

TESTIMONY BY THE GOVERNOR'S FINANCIAL TEAM
TO THE COMMITTEE OF THE WHOLE
31ST LEGISLATURE OF THE VIRGIN ISLANDS
ON BILL NO. 31-0447

SEPTEMBER 21, 2016
EARLE B. OTTLEY LEGISLATIVE HALL
2:00 P.M.

BY:

MR. VALDAMIER O. COLLENS
COMMISSIONER, DEPARTMENT OF FINANCE
EXECUTIVE DIRECTOR,
VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

GOOD AFTERNOON, HONORABLE SENATE PRESIDENT NEVILLE JAMES, CHAIRMAN OF THE COMMITTEE OF THE WHOLE; OTHER MEMBERS OF THE 31ST LEGISLATURE; FELLOW MEMBERS OF THE GOVERNOR'S FINANCIAL TEAM; AGENCY HEADS AND/OR THEIR DESIGNEES FROM OTHER DEPARTMENTS, AGENCIES AND INSTRUMENTALITIES OF THE GOVERNMENT OF THE VIRGIN ISLANDS; THE MEDIA; LADIES AND GENTLEMEN IN THE LEGISLATIVE CHAMBERS; AND THE LISTENING AND VIEWING AUDIENCE.

I AM VALDAMIER O. COLLENS, COMMISSIONER, DEPARTMENT OF FINANCE AND EXECUTIVE DIRECTOR OF THE VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY ("PFA"). ACCOMPANYING ME TODAY ARE OTHER MEMBERS OF THE GOVERNOR'S FINANCIAL TEAM, NAMELY: MR. NELLON BOWRY, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET; MS. JOANNA RHYMER, DEPUTY DIRECTOR (ON BEHALF OF MR. MARVIN L. PICKERING, DIRECTOR), BUREAU OF INTERNAL REVENUE; MR. IRA MILLS, TAX ASSESSOR, OFFICE OF THE LIEUTENANT GOVERNOR; MR. ANDRÉ WRIGHT, OF STANDARD INTERNATIONAL GROUP, INC., FINANCIAL ADVISOR; MR. GRANT FRAUNFELDER, EXECUTIVE DIRECTOR OF MORGAN STANLEY & CO. LLC; AND MS. PATRICIA A. GOINS, ESQ.; PARTNER OF HAWKINS DELAFIELD & WOOD LLP, BOND COUNSEL TO THE PFA.

WE ARE HERE TODAY TO PROVIDE TESTIMONY WITH RESPECT TO BILL NO. 31-0447. THE PROPOSED LEGISLATION WE ARE HERE TO PRESENT TESTIMONY ON IS PART OF A NUMBER OF MEASURES WHICH HAVE BEEN IMPLEMENTED, AND NEW INITIATIVES BEING PROPOSED, INCLUDING AUTHORIZATION FOR THE ISSUANCE OF BONDS TO FINANCE CAPITAL PROJECTS AND WORKING CAPITAL FOR THE GOVERNMENT, ALL OF WHICH ARE INTEGRAL TO THE GOVERNMENT OF THE VIRGIN ISLANDS' FIVE-YEAR PLAN FOR FISCAL YEARS 2017-2021 (THE "FIVE-YEAR PLAN"), A COPY OF WHICH HAS BEEN PROVIDED TO YOU. THE FIVE-YEAR PLAN IS THE GOVERNOR'S BLUEPRINT FOR FISCAL RECOVERY AND ECONOMIC GROWTH AND IS AN EXTREMELY IMPORTANT PART OF OUR COMMUNICATION PROCESS WITH EXISTING AND PROSPECTIVE BOND INVESTORS.

ADDITIONALLY, WE ARE HERE TO PRESENT TESTIMONY ON THE LANDFILL PROJECT BILL. THE LANDFILL PROJECT BILL SEEKS TO PROVIDE CRITICAL FINANCING FOR PAST DUE COSTS MANDATED UNDER THE EXISTING CONSENT DECREES WITH THE ENVIRONMENTAL PROTECTION AGENCY ("EPA") AND THE UNITED STATES DEPARTMENT OF JUSTICE ("DOJ"), INCLUDING THE BOVONI LANDFILL CONSENT DECREE AND THE ANGUILLA LANDFILL CONSENT DECREE, AS WELL AS THE FINANCING OF

ESSENTIAL COSTS FOR OPERATIONS, MAINTENANCE AND REDUCTION OF SOLID WASTE AT OUR TWO LANDFILLS.

BEFORE WE BEGIN TO DISCUSS THE FIVE-YEAR PLAN AND THE PROPOSED BOND TRANSACTION, WE WOULD LIKE TO PROVIDE THE BACKGROUND AND CURRENT STATUS OF THE RECENT DOWNGRADES OF THE AUTHORITY'S MATCHING FUND REVENUE BONDS AND GROSS RECEIPTS TAX BONDS BY THE RATING AGENCIES. WE ARE CURRENTLY IN DISCUSSIONS WITH THE OTHER RATING AGENCY, S&P GLOBAL RATINGS, FOR WHICH RATINGS WILL BE RELEASED VERY SHORTLY.

HOWEVER, IN JUNE 2016, MOODY'S DOWNGRADED (IN A SINGLE ACTION) THE GOVERNMENT'S SENIOR MATCHING FUND REVENUE BONDS SIX NOTCHES FROM BBB TO B1; REPRESENTING A DOWNGRADE FROM INVESTMENT GRADE TO A LOW NON-INVESTMENT GRADE RATING. IN AUGUST 2016, FITCH DOWNGRADED THE SENIOR MATCHING FUND REVENUE BONDS AND GROSS RECEIPTS TAX BONDS FROM "BBB" TO "BB". THESE DOWNGRADES HAVE HAD A SIGNIFICANT ADVERSE IMPACT ON THE GOVERNMENT'S PLAN OF FINANCE AND THE EXPECTED COST OF ANY FUTURE BORROWING FOR THE GOVERNMENT. WHILE THE GOVERNMENT HAD PLANNED A RESTRUCTURING OF THE GOVERNMENT'S MATCHING

FUND REVENUE BONDS AND GROSS RECEIPTS TAX BONDS FOR CASH FLOW RELIEF OVER FOUR FISCAL YEARS, THE DOWNGRADES MADE THE COST OF SUCH A TRANSACTION PROHIBITIVELY COSTLY. WHILE THE DEBT RESTRUCTURING WOULD HAVE REDUCED THE TERRITORY'S DEBT SERVICE IN THE SHORT TERM IT WOULD HAVE ALSO SUBSTANTIALLY INCREASED THE TERRITORY'S DEBT SERVICE IN THE NEAR FUTURE AND LONG TERM.

AS A RESULT OF THE MOODY'S DOWNGRADE AND RESULTING INCREASED COST OF DEBT, WE HAVE REVISED OUR PLAN OF FINANCE TO EXCLUDE THE DEBT RESTRUCTURING AND TO INCLUDE ONLY NEW MONEY BONDS FOR WORKING CAPITAL AND ESSENTIAL CAPITAL PROJECTS. IN ORDER TO ACHIEVE THIS PLAN OF FINANCE, WE ARE PROPOSING ADDITIONAL ENHANCEMENTS TO THE MATCHING FUND REVENUE BONDS AND GROSS RECEIPTS TAX BONDS THROUGH THE CREATION OF A STATUTORY LIEN ON ALL MATCHING FUND REVENUE AND GROSS RECEIPTS TAX BONDS, THROUGH PROVISIONS INCLUDED IN BILL NO. 31-0447. SUCH PROVISIONS ARE DESIGNED TO ENHANCE THE SECURITY FOR INVESTORS AND OUR CURRENT BONDHOLDERS, ALONG WITH ACHIEVING A HIGHER RATING FROM FITCH. SPECIFICALLY, DUE TO THE ADDITION OF THE PROPOSED STATUTORY LIEN PROVISIONS THAT WE ARE PROPOSING,

THE RATING FROM FITCH WILL BE TWO NOTCHES HIGHER – AT BB. FITCH SPECIFICALLY REFERENCED THE STATUTORY LIEN PROVISION AS THE BASIS FOR INCREASING ITS RATING FROM B+ TO BB. AS SUCH, I WILL DISCUSS THE PROPOSED STATUTORY LIENS LATER IN MY TESTIMONY.

AS YOU ARE AWARE, GOVERNOR MAPP HAS MADE THE FINANCIAL RECOVERY AND ECONOMIC GROWTH OF THE TERRITORY A TOP PRIORITY OF HIS ADMINISTRATION WELL BEFORE THE RECENT RATING ACTION. TO THIS END, THE GOVERNOR HAS ALREADY IMPLEMENTED A NUMBER OF INITIATIVES TO ENHANCE REVENUE COLLECTION WHILE REDUCING OPERATING COSTS, AND IMPROVING THE EFFICIENCY OF THE GOVERNMENT AND ITS OPERATIONS. THE FIVE-YEAR PLAN, AND THE PROPOSED FINANCING OUTLINED IN BILL NO. 31-0447, ARE COLLECTIVELY, DESIGNED TO ALLEVIATE THE GOVERNMENT’S ANTICIPATED REVENUE SHORTFALLS BY ENHANCING REVENUES AND REDUCING OPERATING COSTS, WHILE LIMITING THE IMPACT ON THE DELIVERY OF ESSENTIAL GOVERNMENT SERVICES – SO CRITICAL TO THE HEALTH, SAFETY AND WELL BEING OF VIRGIN ISLANDS RESIDENTS, BUSINESSES AND VISITORS TO THE TERRITORY.

AS DESCRIBED IN THE FIVE-YEAR PLAN, THE GOVERNMENT HAS EXPERIENCED A SEVERE IMBALANCE IN THE TAX AND FEE REVENUE STRUCTURES IMPOSED BY THE GOVERNMENT COMPARED TO THE COST OF SERVICES REQUIRED BY THE RESIDENTS OF THESE VIRGIN ISLANDS. THIS IMBALANCE, COMPOUNDED BY THE GREAT RECESSION AND THE CLOSURE OF THE HOVENSA REFINERY, HAS RESULTED IN RECURRING ANNUAL SHORTFALLS OF REVENUES OVER EXPENDITURES.

THE FIVE-YEAR PLAN PROVIDES A FIVE-YEAR PROJECTION OF REVENUES AND EXPENDITURES WHICH ARE BASED ON CURRENT POLICIES AND FUTURE ASSUMPTIONS. IT CONTINUES BY OUTLINING A SERIES OF ADDITIONAL INITIATIVES TO BE IMPLEMENTED BY THE GOVERNMENT TO ACHIEVE ITS GOAL OF FISCAL STABILITY AND THEREBY, ALSO FOSTER ECONOMIC GROWTH. AS SUCH, THE PLAN DRAWS ON SEVERAL SOURCES, INCLUDING AUDITED FINANCIAL STATEMENTS, ADOPTED BUDGETS, FORECASTS AND THE ASSUMPTIONS TO BE APPLIED.

THE FIVE-YEAR PLAN INCLUDES A NUMBER OF REVENUE-BASED INITIATIVES THAT WILL REQUIRE LEGISLATIVE ACTION, INCLUDING, BUT NOT LIMITED TO, A REVIEW OF REAL PROPERTY TAX MILLAGE RATES AND TAX CREDITS, A NEW SIN TAX AS WELL AS MARGINAL INCREASES ON

CERTAIN PRODUCTS DEEMED HARMFUL TO SOCIETY (FOR EXAMPLE, ALCOHOL, TOBACCO AND SUGARY PRODUCTS), ENHANCEMENT OF MARINE USERS TAX, AND IMPLEMENTATION OF AN INTERNET GROSS RECEIPTS TAX.

THE OBJECTIVE OF THE FIVE-YEAR PLAN IS TO PROVIDE A GUIDE IN ADDRESSING THE PROJECTED REVENUE SHORTFALL OF \$170 MILLION FOR FISCAL YEAR 2017 AND REDUCE THE ACCUMULATED OPERATING DEFICIT OVER THE NEXT FIVE YEARS. PLEASE ALLOW ME TO BE CLEAR, THE PROPOSED REVENUE INITIATIVES ARE NOT INTENDED TO APPLY ADDITIONAL FINANCIAL STRESS TO THE VIRGIN ISLANDS HOUSEHOLD FOR BASIC EVERYDAY GOODS OR SERVICES. IN FACT, THE PROPOSED REVENUE INITIATIVES HAVE BEEN STRUCTURED TO ADD TO THE TERRITORY'S TAX BASE BY SPECIFICALLY TARGETING PRODUCTS LARGELY CONSUMED BY THE POPULATION OF TRANSIENT CONSUMERS WHO BRIEFLY ENTER AND LEAVE THE TERRITORY.

CERTAIN REVENUE INITIATIVES, PRIMARILY ADMINISTRATIVE AND ECONOMIC DEVELOPMENT, WILL BEGIN TO TAKE EFFECT IN FISCAL YEAR 2017 AND THE MAJORITY WILL BE FULLY REALIZED BY FISCAL YEAR 2018. FOR EXAMPLE, A SIGNIFICANT ASPECT OF THE FIVE-YEAR PLAN REQUIRES

INCREASED CONTRIBUTIONS TO THE GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM (GERS). AS SUCH, SUBJECT TO CERTAIN COMPLEMENTARY YET COMPREHENSIVE POLICY REFORMS, THE FIVE-YEAR PLAN PROJECTS THAT AN ESTIMATED \$150 MILLION WILL BE CONTRIBUTED TO GERS BY INTENSIFYING THE ECONOMIC DEVELOPMENT AUTHORITY'S MARKETING AND APPLICANT REVIEW EFFORTS FOR THE GOVERNMENT'S KEY ECONOMIC DRIVER: THE ECONOMIC DEVELOPMENT COMMISSION PROGRAM. NEVERTHELESS, WE RECOGNIZE THAT THIS AUGUST BODY MUST REVIEW, REVISE AND APPROVE THE PROPOSED NINE (9) LEGISLATIVE INITIATIVES THAT ARE EXPECTED TO GENERATE \$245 MILLION OVER THE NEXT FIVE YEARS. MINDFUL OF THIS, OVER THE NEXT SIX MONTHS, WE WILL BE AGRESSIVELY PRESENTING THE AFORESAID LEGISLATIVE INITIATIVES TO THIS BODY WITH AN OBJECTIVE OF ENGAGING IN A DIALOGUE THAT WILL LEAD TO COMMON GROUND FOR THE ENACTMENT OF THE NECESSARY CHANGES TO ACHIEVE FISCAL BALANCE AND RESOLVE THE HISTORICAL STRUCTURAL IMBALANCE.

HONORABLE SENATORS, I AM OBLIGED TO STRESS THE IMPORTANCE OF YOUR RECOGNITION OF THE FIVE-YEAR PLAN AS A PART OF THIS BILL THAT WILL ENABLE US TO SECURE THE NECESSARY WORKING CAPITAL AND PROJECT MONIES NEEDED TO MOVE THE TERRITORY FORWARD.

EQUALLY IMPORTANT, THIS GOOD FAITH MUST BE SUPPORTED BY AN EXPEDITED ASSESSMENT OF THOSE REVENUE INITIATIVES REQUIRING FUTURE LEGISLATIVE APPROVAL, SUCH THAT WE CAN MAINTAIN OUR CREDIT MARKET ACCESS. NEVERTHELESS, THE GOVERNMENT IS MINDFUL THAT THE PREVIOUSLY IMPLEMENTED AND PROPOSED REVENUE PRODUCING AND COST REDUCTION INITIATIVES, ALONE, WILL NOT BE SUFFICIENT TO ADDRESS THE PROJECTED REVENUE SHORTFALLS ANTICIPATED IN FISCAL YEARS 2017 THROUGH 2021 WHICH ARE PROJECTED TO BE \$170 MILLION PER YEAR WITHOUT THE FIVE-YEAR PLAN.

NOW, THE FINANCING PROPOSED BY BILL NO. 31-0447 WILL PROVIDE CRITICAL WORKING CAPITAL FOR THE CENTRAL GOVERNMENT FOR FISCAL YEARS 2017 AND 2018, OUR HOSPITALS AND THE WASTE MANAGEMENT AUTHORITY. THIS WORKING CAPITAL IS IMPERATIVE TO ENSURE CONTINUED DELIVERY OF ESSENTIAL PUBLIC SERVICES AS THE FIVE-YEAR PLAN IS IMPLEMENTED AND SUCH PROJECTED REVENUES AND EXPENSE REDUCTIONS ARE REALIZED.

IN ADDITION TO WORKING CAPITAL, THE PROPOSED BOND TRANSACTION INCLUDES THE FINANCING OF CERTAIN CAPITAL IMPROVEMENT PROJECTS THAT ARE THE GOVERNMENT'S TOP PRIORITY

PROJECTS. FINANCING OF SUCH CAPITAL PROJECTS WILL NOT ONLY PRODUCE INFRASTRUCTURE IMPROVEMENTS TO GOVERNMENT PARKS, SCHOOLS, PRISONS, POLICE AND FIRE DEPARTMENTS AND OTHER GOVERNMENT BUILDINGS; SUCH CAPITAL INVESTMENT WILL ALSO STIMULATE THE ECONOMY BY PROVIDING JOBS AND OTHER SIGNIFICANT BENEFITS TO THE ECONOMY OF THE VIRGIN ISLANDS. THE ECONOMIC IMPACT OF CAPITAL INVESTMENT IS GENERALLY KNOWN AS THE “MULTIPLIER EFFECT”. GENERALLY SPEAKING, IN OUR ECONOMY, THERE IS A CIRCULAR FLOW OF INCOME AND SPENDING. THIS MEANS THAT, MONEY THAT IS EARNED FROM CAPITAL PROJECTS INVESTMENTS MADE BY THE GOVERNMENT, FLOWS FROM ONE PERSON TO ANOTHER, AND MOST OF IT WILL BE SPENT – NOT ONCE, BUT MANY TIMES – THEREBY INCREASING ECONOMIC OUTPUT. FOR THE U.S. VIRGIN ISLANDS, THE MULTIPLIER EFFECT ASSUMES, AND ESTIMATES, THAT FOR EVERY \$1.00 OF CAPITAL PROJECT INVESTMENT, IT IS PROJECTED TO RESULT IN \$0.17 CENTS OF STIMULUS TO THE ECONOMY IN THE SHORT-RUN AND AN \$0.85 CENTS OF STIMULUS TO THE ECONOMY IN THE LONG-RUN. AS SUCH, FOR THE APPROXIMATE \$250 MILLION OF PROPOSED CAPITAL PROJECT INVESTMENTS, THE RESULTANT MULTIPLIER WHEN APPLIED, COULD HAVE AN ADDITIVE IMPACT OF BETWEEN \$42.5 MILLION AND \$213 MILLION OVER

FIVE YEARS IN THE ECONOMY (OR BETWEEN \$8.5 MILLION TO \$42.5 MILLION PER ANNUM).

THE PROPOSED CAPITAL PROJECTS INCLUDE, BUT ARE NOT LIMITED TO, THE FUNDING OF A NEW MULTIPURPOSE SPORTS COMPLEX ON THE ISLAND OF ST. CROIX; CONSTRUCTION, RENOVATION AND EQUIPPING OF SCHOOL FACILITIES THROUGHOUT THE TERRITORY; CRITICAL IMPROVEMENTS TO THE VIRGIN ISLANDS POLICE STATIONS AND THE BUREAU OF CORRECTIONS CORRECTIONAL FACILITIES. THE PROPOSED IMPROVEMENTS TO OUR POLICE STATIONS AND OUR CORRECTIONAL FACILITIES ARE EACH REQUIRED TO SATISFY EXISTING CONSENT DECREES WITH THE UNITED STATES GOVERNMENT.

THE PROPOSED PROJECTS ALSO INCLUDE IMPROVEMENTS TO NUMEROUS GOVERNMENT HISTORICAL PROPERTIES THROUGHOUT THE TERRITORY; CONSTRUCTION AND EQUIPPING OF FIRE STATIONS; INFRASTRUCTURE AND CAPITAL IMPROVEMENTS AS PART OF THE FREDERIKSTED REVITALIZATION AND IMPROVEMENTS CRITICAL TO THE PAUL E. JOSEPH STADIUM PROJECT; CONSTRUCTION, RENOVATION AND EQUIPPING OF SPORTS AND RECREATION FACILITIES THROUGHOUT THE TERRITORY -- A CRITICAL INVESTMENT FOR A TOURIST BASED ISLAND

COMMUNITY. THE FOREGOING PROJECTS ARE ESSENTIAL TO THE GOVERNMENT TO ADDRESS CRITICAL NEEDS OF OUR COMMUNITY AND, ARE EXPECTED TO STIMULATE ECONOMIC ACTIVITY, CREATE JOBS AND THUS GROWTH THROUGHOUT THE TERRITORY.

TO FINANCE ALL OR A PORTION OF SUCH CAPITAL PROJECTS AND WORKING CAPITAL, THE PROPOSED TRANSACTIONS WILL INCLUDE BONDS TO BE ISSUED UNDER (I) THE MATCHING FUND REVENUE BOND INDENTURE, WHICH BONDS SHALL BE SECURED BY MATCHING FUND REVENUES ON A SPECIAL LIMITED OBLIGATION BASIS AND (II) THE GROSS RECEIPTS TAX BOND INDENTURE, WHICH BONDS SHALL BE SECURED BY GROSS RECEIPTS TAXES AND THE GENERAL OBLIGATION AND FULL FAITH AND CREDIT OF THE GOVERNMENT. IN ADDITION TO REQUESTING AUTHORIZATION TO ISSUE THE SERIES 2016 BONDS, WE ARE ALSO REQUESTING AUTHORIZATION TO ACQUIRE CERTAIN REAL PROPERTY ON THE ISLAND OF ST. JOHN, NECESSARY FOR THE CONSTRUCTION OF THE ST. JOHN ELEMENTARY AND MIDDLE SCHOOL IN COMPLIANCE WITH 31 V.I.C. 23(A)(C) THROUGH THE DEPARTMENT OF PROPERTY AND PROCUREMENT.

DUE TO ENACTMENT OF THE PUERTO RICO OVERSIGHT, MANAGEMENT, AND ECONOMIC STABILITY ACT (“PROMESA”), THE RATING

AGENCIES HAVE AWAKENED TO THE REALITY THAT CONGRESS HAS THE POWER TO CHANGE LAWS GOVERNING ALL OF THE U.S. TERRITORIES. HISTORICALLY, AND IN ACCORDANCE WITH CURRENT LAW, THE VIRGIN ISLANDS CANNOT FILE A PETITION FOR BANKRUPTCY RELIEF UNDER THE U.S. BANKRUPTCY CODE. AS A RESULT OF THE FISCAL CRISIS IN PUERTO RICO AND THE ENACTMENT OF PROMESA, THE RATING AGENCIES HAVE NOW MATERIALLY CHANGED THE CRITERIA FOR RATING THE VIRGIN ISLAND'S BONDS. **HOWEVER, IT IS IMPORTANT TO POINT OUT THAT WE HAVE STRESSED TO THE RATING AGENCIES, AND THEY HAVE ACKNOWLEDGED, THAT PROMESA DOES NOT APPLY TO THE VIRGIN ISLANDS.** HOWEVER, THE **POSSIBILITY** THAT CONGRESS **COULD**, IN THE **FUTURE**, APPLY A LAW SIMILAR TO PROMESA TO THE VIRGIN ISLANDS, WAS ENOUGH FOR MOODY'S TO LOWER THE VIRGIN ISLANDS' MATCHING FUND REVENUE BOND RATING SIX NOTCHES TO A LOW NON-INVESTMENT GRADE RATING AND FOR FITCH TO LOWER THE MATCHING FUND REVENUE BONDS AND GROSS RECEIPTS TAX BONDS BOND RATING FOUR NOTCHES – ALSO A NON-INVESTMENT GRADE RATING. AS DISCUSSED, S&P HAS NOT COMPLETED ITS REVIEW PROCESS AT THIS TIME.

PREVIOUSLY, THE VIRGIN ISLANDS WAS TREATED AS A “STATE” FOR PURPOSES OF THE RATING AGENCIES' RATING CRITERIA AND COULD NOT,

THEREFORE, FILE FOR BANKRUPTCY – NOW, POST-PROMESA, THE VIRGIN ISLANDS IS BEING TREATED AS A LOCAL GOVERNMENTAL UNIT AND THEREFORE, BANKRUPTCY RELATED ISSUES HAVE BEEN FRONT AND CENTER IN THE RATING AGENCIES REVIEW OF THE VIRGIN ISLANDS CREDITS.

THE MATCHING FUND REVENUE AND GROSS RECEIPTS TAX BOND INDENTURES BOTH GRANT A FIRST LIEN ON AND SECURITY INTEREST IN ALL MATCHING FUND REVENUE BONDS AND GROSS RECEIPT TAXES TO SECURE THE RESPECTIVE BONDS. HOWEVER, THE INDENTURES, AND THE STATUTES AUTHORIZING SUCH INDENTURES AND THE VIRGIN ISLANDS' OUTSTANDING BONDS, GRANT "CONTRACTUAL LIENS" ON SUCH PLEDGED REVENUES, WHICH, UNDER CHAPTER 9 OF THE U.S. BANKRUPTCY CODE, CAN BE "CUT-OFF" IN THE EVENT OF A BANKRUPTCY FILING. THE PROPOSED "STATUTORY LIEN" PROVISIONS INCLUDED IN THE SERIES 2016 BOND AUTHORIZATION BILL, WOULD, IN ADDITION TO THE CONTRACTUAL LIENS, CREATE AND IMPOSE AN AUTOMATIC STATUTORY LIEN, BY FORCE OF THIS ACT, WHICH WOULD BECOME EFFECTIVE THE DATE OF ENACTMENT OF THE ACT. THAT LIEN WOULD BE EFFECTIVE FOR **ALL OUTSTANDING BONDS AND BONDS TO BE ISSUED IN THE FUTURE, INCLUDING THE SERIES 2016 BONDS.**

THEREFORE, THE INTENT OF SUCH STATUTORY LIENS WHICH WE ARE PROPOSING, IS THAT SUCH A LIEN WOULD NOT BE CUT-OFF BY A CHAPTER 9 BANKRUPTCY FILING AND WOULD SURVIVE A CHAPTER 9 BANKRUPTCY FILING FOR THE BENEFIT OF BONDHOLDERS.

ACCORDING TO THE RATING AGENCIES, AND AS FITCH HAS EXPRESSLY STATED IN ITS RATING REPORT, THIS ENHANCEMENT OF THE SECURITY FOR BONDHOLDERS HAS, AND COULD IN THE FUTURE, ENABLE THE RATING AGENCIES TO RATE THE GROSS RECEIPTS TAX BONDS AND MATCHING FUND REVENUE BONDS HIGHER THAN THE UNDERLYING RATING OF THE GOVERNMENT OF THE VIRGIN ISLANDS (CURRENTLY “B+” FROM FITCH). MOREOVER, ALTHOUGH THE HIGHER RATING OF BB FROM FITCH IS DEPENDENT UPON THE ENACTMENT OF THE STATUTORY LIEN PROVISIONS BY THIS BODY; IT IS IMPORTANT TO EMPHASIZE THAT INVESTORS ALSO SEE SIGNIFICANT VALUE IN A STATUTORY LIEN – LIKELY MORE THAN DEMONSTRATED BY THE FITCH RATINGS UPLIFT. IN PARTICULAR, INSTITUTIONAL INVESTORS WHO CONDUCT THEIR OWN CREDIT ANALYSIS AND UNDERWRITING FOR NON-INVESTMENT GRADE DEBT, VALUE THE EXISTENCE OF A STATUTORY LIEN IN THEIR CRITERIA FOR INVESTING IN SUCH DEBT.

IN ADDITION TO THE CAPITAL PROJECTS PROPOSED UNDER BILL NO. 31-0447, THE LANDFILL BILL WOULD AUTHORIZE THE ISSUANCE OF UP TO \$30,000,000 TO FINANCE COSTS AS MANDATED UNDER THE BOVONI LANDFILL CONSENT DECREE AND THE ANGUILLA LANDFILL CONSENT DECREE. AS YOU ARE AWARE, THE GOVERNMENT AND THE VIRGIN ISLANDS WASTE MANAGEMENT AUTHORITY (“WMA”) ENTERED INTO A CONSENT DECREE WITH THE EPA AND THE DOJ CONCERNING THE CLOSURE OF THE BOVONI LANDFILL IN MARCH, 2012 (THE “BOVONI CONSENT DECREE”); AND IN JANUARY 2013, ENTERED INTO THE “ANGUILLA CONSENT DECREE”. UNDER THE CONSENT DECREES, WMA IS REQUIRED TO CORRECT AND IMPLEMENT GROUNDWATER CORRECTIVE ACTIONS, GAS COLLECTION AND CONTROL SYSTEMS, COMPLY WITH THE TERMS OF THE RESOURCE CONSERVATION AND RECOVERY ACT AND COMPLETE THE MANDATED CLOSURE OF BOTH THE BOVONI LANDFILL AND ANGUILLA LANDFILL IN ACCORDANCE WITH THE TERMS OF THE RESPECTIVE CONSENT DECREES. INCLUDED IN EACH CONSENT DECREE WAS A SCHEDULE FOR COMPLETION OF SUCH CLOSURE REQUIREMENTS AND THE DOLLAR AMOUNT OF CLOSURE COSTS TO BE EXPENDED IN EACH YEAR.

AT THE TIME THE CONSENT DECREES WERE ENTERED INTO, THE PROJECTED AGGREGATE CLOSURE COSTS TO FULLY COMPLY WITH THE REQUIREMENTS OUTLINED IN THE CONSENT DECREES WAS \$67,000,000, WITH \$28,340,000 OF COSTS REQUIRED TO COMPLY WITH THE MANDATES OF THE CONSENT DECREES FOR A PERIOD OF TWO FISCAL YEARS (FISCAL YEARS 2014 AND 2015). SINCE ENTERING INTO THE CONSENTS DECREES IN 2012 AND EARLY 2013, THE AUDITED LANDFILL CLOSURE COSTS HAVE INCREASED FROM \$67,000,000 TO \$86,189,679, DUE TO LANDFILL CLOSURE PROJECT DELAYS, WASTE OVERFILLING, AND LANDFILL FIRE MITIGATION AND REMEDIATION COSTS AT THE ANGUILLA AND BOVONI LANDFILLS. FURTHER, SINCE ENTERING INTO THE CONSENT DECREES, WMA HAS ONLY EXPENDED APPROXIMATELY \$9 MILLION – THE LIMITED AMOUNT AVAILABLE TO WMA FROM ITS FISCAL YEARS 2013, 2014 AND 2015 GENERAL FUND APPROPRIATIONS TO FINANCE PORTIONS OF SUCH MANDATED LANDFILL CLOSURE COSTS.

WHILE THE EPA AND DOJ ACKNOWLEDGE THE CHALLENGES FACING THE TERRITORY IN CONNECTION WITH SUCH CLOSURES, AS WELL AS THE CRITICAL NEED FOR THE TERRITORY TO MAINTAIN, OPERATE AND MITIGATE CONDITIONS AT THE LANDFILLS TO ENSURE THE PUBLIC HEALTH AND SAFETY, THEIR PATIENCE IS LIMITED. THE WMA IS FACING

SUBSTANTIAL POTENTIAL PENALTIES AND FINES – AS WELL AS FURTHER LEGAL ACTIONS FOR ENFORCEMENT OF SUCH CONSENT DECREES. IN ADDITION TO THE LANDFILL CLOSURE CONSENT DECREE MANDATES, WMA IS IN DIRE NEED OF FUNDING FOR CRITICAL MAINTENANCE AND OPERATING COSTS FOR THE ANGUILLA LANDFILL AND THE BOVONI LANDFILL TO ENSURE PUBLIC HEALTH AND SAFETY.

TO FINANCE ALL OR A PORTION OF THE COSTS REQUIRED TO MAINTAIN, OPERATE AND TO CONTINUE TO MITIGATE CONDITIONS AT THE BOVONI LANDFILL AND THE ANGUILLA LANDFILL, AND TO COMPLY WITH THE CONSENT DECREES, THE AUTHORITY IS SEEKING AUTHORIZATION TO ISSUE ONE OR MORE SERIES OF MATCHING FUND REVENUE BONDS TO FINANCE THOSE ESSENTIAL PROJECTS FOR WMA. THE CURRENT PROPOSAL IS TO FINANCE \$18 MILLION IN CONNECTION WITH THE ANGUILLA LANDFILL AND \$12,000,000 IN CONNECTION WITH THE BOVONI LANDFILL.

WE ARE CONFIDENT THAT THE PROPOSED FINANCING, TOGETHER WITH THE ADDITIONAL MEASURES DELINEATED IN THE FIVE-YEAR PLAN, WILL PROMOTE FISCAL STABILITY IN THESE MOST CHALLENGING YEARS AND SPUR ECONOMIC GROWTH FOR FUTURE YEARS. IT IS ALSO IMPERATIVE THAT WE MAKE THE INVESTMENT IN OUR LANDFILLS TO

Committee of the Whole
Testimony of Mr. Valdamier O. Collens
Commissioner, Department of Finance
Executive Director, V.I. Public Financing Authority
September 21, 2016

EVIDENCE NOT ONLY OUR COMMITMENT TO COMPLY WITH OUR LEGAL OBLIGATIONS UNDER THE CONSENT DECREES, BUT ALSO, AS PART OF THE ADMINISTRATION'S SOLID WASTE MANAGEMENT STRATEGY TO STREAMLINE WASTE PRODUCTION AND WASTE DIVERSION IN THE TERRITORY TO ENSURE THAT THE RESIDENTS OF THE VIRGIN ISLANDS HAVE A SOLID WASTE SYSTEM THAT PROTECTS THE HEALTH OF OUR RESIDENTS AND THE BEAUTY OF OUR ISLANDS FOR OUR PEOPLE AND OUR VISITORS.

MR. CHAIRMAN, THIS CONCLUDES MY TESTIMONY. WE ARE AVAILABLE TO RESPOND TO QUESTIONS THE MEMBERS OF THIS COMMITTEE MAY HAVE WITH RESPECT TO THE LEGISLATION UNDER CONSIDERATION HERE.

THANK YOU.