out of any payment due to Contractor, such sums as the VIHFA may deem ample to protect it against loss or to assure payment of claims arising there from, and at its option, the VIHFA may apply such sums in such manner as the VIHFA may deem proper to secure itself or to satisfy such claims. The VIHFA will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

28. TERMINATION: Either party will have the right to terminate this Contract with or without cause on ten (10) days written notice to the other party specifying the date of termination.

29. TERMINATION FOR CAUSE: Except as hereafter provided, the VIHFA shall have the immediate and automatic right to terminate this Contract upon the occurrence by Contractor of a material breach of any term, condition, representation, warranty or covenant of this Contract or the Proposal. A material breach shall include, but not be limited to, the following, if applicable: (1) submission to the VIHFA of reports which are incorrect or incomplete in any material respect; (2) debarment, or the threat thereof, by any federal or local government agency or department; (3) failure to pay creditors and subcontractors which may cause the placement of liens on the VIHFA's property; (4) failure to maintain any bonds and insurance if required under this Agreement; (5) offering of bribes, threatening or abuse of program participants or failure to comply with applicable federal or local requirements; (6) abandonment of the Project by Contractor for a period of seven (7) days; (7) failure to diligently obtain permits and approvals and commence construction of the Project; (8) if the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of creditors, or if a trustee or receiver is appointed on account of its insolvency; (9) if the Contractor persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials; (10) failure to correct work which is not in accordance with the final construction drawings and specifications; or (11) persistent disregard of the laws, rules, regulations or orders of any public authority having jurisdiction; (12) failure to utilize industry standards in a method or installation; (13) failure to comply with the approved Scope of Work by adding items without approval or by failing to provide materials and/or workmanship in accordance with the Plan; (14) failure to obtain written approval of the Lender and the VIHFA before starting excavations on the Project; (15) failure to adhere to standards and practices of phases within the Project.

30. PARTIAL TERMINATION: The performance of work under this Contract may be terminated by the VIHFA in part, whenever the VIHFA shall deem such termination advisable. This partial termination shall be affected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties of this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the ten (10) day notice.

Contractor's Initials: 

VIHFA Initials: 

31. NON-DISCRIMINATION: No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, religion, sexual orientation, or national origin.

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

33. CONFLICT OF INTEREST: The Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to perform under this Contract.

34. WARRANTY OF NON-SOLICITATION: The Contractor expressly warrants that it has not employed any person to solicit or obtain this contract on its behalf, or cause or procure the same to be obtained upon compensation in any manner, contingent, in whole or in part, upon such procurement, and that it has not paid, or promised or agreed to pay to any person, in consideration of such procurement, or in compensation for services in connection hereunder; and that it has not, in estimating the contract price demand, included any sum by reason of such brokerage, commission or percentage, and that all monies payable to it hereunder are free from obligation to any other person for services rendered, supposed to have been rendered, in the procurement of this contract. Breach of this warranty shall give VIHFA the right to terminate this Contract or, in its discretion, to deduct from the Contract Cost or consideration the amount of such commission, percentage, brokerage or contingent fees.

35. PRELIMINARY INSPECTION: Prior to request for final inspection, the Contractor shall notify VIHFA's Project Manager of the anticipated date of completion so that any major defects or deficiencies may be pointed out to the Contractor for correction prior to the final inspection.

36. FINAL INSPECTION: The Scope of Work shall be considered complete upon acceptance by VIHFA after a final inspection conducted by the Architect, and VIHFA's Project Manager.

37. MAINTENANCE OF AREA/FINAL CLEAN UP & REMOVAL OF DEBRIS: Contractor agrees to maintain the work area free from major obstructions/hazards to the greatest extent possible, and to ensure safe access to the VIHFA at all times. Contractor agrees to remove all construction debris and surplus material from the property and to leave the property neat and in a broom clean condition. In addition to broom cleaning, the Contractor shall remove soiled spots from painted, stained or decorated work and from all exterior walls. The Contractor shall remove all construction related debris material from the construction site.

38. RECORDS: Contractor shall maintain documented, precise records of time and/or monies expended under this Contract for a minimum period of seven (7) years following the completion of the Project.

Contractor's Initials: 

VIHFA Initials: 

36. **NON-DISCRIMINATION:** No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, religion, sexual orientation, or national origin.

39. **NOTICE:** Any notices required or permits to be given under this Contract shall be deemed sufficiently given or served if sent by certified mail, return receipt requested to the parties at the following addresses:

VIHFA: Virgin Islands Housing Finance Authority
3202 Demarara Plaza, Suite 200,
St. Thomas U.S. Virgin Islands 00802
Attention: Eugene Jones, Executive Director

Contractor: MCE Contracting, LLC
P.O. Box 306180
St. Thomas, U.S. Virgin Islands 00803
Attention: John McCleverty, Jr., Owner

Either party may, by like notice, at any time and from time to time, designate different addresses to which notices shall be sent. Notices given in accordance with these provisions shall be deemed received when mailed.

40. **GOVERNING LAW:** This Contract shall be governed by the laws of the United States Virgin Islands and venue for any action between the VIHFA and Contractor which relates to this Contract shall be in the United States Virgin Islands.

41. **SEVERABILITY:** If any provision(s) of this Contract shall be held to be invalid, illegal, unenforceable or in conflict with the law of the United States Virgin Islands, it shall be regarded as stricken and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

42. **COUNTERPARTS:** This Contract may be executed in counterparts, each of which will be deemed an original.

43. **ENTIRE CONTRACT:** This Contract constitutes the entire Contract between the parties hereto, and all prior understandings or communications, written or oral, with respect to the work to be done under this contract, are merged herein.

[SIGNATURE BLOCK TO FOLLOW]

Contractor's Initials: 

VIHFA Initials: 

IN WITNESS WHEREOF, both parties have caused this Contract to be executed by their duly authorized representatives on the date(s) written below.

Two (2) Witnesses:

Witness 1's signature:

Witness 2's signature:

MCE CONTRACTING, LLC


John McCleverty, Jr., Owner

Dated: 12/31 /2024

Two (2) Witnesses:

Witness 1's signature:


Witness 2's signature:

**Virgin Islands Housing
Finance Authority**


Eugene Jones, Jr., Executive Director

Dated 1/10 /2024

Reviewed for Legal Sufficiency:


Nycole Thompson, Esq., Legal Counsel

Dated: 12/30/2024