

**THIS DOCUMENT IS A TRANSLATION OF THE ORIGINAL  
SUBMITTED BY THE MUNICIPALITY OF VIEQUES  
and  
THE DEPARTMENT OF NATURAL & ENVIRONMENTAL AFFAIRS**

**Office of the Comptroller  
Registered Contract Data  
August 20, 2021, 9:42 a.m.**

**Entity:** 2230 | Department of Natural & Environmental Resources (DNER)

**Representative:** Rafael A. Machargo-Maldonado, Secretary

**Contract Number:** 2022 – 000019

**Grant Date:** 13 August 2021

**Valid From – To:** 13 August 2021 – 13 August 2027

**Category & Type of Service:** 23- INTERAGENCY | 23-0001- COLLABORATIVE AGREEMENTS

**Amount Payable/Receivable:** ---

**Fund:** ---

**Privatization Contract:** No

**Waiver:** not applicable

**City:** San Juan

**Signed in:** Puerto Rico

**With Document:** Yes

**Cancellation Effective:** ---

**Contractor:** Municipality of Vieques (MOV)

**Representative:** José Corcino Acevedo

**Email:** LEGAL@JAVIERDILAN.COM

**Budget Items:**

**Description:**

**Date & Time Registered:** August 20, 2021 | 9:41 a.m.

**Registration Number:** 1165257

**Expiration Date:** August 29, 2021

**Liaison Officer:** Migdalia Hernaiz Martinez

## COLLABORATION AGREEMENT ON MOSQUITO BAY

### APPEARANCE

**FROM THE FIRST PARTY: DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES (DNER)** of the Government of Puerto Rico, governmental agency created and authorized to grant this Agreement pursuant to Act No. 23 of June 20, 1972, as amended, also known as the "Organic Act of the Department of Natural and Environmental Resources," represented in this act by its President and Chief Executive Officer. 23 of June 20, 1972, as amended, also known as the "Organic Act of the Department of Natural and Environmental Resources", represented in this act by its Secretary, Rafael A. Machargo Maldonado, of legal age, single, attorney at law, and resident of Gurabo, Puerto Rico; **hereinafter referred to as the "DEPARTMENT"**.

**OTHERWISE:** The **AUTONOMOUS MUNICIPALITY OF VIEQUES**, represented in this act by its Mayor, the Hon. José A. Corcino Acevedo, of legal age, married and neighbor of Vieques, Puerto Rico; acting pursuant to the power conferred by Article 1.008 (q) of Act No. 107-2020, as amended, better known as the "Municipal Code of Puerto Rico," **hereinafter referred to as the "MUNICIPALITY."**

Hereinafter referred to as the **"PARTIES"** the **joint reference of the MUNICIPALITY and the DEPARTMENT.**

### STATES

**WHEREAS:** The **SECRETARY**, pursuant to the provisions of the Organic Act of the Department of Natural and Environmental Resources, Act No. 23, supra, and Act No. 150 of August 4, 1988, as amended, known as the Puerto Rico Natural Heritage Program Act. 150 of August 4, 1988, as amended, known as the Puerto Rico Natural Heritage Program Act, **is empowered to establish agreements or arrangements with natural or juridical persons, public or private, and with federal, state or municipal agencies, under the terms and conditions he/she deems convenient for the best application and execution of the law and the achievement of his/her ministerial duties.**

**WHEREAS:** Act No. 107-2020, as amended, better known as the "Municipal Code of Puerto Rico," grants the **MUNICIPALITY** all the natural and assigned powers corresponding to the exercise of the powers inherent to its purposes within its territorial demarcation. Specifically, those aimed at protecting the health, safety, and welfare of its constituents.

**WHEREAS:** The **DEPARTMENT** is responsible for implementing public policy related to the conservation of natural resources and the administration of the protected natural areas under its custody, such as nature reserves, state forests, and wildlife refuges. In addition, it is **called by law to establish those mechanisms that result in the most effective and efficient management of these areas.**

**WHEREAS:** The **MUNICIPALITY** has the purpose, interest, and desire to collaborate with the **DEPARTMENT** in promoting the conservation, management, and enjoyment of the natural sea inlet on the south coast of Vieques called Mosquito Bay.

**WHEREAS:** The **PARTIES** have the **bona fide purpose of entering into this AGREEMENT** to stop any of the illegal practices perpetrated by concessionaires and/or visitors, as well as to promote safety in Mosquito Bay.

**THEREFORE:** The **DEPARTMENT** and the **MUNICIPALITY** recognize the benefits of joining forces and have agreed to enter into this agreement subject to the following:

## CLAUSES AND CONDITIONS

**FIRST: DEFINITIONS.** The terms referred to in this **AGREEMENT**, and which in one way or another bind the **PARTIES**, shall be understood to mean the provisions of this section:

1. **Agreement:** document of a legal nature in which the wills, duties, responsibilities, and interests of the **PARTIES** are embodied.
2. **Recreational areas:** areas or sectors of Mosquito Bay that have facilities or accesses evaluated by the **DEPARTMENT** where criteria for use and enjoyment compatible with the management objectives of the Reserve are established. These objectives are preservation, conservation, and restoration.
3. **Mosquito Bay:** The name by which the protected land that is the object of this agreement is known, and which is located in the island municipality of Vieques, Puerto Rico.
4. **Collaboration:** action or effect of working with another or other legal or natural persons in the performance of a work, service, or activity.
5. **Concessionaire:** natural or juridical person who is **legally authorized** to exercise a tourist service or any other type of service in Mosquito Bay.
6. **Conservation:** care, protection, rational and sustainable use of natural and cultural resources, **without detriment to the environment**, for the **enjoyment of present and future generations**.
7. **Management:** design and execution of strategies implemented by the **DEPARTMENT** that allow for the rational and sustainable use of natural and cultural resources.
8. **Unauthorized person:** natural or juridical person, whether for profit or not, who is **not legally authorized** to carry out or conduct recreational, tourist, or commercial operations in Mosquito Bay.
9. **Preservation:** protection of natural and cultural resources, unique or important, with the **purpose of maintaining** their **natural condition** and **unique and special characteristics**, to ensure their **permanence and perpetuity**.

10. **Restoration:** to **revert**, as far as possible, the characteristics and conditions of a disturbed area to the **state it was in prior to its ecological deterioration**.
11. **Natural Reserve:** areas that contain important natural resources, which are **subject to serious conflicts of present and future use** and therefore **must be preserved and substantially conserved in their original state**, and in those cases **where possible**, will be restored to their natural condition.
12. **Environmental Services:** environmental and social products that are **produced, maintained or conserved for the benefit of the protection of the land and its ecosystems**.

**SECOND:** The **DEPARTMENT** undertakes to:

1. To assume the functions and duties that, as custodian of Mosquito Bay, are conferred upon it by the local and federal laws and regulations in force. In other words, the **DEPARTMENT is the primary administrator**, and undertakes to provide all those services and perform those works, which, as custodian of the public domain property, have been entrusted to it by virtue of law.
2. To **install demarcation buoys in Mosquito Bay** for the protection and safety of visitors and concessionaires.
3. To **provide the necessary support** to enable the **MUNICIPALITY** to carry out the tasks and activities agreed in this **AGREEMENT**.
4. **Coordinate with the MUNICIPALITY** on all **pertinent matters related to the recycling and disposal of solid waste** generated in Mosquito Bay.
5. To **support and collaborate in the development of sustainability strategies** that result in economic income, through the granting of authorizations and concessions related to the community management of Mosquito Bay.
6. The **DNER** is the one that **grants authorizations** to proponents in the Natural Protected Areas.

**THIRD:** The **MUNICIPALITY** agrees to:

1. To **collaborate** in the conservation projects, improvement and maintenance activities, and in those projects or activities aimed at guaranteeing the safety of visitors, **so that the objectives and purposes that give rise to this AGREEMENT are fully complied with**.

- 2. To provide conservation and maintenance of Mosquito Bay, including access roads.** This service shall be provided in accordance with a maintenance plan for the areas, to be **approved by the DEPARTMENT.**
- 3. To establish the hours of entry** to the public, as well as the **days** when the Mosquito Bay shall be **closed for maintenance**, in accordance with the personnel resources available in the MUNICIPALITY.
- 4. To offer assistance and collaboration** to any other public or private entity carrying out work in Mosquito Bay, in coordination with the DEPARTMENT.
- 5. To provide information on persons skilled in the use of specialized equipment** to be used in Mosquito Bay.
- 6. Collaborate in the transportation of goods and equipment of the DEPARTMENT** to Mosquito Bay when possible.
- 7. Meet with the concessionaires** to find methods **to identify their personnel and establish a uniform standard** on the particular subject, considering the applicable regulations.
- 8. To install and maintain** in good condition the **signs used to notify the schedules and rules** for use of Mosquito Bay.
- 9. Provide patrols with the municipal police** in Mosquito Bay and surrounding areas.
- 10. Restrict and limit access** to Mosquito Bay **in case of emergency or force majeure** such as **acts of nature, pandemic, or national security.**
- 11. In agreement with the DEPARTMENT,** to **orient** citizens, visitors, and concessionaires on the **proper and permitted use of Mosquito Bay.**
- 12. To impose fines** on any person or concessionaire operating without proper authorization.
- 13. The MUNICIPALITY, on behalf of the DEPARTMENT, may impose any sanction or fine** on any person or concessionaire **that may be imposed by the DEPARTMENT's Vigilance Corps.**
- 14. To remit monthly to the DEPARTMENT** the **tax or fee collected by the concessionaires in relation to the purchase of an authorized activity paid by visitors to Mosquito Bay.**
- 15. Maintain and manage a filing area with all information and documentation on the tasks performed in Mosquito Bay and the use of funds related to the tasks,** for the review of the DEPARTMENT, the Comptroller's Office, or any other state or federal agency with inherent jurisdiction. These documents shall be retained for six (6) years.

**16. It may request the DNER to evaluate increasing the hauling capacity.**

**FOURTH: BOTH PARTIES agree to:**

- 1. To recognize this AGREEMENT** as an instrument conducive to cooperation and the sharing of efforts between the MUNICIPALITY and the DEPARTMENT.
- 2. To participate actively and jointly** in order to comply with the stipulations of all the CLAUSES AND CONDITIONS of this AGREEMENT.
- 3. Collaborate** in the **development and identification of sources of financing and resources** for the management and conservation of Mosquito Bay.
- 4. Share information** that is collected and educational material that is developed as part of the activities that are carried out in Mosquito Bay.
- 5. Participate in all meetings** that are held **with agencies, non-profit institutions, merchants, or persons with an interest in the management or enjoyment** of Mosquito Bay.
- 6. To always and at all times identify** both **PARTIES to this AGREEMENT** in all publications, signs, educational or promotional material developed as part of the activities included.
- 7. Collaborate in research** studies in Mosquito Bay.
- 8. To establish improvement and maintenance activities,** as well as to **condition** the recreational areas **and improve** the conditions of the existing trails in Mosquito Bay.

**FIFTH:** It is **resolved that the \$3.00 fee** paid by each visitor who enjoys an activity authorized by the DEPARTMENT in Mosquito Bay **shall be increased to \$6.00,** after the signing of this Agreement. Currently, this fee is collected by the concessionaires and remitted to the DEPARTMENT. However, **as of the effectiveness of this AGREEMENT, the concessionaires shall remit it directly to the MUNICIPALITY.**

The **MUNICIPALITY shall have the right to retain for itself \$3.00 of the amount collected** for each visitor of the authorized activity fee, and shall remit the remainder to the DEPARTMENT, no later than ten (10) days after having received it from the concessionaire.

**SIXTH:** This **AGREEMENT shall have a term of six (6) years from the date it was granted,** which **may be extended by agreement between the parties for six (6) more years,** unless there are circumstances, which, in the judgment of either of the PARTIES, determine the need to terminate it. Once this AGREEMENT expires, the parties shall meet to determine if it is necessary to renew it.

**SEVENTH:** This **AGREEMENT may be amended in whole or in part**, provided there is a written intention by any of the **PARTIES**. The proposed amendment or amendments shall be deemed approved provided they are signed by both **PARTIES**.

**EIGHTH:** Either of the **PARTIES** may request the termination of this **AGREEMENT for breach** of any of the **CLAUSES or CONDITIONS** herein agreed. Such termination shall be notified in writing to the other **PARTY**.

**NINTH:** This **AGREEMENT supersedes any previously agreed upon agreement** or covenant between the **DEPARTMENT** and the **MUNICIPALITY** regarding the stipulations herein.

**TENTH:** The parties agree that the clauses and conditions of this agreement are independent and separate, and the nullity of any of these shall not affect the validity of the others, which shall remain in force.

**ELEVENTH:** The **MUNICIPALITY shall not consent** to the installation by third parties of signs, banners, or any other type of advertisement, except with prior written authorization from the **DEPARTMENT**. The **MUNICIPALITY shall demonstrate** that they strictly comply with the requirements of the applicable laws and regulations, including, but not limited to, the endorsement of the Office of Permits Management (OGPe) and/or any other pertinent government agency. The processing of such endorsement shall be the sole responsibility of the **MUNICIPALITY** and shall be an indispensable condition for authorization by the **DEPARTMENT**. The **DEPARTMENT reserves the right to deny and/or revoke the authorization** to place advertisements regardless of compliance by the **MUNICIPALITY** with the aforementioned requirements.

**TWELFTH:** The **MUNICIPALITY shall be entirely and absolutely responsible** for any damage or harm caused to property or to any natural or legal person, as a consequence of negligence by the **MUNICIPALITY** in the performance of its services, due to the use of equipment installed or structures built by the **MUNICIPALITY** in Mosquito Bay, from the moment it begins to offer the services that are the object of the **AGREEMENT**. It **shall be necessary for the MUNICIPALITY to obtain and maintain in force**, for the term of this **AGREEMENT**, a **public liability policy covering these damages**, and including the **DEPARTMENT** as beneficiary. The **MUNICIPALITY shall indemnify and hold the DEPARTMENT harmless from any liability for damages, claims or demands of any kind or nature**, including attorneys' fees, arising out of or based on any activity carried out by the **MUNICIPALITY** in Mosquito Bay, or arising out of or based on any negligent act or omission of the **MUNICIPALITY**, its employees, agents, contractors or invitees in Mosquito Bay.

**THIRTEENTH:** Failure to comply with the obligations assumed herein shall **entitle the DEPARTMENT to terminate this Agreement** without the **MUNICIPALITY** having the right to any claim whatsoever and/or to compensation for damages. To terminate the contract under this clause, the **DEPARTMENT** must comply with the **EIGHTH** content of this **AGREEMENT**.

**FOURTEENTH:** No benefit or consideration object of this agreement may be demanded until the same has been **filed for registration with the Office of the Comptroller** pursuant to the provisions of Act No. 18 of October 30, 1975, as amended.

## READING AND ACCEPTANCE

We, the **PARTIES**, declare that we have read and understood this **AGREEMENT** and **accept it**, finding that it faithfully reflects and establishes the collaboration agreements we have reached and all that we have agreed and agreed upon. And for the record, we sign the AGREEMENT and place our initials in the left margin of each of its pages.

Signed in San Juan, Puerto Rico on the 13<sup>th</sup> of August, 2021 by

Rafael A. Machargo Maldonado, Secretary, Department of Natural and Environmental Resources  
DEPARTMENT | S.S.P. 660- 43-4381

Jose A. Corcino Acevedo, Mayor, Municipality of Vieques  
MUNICIPALITY | S.S.P. 660- 43-3538

Reviewed by Samuel Acosta Camacho, Esquire | Special Assistant, Office of the Secretary