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Gateways to the U.S. Virgin Islands and its Economy

TESTIMONY

Good morning Honorable Senator Carla Joseph, Chairperson of the 35th Legislature's Committee on Government Operations, Veterans Affairs, and Consumer Protection, and to the distinguished members of this Committee and other senators in attendance, the legislative staff, and the listening and viewing audience. I am Carlton Dowe, the Executive Director of the Virgin Islands Port Authority – hereinafter referred to as VIPA.

I am present this morning to testify regarding Bill No. 35-0058, which seeks to amend Title 29 of the Virgin Islands Code by adding a chapter number 25 to enact the Public-Private Partnership Agreement Act.

As this body is aware, the Virgin Islands Port Authority has significant experience with public-private partnerships (P3s) for both its airport and marine assets.

With respect to the airports, VIPA is currently in the process of seeking a private partner to make terminal upgrades and operate the territory's airports. VIPA intends to utilize the P3 procurement method and engage with the private partner to modernize and upgrade the Henry E. Rohlsen Airport on St. Croix and the Cyril E. King Airport on St. Thomas. This project will bring state-of-the-art amenities, private investments, efficient airport operations, enhance staff training, and secure long-term maintenance plans to these two important assets. It is important to note that VIPA will remain the owner of the airports and will be the recipient of any federal grant monies awarded to both airports.

VIPA issued a Request for Qualifications for the P3 project on December 28, 2022 and, on April 20, 2023, shortlisted four qualified proposers to participate in a request for proposals process. VIPA issued the Request for Proposals to the shortlisted proposers on June 29, 2023. VIPA's staff and our advisors are currently engaging with the shortlisted proposers as part of the RFP process. Final proposals are expected to be submitted in February 2024, and the VIPA Governing Board is expected to make its final selection of a firm in March 2024.

With respect to marine facilities, VIPA is also engaged in public-private partnership negotiations with Royal Caribbean Group and Cruise Terminals International to improve our cruise facilities in Crown Bay, St. Thomas and

Frederiksted, St. Croix. Royal Caribbean Group has agreed to pay an additional \$5 per passenger Capital Cost Recovery Charge (CCRC) to fund improvements at VIPA's cruise ports. The CCRC will only be charged to Royal Caribbean and its affiliated cruise ships.

In Crown Bay, VIPA, Royal Caribbean and CTI are partnering to dredge the existing dock; expand Crown Bay Center and develop a third cruise ship pier, and create landside venues to enhance the visitors and residents' experience in the Crown Bay District.

In St. Croix, this partnership will fund pre-development costs for VIPA's plans to add structural improvements and dredge the existing cruise ship pier at the Ann E. Abramson Marine Facility. This will allow the larger Freedom-class cruise ships to berth in Frederiksted. We will also develop new attractions and excursions and improve existing parks and infrastructure through collaboration with the USVI Government.

Furthermore, the public-private partnership model was successfully employed as the Authority sought a method to finance improvements to Crown Bay Sand Fill Cargo Port in St. Thomas and the Wilfred "Bomba" Allick Port and Transshipment Center in St. Croix. In this project, VIPA is in the permitting and design phase of the project which will bring long-needed improvement to the

Crown Bay Sand Fill Cargo Port. VIPA partnered with Tropical Shipping and Crowley Shipping to apply for and received a \$21.9 million grant from the U.S. Maritime Administration (MARAD) to improve and modernize the cargo handling and storage infrastructure at the Crown Bay Sand Fill Port on St. Thomas. Tropical and Crowley committed to contribute over \$5.4 million to the matching funds required for this grant.

In November 2023, MARAD announced that the territory was awarded \$22 million for the enhancement of the Wilfred "Bomba" Allick Port and Transshipment Center in St. Croix, known locally as the Container Port. The funds from this MARAD grant will be used to rehabilitate the bulkhead and concrete apron. The cargo storage areas are also slated for reconstruction. The project also includes security improvements at the port such as lighting, fencing, and fire protection.

Tropical Shipping assisted VIPA in the development of the grant application, providing much of the technical information that was required. Tropical is committed to assisting us with technical and financial requirements that may be needed for the project. This assistance from Tropical Shipping is capsulated in a public-private agreement with the Port Authority. Tropical Shipping will benefit by ensuring that the Container Port will be suitable for their long-term commitment

to continue their operations in the U.S. Virgin Islands. They will also receive concessions in the leasing of land used for their operations.

With respect to Bill No. 35-0058, we believe the P3 Process is a new and progressive method for the procurement of development of public infrastructure, public facilities, and transportation projects. The public-private partnership (P3) concept has been in use for more than 30 years in Europe. Throughout Europe, more than 90% of the airports are privately operated and maintained with terminal development and capital projects being privately financed. In addition to airports, European countries are using the P3 model for schools, hospitals, roads and bridges, stadiums, and arenas. The P3 structure has increased in use because of the government's ability to transfer certain risks and private sector investment.

The use of the P3 structure is growing in the United States. Some of the airport projects that have utilized a P3 include Terminal B at LaGuardia Airport, Terminal 1 and 6 at JFK Airport, an airport hotel in Nashville and JFK, a train and a CONRAC (consolidated rental car facility) at LAX Airport. Airports also use P3s for cargo facilities, FBOs and central utility facilities. Governments and their instrumentalities even use the P3 model to secure the private sector to operate and manage their airports.

Like Europe, P3s in the USA are being used for courthouses, roads and bridges, schools, hospitals, parking facilities, streetlights, housing, and other social infrastructure. The process presents a good opportunity for use in the U.S. Virgin Islands where our resources are limited and the need to upgrade and modernize our infrastructure and facilities is apparent.

If you have been paying attention to the development of tourism related infrastructures in the Caribbean, you will notice that more and more Caribbean countries are using P3 procurement to develop airports and seaports on their islands. This is certainly the future of infrastructure development worldwide. As I often say, the rest of the world is not standing still waiting for us in the U.S. Virgin Islands to catch up. We must move fast when opportunities become available to us. VIPA is using this P3 process to keep the USVI in its lead position in the travel industry by maintaining adequate facilities.

VIPA would respectfully ask that this legislation not be made applicable to the VIPA projects which are well on their way to culmination of agreements. We are asking that it be made clear in the legislation that this legislation would not apply to the P3 processes being undertaken for the airports and the marine assets undertaken by VIPA. As stated earlier, both of these processes are well under way. The airports P3 is expected to be completed around March 2024, and the

agreement for the VIPA/RCG/CTI development is expected to be signed in the summer of 2024. We ask that the legislation exclude these projects because VIPA has already set the parameters of the transactions, and the private parties are relying on the parameters that have been established to create a fair and predictable negotiation process. If the legislation is made applicable to the outstanding VIPA projects, it may result in the abandonment of the project by the private partners or delay the progress that has been made. This would be costly to VIPA and the private parties.

In the airport P3 procurement, the RFP was issued and it laid out the process that would be followed by the respondents. VIPA is in the midst of that process which includes setting out requirements for the proposers - requiring them to spend millions of dollars to assemble a package for submittal to VIPA. It would be unfair and possibly illegal for us to change the requirements and the process in the middle of their effort. As for the marine projects, negotiations have been ongoing for two years and several preliminary agreements have been signed, which set out obligations for the private partners and VIPA. Millions of dollars are also being spent by the private partners based on the agreements that have been secured for the marine projects.

VIPA's process for Airport P3 is consistent with several provisions in the legislation, including developing agreements with provisions that encourage development and improved operations at the facilities while maintaining appropriate oversight by VIPA throughout the term of the agreement. To clarify the exclusion of the existing P3 procurements and agreements that VIPA is currently undergoing, we suggest that the following language be added to the end of Section 1503 - Definitions:

(o)Provided however, this does not include any political subdivision or independent instrumentality of the Government of the Virgin Islands which has initiated and is engaged in a solicitation, negotiation, or culmination of a Public-Private Agreement prior to the enactment of date of this law.

I want to emphasize, Madam Chair, that it is important that this law has no retroactive effect on the three important projects that have been undertaken by VIPA. The ramifications of imposing the provisions of Bill No. 35-0058, upon enactment, on the VIPA P3 current pursuits will result in legal consequences for VIPA and cause the interruption of the projects that we are undertaking.

Madam Chair, this concludes my testimony. My staff and I will remain present to answer any questions that you may have on this matter.