THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

July 2, 2018

VIA MESSENGER

The Honorable Myron D. Jackson
Senate President
Thirty Second Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Operating Agreements by and among the Government of the Virgin Islands of the United States and Limetree Bay Terminals, LLC, and Limetree Bay Refinery, LLC.

Dear Mr. President:

Pursuant to Section 7 of the Revised Organic Act of 1954, as amended, for the Virgin Islands of the United States, I hereby call the Thirty-Second Legislature of the Virgin Islands into a Special Session to be held on **Wednesday, July 25th, 2018 at 10:00am, at the Legislature's Chambers in Charlotte Amalie, St. Thomas**. I have enclosed for the Legislature's consideration legislation incorporating two new agreements relating to the operation of the oil refinery and related facilities located at Limetree Bay, St. Croix, U.S. Virgin Islands. Together, these agreements make possible the resumption of petroleum refining at the Limetree Bay refinery—and with it, a new era of employment, commerce, and prosperity in the Territory in general and St. Croix in particular. The project of rehabilitating, improving, and restarting the refinery will require its owners to invest approximately $1.4 billion over the next 18 months, will create more than 1,400 temporary construction jobs and as many as 700 permanent jobs, and according to the Government's industry consultants, will generate more than $600 million for the Government over the first ten years of the agreement. Half of those revenues will be dedicated to providing badly needed funds into the Government Employees Retirement System ("GERS"). The Government will receive $70 million upon closing, and that money will be used to provide an immediate infusion of cash into GERS; invest in the first new hotel property on St. Thomas in more than 38 years; pay income tax refunds; provide funds to the judicial system; provide funds for past vendor obligations of the VI Waste Management Authority; provide funds to the St. Croix and St. John Capital Improvement Funds and the Paul E. Joseph Stadium project.

As you are aware, two years ago the Government entered into an agreement with Limetree Bay Terminals, LLC, a subsidiary of the respected private equity firm ArcLight Capital, for the operation of the oil storage terminal at Limetree Bay. The Thirty-First Legislature ratified that agreement, and it has proven to be an overwhelming success story. The terminal now employs more than 750 people, more than 80% of whom are Virgin Islanders. It is paying more than $11 million annually in taxes. It has invested approximately $260 million in capital improvements to its facility, and is in the final stages of building the single-point mooring buoy that will allow it to handle the world's largest tankers. Limetree has been a good corporate citizen and a good business partner, donating more than one million dollars ($1,000,000) in charitable and educational contributions. The Limetree Bay terminal has played a critical part in the Territory's road to economic recovery. The legislation before you today opens the way to another milestone in that road: the rehabilitation, restart, and operation of the Limetree Bay refinery. For decades, the refinery was the foundation of the Territory's industrial economy and its largest private employer. Its idling in 2012 struck a blow to our financial health from which we have worked diligently to recover. It has always been our hope that the refinery would re-open and resume its key role in the Territorial economy. Accordingly, the agreement we reached with Limetree Bay Terminals in 2016 required Limetree Bay to evaluate the prospects for resuming refinery operations and make commercially reasonable efforts to facilitate a restart.

Limetree Bay performed that evaluation and, months ago, advised the Government that it has identified a plan for resuming refinery operations in approximately the next 18 months. Limetree's plan anticipates a massive investment to return the refinery to operating condition—more than $1 billion in capital investments between now and 2020. The reconstruction will employ approximately 1,400 people during the construction phase, and up to 700 full-time workers once the refinery restarts. The capital investment and employment alone will have the potential to transform St. Croix's economy.

But, it is not only St. Croix that will benefit. The Territory as a whole stands to receive a massive economic boost. Upon the closing of the transaction, Limetree will pay the Government $70 million. Once the refinery restarts, it will make annual payments in lieu of taxes of $22.5 million annually, with an adjustment based on the refinery's performance that could raise the annual total to as much as $70 million, but will never decrease it below $14 million in normal circumstances. If the refinery performs as the Government's industry experts expect it to, the Government would receive more than $600 million over the first ten years after restart. This is significantly more than to the $330 million Hess Oil paid the government in corporate income taxes in the more than thirty years it operated the refinery. All of this is in addition to the income generated by the oil storage terminal, which will continue to make the payments promised under the original terminal operating agreement. Those payments are currently about $11 million annually.

A good deal of the new money will be used to shore up the Government Employees Retirement System. As this body is aware, the GERS is in crisis, and if dramatic action is not taken to preserve it, the system will run out of money in 2024. The infusion of cash from the refinery will help alleviate that crisis. Of the $70 million closing payment, $25 million will be used to purchase the Havensight Mall, which is currently owned by the GERS. In addition to that $25 million, one-half of the annual payments from the refinery will be dedicated to the GERS, together with one-half of the annual profits of the Havensight mall. All together, these measures will inject an estimated more than $380 million into the GERS over the next 10 years. These payments will not save the system, but they will extend its life approximately four more years and give the Government, the Plan, and the Plan's members time to find permanent solutions that will restore the GERS' solvency, and stave off its predicted financial collapse.

To achieve all this—a billion dollars in capital investment, 1400 temporary and as many as 700 permanent jobs, millions in annual payments, an infusion of critical funds into the GERS, and a new hotel on St. Thomas—we have taken the original Limetree Operating Agreement, as approved by the Legislature in 2016, and split it in two. There will now be an Amended Terminal Operating Agreement that governs the obligations of the terminal facility and a new Refinery Operating Agreement that sets the obligations of the refinery. The provisions of the old Terminal Operating Agreement that are specific to the terminal business will remain substantially the same in the Amended Terminal Operating Agreement, while the refinery-specific terms of the original agreement will be shifted into the new Refinery Operating Agreement.

The Amended Terminal Operating Agreement

The Amended Terminal Operating Agreement is substantially identical to the original Limetree Bay Operating Agreement, but with provisions relating to the refinery removed. The terminal will continue to be owned and operated by Limetree Bay Terminals, LLC. The operational, financial, and environmental obligations of Limetree Bay Terminals are largely unchanged, with a few exceptions. Limetree Bay remains obligated to:

- Operate the terminal for the balance of the contract term;
- Employ a minimum of 80 full-time workers, at least 80% of whom must be long-term USVI residents;
- Pay the Government 9% of annual earnings before interest, taxes, depreciation, and amortization (which increases to 10% if certain financial targets are met), with a minimum payment of $7 million;
- Pay the Government a 10% commission if the terminal is sold at a profit, with a minimum payment of $12.75 million (one-half the original $25.5 million minimum payment, with the other half coming upon a sale of the refinery); and,
- Following termination of the agreement, decommission the terminal and restore the terminal site (and also the refinery and refinery site, if the refinery operator fails to do so).

The only material obligations in the original Terminal Operating Agreement that no longer apply are provisions relating to the refinery, which have been moved to the new Refinery Operating Agreement.

<u>The Refinery Operating Agreement</u>

Limetree Bay Terminals will transfer ownership in the refinery to a new subsidiary of ArcLight Capital Partners, Limetree Bay Refining. Limetree Bay Refining will enter into a separate operating agreement with the Government and take on independent financial and other obligations. Under the Refinery Operating Agreement, Limetree Bay Refining will:

- Pay the Government $70 million at closing, consisting of $30 million to purchase Government-owned lands surrounding the refinery and another $40 million in prepayments of future taxes;

- Pay the Government annual payments of $22.5 million annually, adjusted based on refinery's performance to a maximum of $70 million and a minimum of $14 million in most circumstances;

- Pay the Government a 10% commission if the refinery is sold at a profit, with a minimum payment of $12.75 million (one-half the original $25.5 million minimum payment, with the other half coming upon a sale of the terminal); and,

- If the refinery fails to restart, or if the refinery restarts and then shuts down permanently, decommission and deconstruct the facility at its own expense.

During the construction phase, Limetree expects to employ approximately 1,400 temporary workers; after restart, it expects to employ as many as 700 full-time workers on an ongoing basis. The Refinery Operating Agreement requires Limetree Bay Refining to aggressively advertise open positions, to give preference to qualified local residents over non-residents, and to use commercially reasonable efforts to ensure that at least 80% of workers are Virgin Islands residents.

Together, the Amended Terminal Operating Agreement and Refinery Operating Agreement may bring an estimated $775 million in revenues to the Government over the next ten years, of which more than $600 million will be new revenues generated entirely by the refinery. Those monies are in addition to the massive economic benefits that will be conferred upon the Territory by the infusion of more than $1 billion in direct capital investment and the creation of as many as 700 new full-time, permanent jobs.

The parties intend that the Amended Terminal Operating Agreement and Refinery Operating Agreement will close simultaneously, subject to: (i) the execution of both Agreements by the Parties thereto, (ii) the Legislature's approval of the two agreements, and (iii) finalization by Limetree of certain contracts with long-term supply and offtake contracts.

The two Agreements are enclosed for the Legislature's review and ratification. As always, members of my Administration remain available to discuss any concerns or questions you may have.

Appropriations

As noted, upon closing of the two Operating Agreements the Government will receive closing payments of seventy million dollars ($70,000,000) as consideration for the sale of real estate and prepayments of future taxes. That influx of revenues is to be appropriated to fund a number of critical projects around the Territory. Most important, twenty-five million dollars ($25,000,000) will be used as a down payment for the Public Finance Authority to purchase the Havensight Mall and the leasehold interest of the Port of Sale Mall from the Government Employees Retirement System. That infusion of cash into the GERS, together with revenues going forward from the refinery payments and future mall revenues, will keep the system solvent for approximately four (4) more years, giving the Government, the plan and the plan's members time to identify and implement a permanent solution to the system's financial problems.

In addition, the legislation creates several other revenue streams to benefit the GERS. The GERS will receive one-half of the payments received by the Government under the Refinery Operating Agreement—a commitment that could raise an estimated $300 million for the system over the next ten years. In addition, the GERS will continue to receive one-half of the revenues from the Havensight Mall and Port of Sale lease, which should yield approximately one million, five hundred thousand dollars ($1,500,000) annually. Finally, the GERS will issue a mortgage to the Public Finance Authority to fund the balance of the mall's purchase price, and will earn interest on that mortgage at an above-market rate of 8% per annum. Together, all these provisions will provide an estimated more than three hundred and eighty million dollars ($380,000,000) to the GERS over ten years, which will enable the system to survive approximately five (5) more years while we work to effect a permanent fix to the system.

Ten million dollars ($10,000,000) from the closing payment will be used to invest in a new hotel project at Yacht Haven Grande in St. Thomas. This new, 110-room, internationally branded hotel—St. Thomas's first new hotel property in more than 38 years—will be built using cutting-edge modular techniques by a European firm that has recently constructed new hotel properties in New York City, Dubai, and other locations. The Government will lend $10 million to the project for a ten-year term with interest in exchange for a security interest, priority on the return of principal, five percent (5%) of net cash flows, and an equity interest that will pay off upon sale.

Other appropriations from the $70,000,000 closing payment include ten million dollars ($10,000,000) to pay income tax refunds to Virgin Islands taxpayers; seven million dollars ($7,000,000) for the Virgin Islands Waste Management Authority; four million dollars ($4,000,000) for the Paul E. Joseph Stadium project (plus another six million dollars ($6,000,000) for the stadium consisting of funds previously received from Limetree Bay Terminals to satisfy its obligation to construct bitumen storage tanks at the terminal); three million dollars ($3,000,000) for the St. Croix Capital Improvement Fund; three million dollars ($3,000,000) to the Public Finance Authority for legal, consulting, and other transactional fees appurtenant to this transaction; three million dollars ($3,000,000) for the judicial branch's FY 2019 operating budget; two million dollars ($2,000,000) for the relocation and development of a legislative complex on St. Croix; two million ($2,000,000) for the St. John Capital Improvement Fund; and one million dollars ($1,000,000) for the reconstruction of the St. John Battery, destroyed by Hurricane Irma.

Reform of the Government Employees Retirement System

The legislation implements a number of necessary reforms to the Government Employees Retirement System. It increases the size of the GERS Board of Trustees from seven to eleven members and requires the new members to have five years of experience in the field of investment or finance; establishes the maximum amount of compensation to be used for contributions by GERS members as the maximum taxable earnings for Social Security contributions as established annually by the Social Security Administration; raises the $65,000 cap to $75,000 for pension calculation purposes, but requires employees to contribute to the pension system up to the Social Security limit which is now at $128,400; provides for three percent (3%) pension contribution rate increases of the Government beginning on October 1, 2018; and, requires the Board of Trustees and the System to obtain the express written consent of the Government before taking any action that would affect or restrict the benefits of or the distribution of benefits to retirees. These measures, together with the infusion of new revenues, will help stabilize the system and improve its operations going forward.

Access to Financial Institutions

Finally, the legislation confirms that the Government and the Public Finance Authority are free to access capital and financial services from mainland banks and financial institutions, as well as those with operations in the Territory. The importance of ready access to capital is too important to the Territory's financial well-being to restrict our borrowing and financial activities to local institutions. True market competition for the banking business of the Government can only serve the best interest of the people of the Virgin Islands.

As always, I thank you and the Members of the Thirty-Second Legislature for your prompt consideration of these most important matters.

Sincerely,

Kenneth E. Mapp
Governor

Enclosures