



# Legislature of the Virgin Islands

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## POST AUDIT DIVISION

March 4, 2025

### MEMORANDUM:

**TO:** Honorable Novelle E. Francis, Jr.  
Chairperson,  
Committee on Budget, Appropriations and Finance  
36<sup>th</sup> Legislature of the Virgin Islands

**FROM:** Post Audit Division

**SUBJECT:** Lease Agreement

**LESSOR:** Department of Property & Procurement

**LESSEE:** Charles M. Kim V.I. Foundation, INC d/b/a Virgin Islands Museum of Art

**PREMISES:** A portion of Lot No. 48b Norre Gade Kings Quarter, St. Thomas, Virgin Islands consisting of multi-story building of 12,300 U.S. sq. ft. residing on 10,006 U.S. sq.ft. or 0.229 U.S. acres of improved property more-or-less.

**TERM:** Ninety-nine (99) year period, with an option to renew for two (2) fifty (50) year periods. The initial lease term commences on the first day of the month following approval by the Legislature and the Governor of the Virgin Islands.

**PURPOSE:** The property will be used:

1. to demolish, renovate and/or rebuild a historical-looking, substantially similar, but not identical replica of the existing building which complements the historic of not less than 7,500 square feet of interior, and not including any tower or lookout type structure;
2. the operation of museums, galleries, or exhibition, for community and civic purposes, studios, and production of art, culture, and historical materials and associated office and/or retail use and other related purposes.

### LEASE SUMMARY

**BACKGROUND:** Charles M. Kim V.I. Foundation, INC d/b/a Virgin Islands Museum of Art is a newly founded non-profit organization doing business in the U.S. Virgin Islands whose purpose is to operate museums,

galleries, or exhibition, for community and civic purposes, studios,  
and production of art, culture, and historical materials and  
associated office and/or retail use and other related purposes

**REQUIRED SUPPORTING DOCUMENTATION**

DOCUMENT	EXPIRATION DATE
Business License	501(c)(3) Pending
Trade Name Registration	3/20/2025
Certificate of Liability Insurance	N/A
Certificate of Good Standing	6/30/2025

**PAYMENT TERMS**

The lease requires an annual rent of \$12,000. However, no rent will accrue during the construction period, which lasts for sixty (60) months. If all the improvements specified in the lease are completed before the end of the construction period, the annual rent will begin in the month immediately following the completion of the improvements. Additionally, a late charge of 10% of the monthly payment will be assessed if the rent is not paid within ten (10) days of the due date.

**IMPROVEMENTS**

According to the lease terms, the Lessee shall provide the improvements listed below at its own cost and expense, which are estimated to cost approximately Five Million Dollars (\$5,000,000.00). Improvements to the property include the following:

- a. Demolish existing structure; and
- b. Repair and/or reconstruct and/or erect (as Lessee may designate by permit application) a two-story building, complementing the historic district of not less than 7500 U.S. square feet of interior space

The improvements shall be completed no later than sixty (60) months after the Commencement Date of this Lease (“Construction Period”).

Lessee agrees to keep the said Premises and appurtenances as repaired, in a clean, sightly, and tenantable condition, and to return said Premises to Lessor upon the expiration or other termination of this Lease, in as good condition as it was since the last repairs were made, less reasonable wear and tear from intervening use.

**PERFORMANCE BOND**

The lease agreement requires the Lessee to maintain an interest-bearing escrow account with a minimum balance of \$5,000,000 at an interest rate of at least 3.5%. This escrow account must be established prior to the commencement of any demolition work. Once demolition is completed and before construction begins, the Lessee must release the funds from the escrow account and secure a performance bond or letter of credit in the amount of \$5,000,000. This bond or letter of credit, which must be issued by an acceptable banking

**Honorable Novelle E. Francis, Jr.**

**Lease Agreement between Property & Procurement and Charles M. Kim V.I. Foundation,  
INC d/b/a Virgin Islands Museum of Art**

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institution, serves as security for the Lessee's obligations and performance during construction.

Additionally, the Government of the Virgin Islands agrees to reduce the amount of the bond after the satisfactory completion of each phase of Demolition and Improvements, as follows:

**1. Phase 1: Initial Improvements** - Upon the satisfactory completion of the initial improvements to the Premises (such being defined as the value addition of thirty percent (30.00%) of the budget for the improvements, excluding costs of demolition), the bond amount shall be further reduced by an amount proportional to the expenditures incurred for these improvements, provided that the bond shall not be reduced below Three Million Five Hundred Thousand Dollars and Zero Cents (\$3,500,000.00).

**2. Phase 3: Intermediate Improvements** - Upon the satisfactory completion of the intermediate improvements to the Premises, the bond amount shall be further reduced by an amount proportional to the expenditures incurred for these improvements (such being defined as the value addition of Sixty percent (60.00%) of the budget for the improvements, excluding costs of demolition), provided that the bond shall not be reduced below Two Million Dollars and Zero Cents (\$2,000,000.00).

**3. Phase 4: Final Improvements** - Upon the satisfactory completion of the final improvements to the Premises, the bond amount shall be further reduced by an amount proportional to the expenditures incurred for these improvements, provided that the bond shall not be reduced below One Million Dollars and Zero Cents (\$1,000,000.00). Upon the completion of all Improvements to the Premises (not to include punch list or minor remedies) in accordance with the terms of this Lease Agreement, the bond shall be released. In no event shall the bond be reduced to less than One Million Dollars and Zero Cents (\$1,000,000.00) until all the Improvements are completed. For the purposes of this Lease Agreement, "Completion of Improvements" shall mean the substantial completion of all improvements to the Premises in accordance with the terms of this Lease Agreement, excluding any punch list items that do not materially affect the use or occupancy of the Premises. Awarding of a certificate of occupancy shall be deemed indisputable satisfaction of the completion requirements of this paragraph. However, submission of the application for award of a certificate of occupancy shall be deemed effective for purposes of satisfaction of this section.

## **LIABILITY INSURANCE**

Under the terms of the Lease, the Lessee agrees to:

- Keep in force a policy of public liability and property damage insurance with limits of not less than:
  - One Million Dollars (\$1,000,000.00) property damage,
  - One Million Dollars (\$1,000,000.00) for one person injured or killed, and
  - One Million Dollars (\$1,000,000.00) for any number of persons injured or killed in any one accident.

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- All of the said insurance shall be in a form satisfactory to Lessor and shall provide that it shall not be subject to cancellation, termination, or change, except after thirty (30) days prior written notice to Lessor.

#### ADDITIONAL INFORMATION

Detail information on the following items can be found in the attached lease document:

Items	Page
• Improvements	3-5
• Mechanic's Lien	6
• Insurance and Indemnity	7-8
• Entry by Lessor	8
• Condemnation	9-10
• Cancellation, Termination, Assignment, and Transfers	10-15
• General Terms and Conditions	15-19

#### EXECUTIVE BRANCH APPROVALS

Signee	Title	Department	Date of Signature
Lisa M. Alejandro	Acting Commissioner	Department of Property & Procurement	2/7/2025
Sean P. Baily	Assistant Attorney General	Department of Justice	2/13/2025
Honorable Albert Bryan Jr.	Governor	Office of the Governor	2/13/2025

#### CONCLUSION

The lease agreement between the Department of Property and Procurement and the Charles M. Kim V.I. Foundation, Inc. (doing business as the Virgin Islands Museum of Art) appears to meet the relevant policies and regulations set by the Department. It is important to note that not all lease terms are identical, however, the Department has clarified that this agreement aligns with the general structure and conditions of other leases issued by the Department, ensuring that it adheres to the required guidelines and regulations. Given this confirmation and the alignment with standard practices, the Post Audit Division recommends approval of the lease. This lease facilitates the operation of museums, galleries, studios, and other cultural and historical activities, contributing to community and civic purposes. Therefore, it seems to be in line with the intended goals of fostering art, culture, and historical preservation in the United States Virgin Islands. In summary, while recognizing that lease terms can vary, the lease in question meets the necessary criteria for approval, and the Post Audit Division supports its approval based on the provided information.



Nikia A. Fleming  
Acting Post Auditor

APPENDIX I

