

VIRGIN ISLANDS WATER AND POWER AUTHORITY
POST OFFICE BOX 1450
SAINT THOMAS
U.S. VIRGIN ISLANDS 00804



**CONTRACT BETWEEN THE VIRGIN ISLANDS WATER AND POWER AUTHORITY
AND LEIDOS ENGINEERING, LLC.**

Contract No. SC-29-19

The Proceeding Contract is a properly negotiated agreement between all parties involved. Any marks, changes, white out, or deletions without the expressed written permission from all parties involved shall make this contract null and void.

This Contract is entered into this 28th day of February, 2019 by and between LEIDOS ENGINEERING, LLC, (the "Consultant" or "Contractor") located at 1000 Legion Place, Suite 1100, Orlando, FL 32801 and the VIRGIN ISLANDS WATER AND POWER AUTHORITY (the "Authority"), located at 9720 Estate Thomas, P.O. Box 1450, St. Thomas, USVI 00804, for the purpose of providing consulting services to the Authority.

WITNESSETH

In consideration of the mutual promises, covenants and conditions contained herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. **SCOPE OF WORK/WORK:** The Scope of Work set forth herein shall hereinafter be referred to as the "Work". Consultant shall consult with Authority staff by providing engineering design services with regard to the St. Thomas and St. John 69kV Submarine Cable Project as outlined in the attached Business Proposal and Statement of Work, both dated July 11, 2018, a copy of which is attached hereto and made part hereof as Exhibits "A" and "B." The Work shall conform to the Authority's Professional General Contract Terms attached hereto and made a part hereof and identified as Appendix "A". Consultant shall provide labor and materials necessary to perform the work in accordance

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with the Work identified in Exhibits "A" and "B."

2. CONSIDERATION: In consideration of the Consultant's performance of the Work, the Authority shall pay to Consultant an amount not to exceed One Million Five Hundred Ninety-One Thousand, One Hundred Thirty Dollars and Sixty-Seven Cents (\$1,591,130.67) based upon rates as outlined in Exhibit "A". Said consideration shall be for providing the services associated with the Work. The Authority shall, within ninety (90) business days of execution of this agreement, pay to Consultant as an initial deposit towards services to be performed the amount of One Hundred Sixty Thousand Dollars (\$160,000.00). This payment shall be part of the engineering fee and as a result, the Authority will realize a stepped down payment schedule over the last months of the contract. Travel, if required, must be approved in advance by the Authority's Project Manager and shall be at the most economical means possible. All non-travel expenses over \$100.00 shall require the approval of the Authority's Project Manager.

Acceptance of the services performed is contingent upon approval of the Work by the Authority's Project Manager. The consideration stated herein shall be for all Work performed by the Consultant pursuant to this Contract. Payment of any taxes shall be the sole responsibility of the Consultant. Unless otherwise required by law, the Authority shall not be responsible in any way for the direct payment of any of Consultant's taxes.

3. TERM: This Contract shall commence upon full and final execution by the Parties and issuance of a Notice to Proceed from the Authority. The Contract shall terminate on or by July 31, 2019. The Authority and Consultant may extend, in writing, the

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term of this agreement.

4. SCHEDULE: The Parties agree that the Work shall be performed in accordance with the schedule outlined in Exhibit "B".

5. BUSINESS LICENSE: Consultant must comply with all Virgin Islands' laws with respect to licensing which must be obtained in connection with its business operation(s). All necessary and applicable license(s) shall be obtained by the Consultant and copies presented at the time of contract execution. Failure by Consultant to present its license(s) shall be grounds to consider the Contract void.

6. EMPLOYMENT OF U.S. VIRGIN ISLANDS RESIDENTS:

Consultant shall comply with 24 VIC §126 which requires the following preference for resident workers (i.e. any person capable of performing services or labor and who is a citizen of the United States or an immigrant alien admitted to the United States for permanent residence under the provision of the Immigration and Nationality Act as amended):

Resident workers shall be given preference in employment in the Virgin Islands in any industry or occupation for which such workers are qualified and available. Nonresident workers shall be employed only to supplement the labor force of available and qualified workers. No resident workers shall suffer any reduction in workweek below 40 hours a week by reason of an employer employing a non-resident worker. No employer shall employ a non-resident worker except in strict accordance with the provisions of this chapter and regulations hereunder. Nothing contained herein shall be construed to interfere with the policy of the Employment Services in canvassing of affiliated state employment services to obtain workers before issuing clearance certification for alien workers.

Consultant shall comply with requirements of 31 VIC §§ 271 and 272 and Title 24, Chapter 6 (Protection of Resident Workers) and hire Virgin Islands Residents and

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Resident Workers for work in connection with this contract. Consultant shall also ensure that its subcontractor(s) comply with the legal requirement to hire Virgin Islands residents and Resident Workers in connection with this project, and shall require such in their contract(s) with their subcontractor(s). Upon request of the Authority, Consultant shall provide a report and/or information regarding its compliance, and its subcontractor's compliance, with the requirement to hire Virgin Islands Residents and Resident Workers.

Before any vacancies are filled with an individual that is not a resident of the Virgin Islands, Contractor and its subcontractor(s) shall notify the Employment Security Agency of the Virgin Islands Department of Labor in accordance with the requirements of 31 VIC §272 and 27 VIC §303b.

Consultant understands that its failure to adhere to the requirements referenced herein may result in the application of penalties as imposed by the Department of Labor as outlined in 31 V.I.C. §272 (c)(d). Additionally, Consultant's failure to comply with the requirements herein may result in termination of this agreement in accordance with the Authority's General Contract Terms. Further, the Authority shall consider Consultant's non-compliance with the provisions of this section in the award of future contracts.

7. INJURY AND DAMAGE CLAIMS: The Consultant shall be responsible for all damages to persons or property that occur as a result of the negligence or intentional wrong doing of the Consultant (or its sub-contractors or agents thereof) in connection with the performance of the Work. The Authority shall be responsible for all damages to persons or property that occurs as a result of the sole negligence or intentional wrong

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doing of the Authority (or its agents) during the performance of the Work.

The Consultant shall defend, indemnify and hold the Authority harmless from damages, expenses and costs arising out of claims or demands by persons or parties, asserted in connection with or arising out of any injury, or alleged injury (including death), or damage or alleged damage, to persons or property sustained or alleged to have been sustained unless caused by the sole negligence of the Authority, its agents, servants or employees, in connection with the performance of the Work and agrees to defend with the assistance and cooperation of the Authority any suit or action brought against the Authority, its agents, servants or employees, based on any such alleged injury or damage, and to pay all damages, costs, and expenses, including attorney's fees in connection therewith or resulting therefrom. In the event that it is determined that to the extent any liability was caused by the sole willful misconduct of the Authority, the Authority shall reimburse Consultant and/or its insurance carrier for all judgments and expenses incurred, including the costs incurred in defending any claim arising from such liability. Consultant agrees to name the Authority as an additional insured in the liability policy covering this Indemnity Clause. A copy of the insurance certificate shall be presented upon contract execution. The Authority shall promptly notify the Consultant, in writing, of the filing of any such suit or action.

8. INDEMNIFICATION: The Authority is entitled to indemnification in accordance with Section 15 of the Parties' joint Professional General Contract Terms, dated February 8, 2019, which is attached hereto and fully incorporated by reference

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herein as Appendix "A." If the Contractor fails, after notice and reasonable opportunity, to assume the defense of any claim, the Authority may at the expense of the Contractor contest, settle, or consent to the entry of any judgment with respect to, or pay in full, such claim and Contractor shall upon demand promptly reimburse the Authority for all defense and settlement costs.

9. INSURANCE: The Contractor shall, at its expense, before any Work is commenced, cause to be issued and maintained throughout the duration of the Term, insurance as described in the Parties' joint Professional General Contract Terms, dated February 8, 2019. A copy of the insurance certificate must be presented to the Authority's Contracting Officer before final execution of the contract.

10. ENVIRONMENTAL RESPONSIBILITY: The Contractor shall, in the performance of the Work referenced herein, comply with all applicable rules, regulations, and guidelines including but not limited to those issued by the U.S. Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the V.I. Department of Planning and Natural Resources (DPNR), and all other federal and territorial regulatory agencies.

The Contractor shall indemnify the Authority for any and all fines that may be assessed against it as a result of the Contractor's failure to adhere to the laws, regulations and directives of the federal and territorial regulatory agencies; and it shall furthermore pay all costs, expenses, and attorney's fees in connection therewith.

11. RELIANCE: The Contractor's representations of its ability to perform the

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Work with skilled and competent personnel are a substantial and material condition of this Contract. The Contractor agrees, or is otherwise aware, that the Authority shall rely on all the representations in its correspondence as incorporated in the submitted document attached hereto as Exhibits "A" and "B".

12. PROFESSIONAL STANDARDS: The Contractor shall observe and maintain the professional standards and good practices applicable to its profession and to Contractors doing business in the U.S. Virgin Islands.

13. LIABILITY OF OTHERS: Nothing in this Contract shall be construed to impose any liability against the Authority to persons, firms, associations, or corporations engaged by the Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make the Authority liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations, and taxes of Contractor of whatsoever nature, including but not limited to employment insurance and social security taxes for Contractor, its servants, agents, employees, or independent Contractors.

14. DESIGNATED PERSONNEL: The Authority reserves the right to designate personnel to provide information and to coordinate the Work with the Consultant. The Authority designates the following individual in the following capacity:

Clinton Hedrington
Chief Operating Officer-Electric Systems
V.I. Water and Power Authority
P. O. Box 1450
St. Thomas, VI 00804
(340) 774-3552, ext. 2008

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The Consultant designates the following individual in the following capacity:

Selvin Dottin
Senior Project Manager
LEIDOS Engineering, LLC.
1000 Legion Place, Ste. 1100
Orlando, FL 32801
Tel: (407) 648-3534

15. CHANGE ORDERS: All change orders or requests for additional services, must be approved in writing by the Authority's Contracting Officer. In the absence of such written approval, Consultant shall be liable for any changes in the Work not in conformance with this Contract.

16. COMPLIANCE WITH OTHER LAWS: The Parties to this agreement shall comply with all applicable laws, rules, regulations and public policies that prohibit unethical conduct regarding the obtaining, retention or conduct of business or an unfair advantage ("Laws"). The Parties shall not directly or indirectly give, offer, promise, authorize, or allow to be given, offered, or promised, anything of value to an official or employee of any government, state-owned enterprise, international organization including subdivisions thereof or entities acting on behalf of a government, state-owned enterprise, international organization or subdivision thereof (any such employee or official referred to collectively as "Official"), while knowing or having reason to know that such thing of value is to be given, offered, or promised to an Official (including political parties or officials thereof or candidates for foreign office) in order to: (i) influence any officials thereof, or (ii) induce such Official to use this influence to affect or influence any act or decision of any government (or any subdivision thereof), or (iii) assist the Parties in obtaining or retaining

Handwritten signature and initials in the bottom right corner of the page.

business, or in directing business to any person or obtain an unfair advantage for the Parties in any respect.

Should any Party violate any of the Laws then: (i) the other Party(s) shall have the right to immediately terminate the Agreement for cause; (ii) the other Party(s) shall have a right of action against the offending Party in breach of such laws; and (iii) the offending Party shall indemnify the other Party(s) for any penalty, loss or expenses incurred by the other Party(s) as a result of the offending Party's breach of any of its obligations under this Section.

17. PRESENTATION OF COMPLIANCE WITH LAW: The Parties hereto represent and warrant that this Agreement and its performance do not violate any law, regulation or policy of the United States Virgin Islands. Any Party hereto shall be relieved of its obligations to perform under this Agreement to the extent such performance would violate any law, regulation or policy of the United States.

18. CONTRACT DOCUMENTS: Consultant shall complete Work to be performed in accordance with the Contract documents. The Contract documents include:

1. The Authority's and Contractor' jointly agreed to Professional General Contract Terms; attached hereto and made a part hereof and identified as Appendix "A";
2. United States Department of Housing and Urban Development, General Provisions; attached hereto and made a part hereof and identified as Appendix "B";
3. The Authority's Insurance Requirements; attached hereto and made a part hereof and identified as Appendix "C";

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4. Consultant's Business Proposal attached hereto and made a part hereof and identified as Exhibit "A", and
5. Consultant's Statement of Work attached hereto and made a part hereof and identified as Exhibit "B."

In the event of any conflict, the terms of this Contract will govern over the provisions of any documents referenced herein. This Contract and Contract documents constitute the entire agreement between the Parties hereto, and all prior understandings or communication, written or oral, with respect to the subject matter of this Contract are merged herein.

19. PROFESSIONAL GENERAL CONTRACT TERMS: This Contract is subject to the Authority Professional General Contract Terms attached hereto and made a part of this Contract as Appendix "A".

20. COUNTERPARTS: This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original and the same instrument, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

21. GOVERNING LAW: The laws of the Virgin Islands shall govern the interpretation and construction of this Agreement to the extent applicable. The Parties agree that all causes of action against either Party shall be brought in the court of

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competent jurisdiction in the Virgin Islands. The Authority shall not invoke the defense of sovereign immunity in any litigation arising under the Contract.

22. ORDER OF PRECEDENCE: In the event of any conflicts or inconsistencies between the written Agreement and the attachments comprising the Contract, such conflict will be resolved according to the following descending order of precedence: (1) This Contract; (2) The Authority's Professional General Contract Terms and (3) Consultant's Proposal and Statement of Work.

23. NOTICE: Any notice required to be given by the terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid, or personally delivered, addressed to the Parties as follows:

The Authority: Lawrence J. Kupfer
Executive Director/CEO
V.I. Water & Power Authority
P.O. Box 1450
St. Thomas, U.S. Virgin Islands 00804

The Consultant: Joni Batson
Vice President
Leidos Engineering, LLC.
1000 Legion Place, Ste. 1100
Orlando, FL 32801


24. ENTIRE AGREEMENT: This Contract and the Contract Documents constitute the entire agreement of the Parties hereto, and all prior understandings or communications, written or oral, with respect to the subject matter of this Contract are merged herein.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on
the day, month and year first above-written.

LEIDOS ENGINEERING, LLC


WITNESS

 2/28/2019
Samantha Prociw Date
Senior Contract Representative

V.I. WATER & POWER AUTHORITY


WITNESS

 2/28/19
LAWRENCE J. KUPFER Date
Executive Director (CEO)

APPROVED AS TO LEGAL SUFFICIENCY:

 2/25/19
LORELEI FARRINGTON
General Counsel
Attachments