

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 THE UNIVERSITY OF TENNESSEE AT CHATTANOOGA**

Contract No. SC-39-21

The following 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 25 day of June, 2021 by and between the Virgin Islands Water and Power Authority (hereinafter the "Authority") at mailing address Post Office Box 1450, St. Thomas, U.S Virgin Islands 00804 and The University of Tennessee at Chattanooga (hereinafter the "Contractor") located at 615 McCallie Avenue, Chattanooga, Tennessee, 37403, for the purpose of performing on-site archaeological monitoring, during the construction of Feeder 7E underground duct bank in Cruz Bay, St. John, US Virgin Islands.

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 Contractor is responsible for the Scope of Work (hereinafter the "Work"), which requires the Contractor to conduct, among other things, on-site archaeological monitoring, during the construction of the Feeder 7E

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underground duct bank in Cruz Bay, St. John, U.S Virgin Islands. The Work shall consist of the following:

- Notifying the Virgin Islands Historic Preservation Office (VISHPO) of, among other things, the proposed schedule of activities associated with the Feeder 7E underground duct bank project;
- Conducting a Literature and Records Search, which will include a search of known sites, such as sites represented in the VISHPO's Site file and report library, and sites listed in the National Register of Historic Places (NRHP);
- Archaeological Monitoring and Fieldwork;
- Laboratory Analysis of Artifacts;
- Preparing reports on the project and associated discoveries; and
- Curating Artifacts and Records.

The Contractor shall perform the Work in accordance with the Contractor's Scope of Work, attached hereto and incorporated by reference herein as Exhibit "A". The Contractor shall also perform the Work in accordance with the Authority's Professional General Contract Terms with Federal Requirements, attached hereto and incorporated by reference herein as Appendix "A".

2. CONSIDERATION: In consideration of the Contractor's performance of the Work, the Authority shall pay the Contractor the amount not to exceed One Hundred Seventy-One Thousand, Four Hundred Nine and 16/100 Dollars (\$171,409.16) (hereinafter the "Contract Price") which is based upon the established hourly rates and

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scheduled work hours outlined in the Contractor's Cost and Proposal Structure attached hereto as Exhibit "B".

A mobilization fee in the amount of Forty-Two Thousand, Eight Hundred Fifty-Two and 29/100 Dollars (\$42,852.29) shall be paid to the Contractor, upon Contract execution and issuance of the Notice to Proceed.

3. TERMS OF PAYMENT: The Contractor shall submit itemized and duly certified invoices electronically the Authority's Project Manager. Invoices should also be submitted to the Grants Management Department at grantsmanagement@viwapa.vi. Payment terms are Net thirty (30) days upon invoice date and, must include hours worked and personnel billing rates along with a description of the Work performed.

4. TERM: This Contract shall take effect upon its full and final execution by the Parties and in accordance with the commencement date, as agreed upon between the Parties, as contained in the written Notice to Proceed (hereinafter "Effective Date"). Once the Scope of Work has commenced, based on the dates included in the Notice to Proceed, the work shall not surpass March 31, 2022.

5. BUSINESS LICENSE: The Contractor and, if applicable, any of its subcontractors must comply with all U.S. Virgin Islands laws with respect to licensing which must be obtained in connection with its business operation(s). The Contractor and all subcontractors hired in connection with this Scope of Work shall obtain all necessary and applicable business license(s) and present copies to the Authority at the time of contract execution. Failure to present copies of license(s) shall be grounds to consider the Contract as void or the Authority may terminate this agreement if the Contractor is provided additional time to secure its license and fails to do so in a timely manner.

6. INSURANCE: The Contractor shall, at its expense, before any Work is commenced, cause to be issued and maintained until sixty (60) days after acceptance of the Work, insurance as described in the Authority's General Contract Terms with Federal Requirements revised April 7, 2019. A copy of the insurance certificate adding the Authority as a certificate holder and additional insured must be presented to the Authority's Contracting officer at contract execution.

7. EMPLOYMENT OF U.S. VIRGIN ISLANDS RESIDENTS: The Contractor shall comply with Title 24, § 126 of the Virgin Islands Code 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 nonresident 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.

See 24 V.I.C. § 126.

The Contractor shall comply with requirements of 31 V.I.C. §§ 271 and 272 and Title 24, Chapter 6 (Protection of Resident Workers) and hire Virgin Islands Residents and Resident Workers for work in connection with this contract. Contractor shall also ensure that its subcontractor(s) comply with the legal requirement to hire Virgin Islands

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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, Contractor 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 V.I.C. § 272 and 27 V.I.C. § 303b.

Contractor's failure to comply with the requirements herein may result in termination of this agreement in accordance with the Authority's Professional General Contract Terms with Federal Requirements.

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

Cordell Jacobs
Manager, Design and Construction
V.I. Water and Power Authority
P. O. Box 1450
St. Thomas, VI 00804
(340) 774-3552, ext. 2251
(340) 642-0946
cordell.jacobs@viwapa.vi

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The Contractor designates the following individual in the following capacity:

A. Brook Persons, Ph.D., RPA
Director, Jeffery L. Brown Institute of Archeology
University of Tennessee at Chattanooga
615 McCallie Avenue, Dept. 2102
Chattanooga, TN, 37403
(205) 792-5268
Brooke-persons@utc.edu

9. CHANGE ORDERS/ ADDITIONAL SERVICES: The Contracting Officer must approve in writing all change orders or requests for additional services. In the absence of such written approval, the Authority shall not be liable for the payment of any services performed outside of the scope of the Contract.

10. 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

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obtaining or retaining 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. Any liability of the university to Contractor and third parties for any claims, damages, losses, or costs arising out of or related to acts performed by the university under this agreement will be governed by the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301, et. seq.

11. PRESENTATION OF COMPLIANCE WITH LAW: The Parties hereto represent 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.

12. CONTRACT DOCUMENTS: The Contractor shall complete the Work in accordance with the following Contract documents:

1. The Authority's Professional General Contract Terms with Federal Requirements dated April 7, 2019, attached hereto, and incorporated by reference herein as Appendix "A";
2. The Contractor's Scope of Work, attached hereto and incorporated by reference herein as Exhibit "A"; and
3. The Contractor's Cost and Proposal Structure, attached hereto and incorporated by reference herein as Exhibit "B."

In the event of any conflict between the written agreements comprising, the Contract, the matter will be resolved according to the following descending order of precedence: (1) This Contract; (2) the Authority's General Contract Terms with Federal Requirements (Appendix A) and (3) the Contractor's response (Exhibit "A" and Exhibit

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“B”). The Contract and the Contract documents constitute the entire agreement between the Parties.

13. PROFESSIONAL GENERAL CONTRACT TERMS: This Contract is subject to the Authority General Professional Contract Terms with Federal Requirements attached hereto and incorporated as Appendix “A” and which is revised by mutual agreement of the parties as follows:

a. Clause 9- (A) Termination for Default

- Section (i) Delete the following

“and prosecute same to the completion by contract or otherwise and the Contractor and his sureties may be liable to the Authority for any excess cost occasioned the Authority thereby, and for damages inclusive of any excess cost occasioned by the Authority until such reasonable time as may be required for final completion of the Work”

b. Clause 15- Indemnification for Injury and Damage Claims

- Delete in its entirety

c. Clause 16- Right to Audit

- Delete the words “agents”, “assigns”, “successors”, and “subcontractors”

d. Clause 17- Contingent Fees

- Delete the word “warrants” and replace with “represents”

e. Clause 21- Governing Law

- Delete in its entirety

f. Clause 24- Other Requirements

- Paragraph three, delete the following:

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“and shall indemnify and hold harmless the Authority regarding any claim arising out of such action”

g. Clause 26- False Claims

- Delete the word “warrants” and replace with “represents”

h. Clause 27- Notice of Federal Funding

- Delete the word “warrants” and replace with “represents”

14. COUNTERPARTS: The Contract 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.

15. 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: Noel Hodge
Interim Executive Director (CEO)
V.I. Water and Power Authority
P.O. Box 1450
St. Thomas, U.S. Virgin Islands 00804

Copy to: Office of the General Counsel
V. I Water and Power Authority
P.O Box 1450
St. Thomas, U.S Virgin Islands 00804
lealdepartment@viwapa.vi

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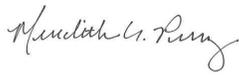
The Contractor: A. Brook Persons, Ph.D., RPA
Director, Jeffery L. Brown Institute of Technology
University of Tennessee at Chattanooga
615 McCallie Avenue, Dept. 2102
Chattanooga, TN, 37403
(205) 792-5268
Brooke-persons@utc.edu

16. 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.

SIGNATURE PAGE TO FOLLOW

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



WITNESS



WITNESS

University of Tennessee at Chattanooga



6-24-21

Dr. Joanne G. Romagni
Vice Chancellor for Research

Date

V.I. WATER & POWER AUTHORITY



06-25-2021

Noel Hodge
Interim Executive Director (CEO)

Date

APPROVED AS TO LEGAL SUFFICIENCY:



Aysha Gregory, Esq. Date: June 25, 2021
Deputy General Counsel

Appendix A
Exhibit A
Exhibit B