



# **PUBLIC-PRIVATE PARTNERSHIP AGREEMENT ACT**

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Good morning, Honorable Senator Carla J. Joseph, Chairperson of the Committee on Government Operations, Veteran's Affairs and Consumer Protection; committee members and all other senators in attendance; all seated in the senate chambers as well as those in the listening and viewing audience.

My name is Derek Gabriel, Commissioner of the Virgin Islands Department of Public Works. I am here, at your invitation, to provide testimony on Bill No. 35-0058, proposed legislation to enact the Public-Private Partnership Agreement Act.

In transportation infrastructure, P3 agreements are typically used to accelerate construction and development of ports, bridges, roads, and transit projects. In fact, the U.S. Department of Transportation, through the Build America Bureau, encourages consideration of the P3 method in the development and delivery of transportation improvements and provides resources, technical assistance, information, and expertise regarding the use of different P3 and alternative procurement approaches.

As noted by other testifiers, public-private partnerships, commonly known as P3 agreements, are not new to the industry. In fact, as we speak, the Virgin Islands Port Authority is successfully using this procurement method to redevelop our airports and seaports in both districts. Specific to the Department of Public Works, the relationship and agreements we have with our ferry boat operators, specifically for the St. Thomas-St. John route, should be recognized as a P3 – the Government of the Virgin Islands, through DPW, provides financial subsidies and ferries for private operators to manage and operate. We are in constant dialogue with both the operators and the U.S. Department of Transportation to come up with ways to further support and develop this and other maritime federal-aid routes as we recognize the increased need for inter-island transportation in both districts.

P3 agreements are delicate and deliberative delivery models that require intense negotiations, risk management and sharing, financial deferrals, cash flow analysis and creative contract models to allow for private partners and government agencies to achieve

the goal of expedited project delivery and mutual financial benefit. Most importantly, they require creativity and involvement at every stage of engagement with the private sector. Significant due diligence and investigation is performed just to vet the viability of this delivery model even before beginning formal procurement process.

While I understand the sponsor's intent for bringing this legislation, I believe more discussion is needed to avoid any unintended consequences that may hinder the Territory's ability to pursue future P3 agreements. In its current form, the legislation calls for an independent audit, a public notice and comment period, potential third-party evaluations, and other items – all before having an executed agreement. I believe this could be potentially dangerous to future agreements as any qualified private partner will have serious concerns about exposure.

Overall, I see the importance of bringing this legislation and commend the sponsor for addressing this need. I would ask for more discussions and working sessions for both branches to collaboratively improve this legislation. Such factors for additional consideration would be including all progressive/alternative delivery models currently being used in the industry, possible inclusion of an incubation period to allow for the deal to be developed before public exposure, and exclusive language that removes applicability to any P3 projects or discussions underway.

Madame Chair, thank you for the invitation to testify on this measure. I also want to thank the bill sponsor, Senator Marise James, for beginning this broader conversation that is needed. I believe the timing is right for the Virgin Islands to join the rest of the world in considering alternative delivery models. Adding more tools and instruments for expedited project delivery brings us up to par with the rest of the industry and will make our projects more attractive to leading industry partners. I will remain to answer any questions or concerns you may have.