

VIRGIN ISLANDS WATER AND POWER AUTHORITY
POST OFFICE BOX 1450
ST. THOMAS, U.S. VIRGIN ISLANDS 00804-1450



**CONTRACT BETWEEN THE VIRGIN ISLANDS WATER AND POWER AUTHORITY
AND HAUGLAND VIRGIN ISLANDS, INC**

SC-15-21

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

This Contract is entered into this 21st day of October, 2020, by and between the Virgin Islands Water and Power Authority (hereinafter called the "Authority") at mailing address Post Office Box 1450, St. Thomas, U.S. Virgin Islands 00804 and HAUGLAND VIRGIN ISLANDS, INC (hereinafter called the "Contractor") located at 18A Estate Havensight, St. Thomas, U. S. Virgin Islands 00803, to provide Major Disaster Damage Assessment in the aftermath of a hurricane or other natural disaster. The Authority and the Contractor shall jointly be referred to as the "Parties".

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:** The Contractor, upon notification from the Authority, shall provide disaster assessment services in times of a major disaster as outlined in the Authority's RFP PR-25-20 and cover letter dated attached hereto and

Handwritten initials

incorporated by reference herein as Appendix "B", including but not limited to the following:

- Rapid mobilization and deployment (Upon the notification of an approaching storm, crews will mobilize to the territory to be present for immediate damage assessment).
- Provide assessments in order determined by the Authority, starting with priority routes to areas (Hospital, Airport, Towns, Schools and Shelters)
- Damage assessment (Crews will utilize software to perform analysis and documentation)
- Debris location surveys (Crews will utilize software to identify debris by type-household, utility, vegetation, hazardous, etc.)
- Post-event assessment (Crews will identify areas of concern, damage, areas that can be readily re-energized, etc.)
- Long-term recovery assistance
- GIS data collection, Mapping (All data collection shall be accompanied by GPS tagging)
- Outage management system data collection/mapping (Provide updates of storm damaged areas to the Outage Management System and Dispatch Center)
- Meter/service assessments (Identify services that are damaged, meters that need to be removed, and meter statuses post-storm)

DL

- Assessments with the corresponding software should be made available to all parties involved in the utility restoration and updated on a 24-hour period.

The Scope of Work (hereinafter the "Work") shall be performed in accordance with the requirements contained in the following documents:

1. The Authority's Professional General Contract Terms with Federal Requirements dated March 14, 2019. This document is attached hereto and incorporated by reference herein as Appendix "A",
2. The Authority's RFP PR-25-20 and cover letter dated May 12, 2020. This document is attached hereto and incorporated by reference herein as Appendix "B";
3. The Authority's Contractor COVID 19 Protocol incorporated by reference herein as Appendix "C"; and
4. The Contractor's Proposal to perform the Work and schedule received on June 5, 2020, and incorporated by reference herein as Exhibit "A";

2. **TERM:** This Contract shall take effect upon its full and final execution by the Parties and issuance by the Authority and the execution date as agreed upon between the Parties as contained in the written Notice to Proceed (hereinafter "Effective Date"). The Contract shall terminate twenty-four (24) months from the effective date.

3. **CONSIDERATION:** Consideration shall be based upon rates as contained in the Contractor's response to the Authority's Request for Proposal, PR-25-20, dated June 5, 2019, identified as Exhibit "A". Consideration for the Work shall also be subject to the Authority's Request for Proposal, PR-25-20, dated May 12, 2020, identified as Appendix "B".

OK

Gross receipt taxes, corporate taxes, income taxes, and all other taxes, duties, import fees, vehicle registration fees or other taxes resulting from this project will be the responsibility of Contractor if such taxes are not waived during the emergency.

4. TERMS OF PAYMENT: Contractor shall submit itemized and duly certified monthly invoices to the Authority. Payment terms are Net 60 days after approval of the invoice by the Authority's Project Manager.

The Authority shall NOT have any obligation to pay, or see to the payment of, money to Subcontractors, except as may otherwise be required by law.

5. GROSS RECEIPT TAXES: Title 33, Section 44 of the Virgin Islands Code, as amended, requires the Authority when making a payment under this Contract, to deduct and withhold from such payments, gross receipts taxes as required by law at 33 VIC Section 43(a) for each payment for Work performed in the Virgin Islands. Notwithstanding any other provisions of this contract to the contrary, it is agreed between the Parties that for the purposes of complying with Title 33, Section 44 of the Virgin Islands Code, the Authority shall withhold and forward to the Bureau of Internal Revenue the sum of or such amount as required by any changes to the law at 33 VIC Section 43(a). Despite the requirements under Title 33, Section 44, the Contractor agrees that calculation of gross receipts taxes shall be the sole responsibility of the Contractor. The Authority shall not be responsible in any manner for miscalculation of the gross receipts due under this contract or for any additional assessments by the Bureau of Internal Revenue resulting from work performed under this contract.

In the event the contract is amended, and the consideration herein increases, the appropriate amount of Gross Receipt Taxes to reflect the increase in the consideration

OK

will be deducted.

6. **BUSINESS LICENSE:** The Contractor and, if applicable, any of its sub-contractors must comply with all U.S. Virgin Islands licensing laws in connection with its business operations. The Contractor shall obtain all necessary and applicable business licenses for it and its subcontractors and present copies of them to the Authority before starting the Work. Failure of the contractor to present copies of licenses 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.

7. **RELIANCE:** The Contractor's representations of its ability to perform the Work with skilled and competent personnel are a substantial and material condition of this Contract.

8. **INDEMNIFICATION:** If the Authority is entitled to defense and indemnification under this Agreement and the Contractor fails, after notice and reasonable opportunity, to assume the defense of such 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. **ENVIRONMENTAL RESPONSIBILITY:** The Contractor shall, in the performance of the Scope of Work referenced herein, comply with all applicable rules, regulations, and guidelines issued by the U.S. Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the V.I. Department of

OK

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 reasonably incurred in connection therewith.

10. SAFETY PRECAUTIONS: The Contractor shall be responsible for initiating and maintaining safety precautions and programs and supervising its personnel to ensure the safe performance of the Work. The Contractor shall, furthermore, provide all its personnel with sufficient and appropriate safety devices.

The Contractor shall ensure that the services provided, and the products, equipment, and materials furnished and/or utilized are in strict compliance with any and/or all applicable codes and standards regulating its activities, including, but not limited to the following:

1. EPA- Environmental Protection Agency
2. OSHA - Occupational Safety and Health Administration

The Contractor shall also comply with all applicable U.S. Virgin Islands' fire, health, environmental and public safety codes.

11. COVID 19 REQUIREMENTS: Contractor shall, during the pendency of this agreement develop a plan to ensure the health and safety of its workforce during the COVID-19 Pandemic. The Authority recommends the Contractor utilize the guidance referenced in the Electric Subsector Coordinating Councils (ESCC) Revision #2 document

54

dated May 5, 2020, as well as other applicable OSHA and CDC guidance documents in the preparation of its plan. At execution of this agreement, Contractor shall present the Authority with a copy of its COVID-19 plan.

Contractor employees and subcontractors performing work for the Authority are required to adhere to the attached Contractor COVID 19 Protocols, a copy of which is attached hereto and made a part of this agreement as Appendix A. Each employee of the Contractor performing work for the Authority who has traveled within the past three months or has recently arrived in the Territory must fill out the attached form, which form must be submitted to the Authority's Human Resources Department.

The Contractor, with no exception, will be responsible for ensuring compliance with all the requirements stated herein.

12. DESIGNATED PERSONNEL: The Parties reserve the right to designate personnel to provide information and to coordinate the Work between the Parties.

The Authority designates the following:

Niel Vanterpool
Director of Transmission & Distribution
V.I. Water & Power Authority
P.O. Box 1450
St. Thomas, U.S. Virgin Islands 00804-1450
niel.vanterpool@viwapa.vi
(340) 643-8954 (cellular) / (340) 774-3552, ext. 2273

The Contractor designates the following individual in the following capacity:

John Reynolds
Chief Commercial Officer
Haugland Energy Group, LLC
P.O. Box 11309
St. Thomas, U.S. Virgin Islands 00801
jreynolds@hauglandllc.com
(516) 336-6720 / (340) 714-9009

BK

13. 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.

14. 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.

15. INSURANCE: The Contractor shall, at his 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 Professional General Contract Terms dated March 14, 2019. A copy of the insurance certificate must be presented to the Authority's Contracting officer at contract execution.

16. CONTRACT DOCUMENTS: The Contractor shall perform and complete the Work in accordance with the Contract and the Contract Documents. The "Contract Documents" include:

1. The Authority's Professional General Contract Terms with Federal Requirements dated March 14, 2019. This document is attached hereto and incorporated by reference herein as Appendix "A",

5/11

2. The Authority's RFP PR-25-20 and cover letter dated May 12, 2020. This document is attached hereto and incorporated by reference herein as Appendix "B";
3. The Authority's Contractor COVID 19 Protocol incorporated by reference herein as Appendix "C"; and
4. The Contractor's Proposal to perform the Work and schedule received on June 5, 2020, and incorporated by reference herein as Exhibit "A";

In the event of any inconsistencies 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 Professional General Contract Terms attached as Appendix "A"; and (3) the Contractor's Bid Response received on June 5, 2019 attached as Exhibit "A". 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.

17. GENERAL CONTRACT TERMS: This Contract is subject to the Authority's Professional General Contract Terms with Federal Requirements attached hereto and made a part hereof as Appendix "A". The Professional General Contract Terms with Federal Requirements are modified as follows:

Clause 3 – COMMENCEMENT, PROSECUTION AND COMPLETION OF PROJECT

Subsection b – delete the words "from the Site".

Clause 6 – PROGRESS REPORTS AND WORKING SCHEDULES

Delete first sentence and replace as follows:

Contractor agrees to furnish the Authority with written progress reports through Contractor's project manager and to make available

54

to the Authority such documentation of progress as the Authority may reasonably require, including, but not limited to, daily crew work reports.

Clause 12 – TERMS OF PAYMENT

Delete sections a, b and c

18. 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 the scope of the Contract.

19. GOVERNING LAW: The laws of the U.S. 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 competent jurisdiction in the Virgin Islands. The Authority shall not invoke and hereby expressly and knowingly waives the defense of sovereign immunity in any litigation arising under the Contract.

20. WAIVERS AND AMENDMENTS: No waiver, modification, or amendment of any term, condition, or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the Parties or by their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification, or amendment. Any such waiver, modification, or amendment in any instance or instances shall in no event be construed to be a general waiver, modification, or amendment of any of the terms, conditions, or provisions of this Contract, but the same shall be strictly

BV

limited and restricted to the extent and occasion specified in such signed writing or writings.

21. 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 received, via e mail, 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
lawrence.kupfer@viwapa.vi

The Contractor: William Haugland
Haugland Virgin Islands, Inc
18A Estate Havensight
St. Thomas, U.S. Virgin Islands 00803
(516) 336-6720
bill@hauglandllc.com

22. 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.

23. 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

BR

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.

24. SURVIVAL: The following sections of this Contract will survive the termination or expiration of this Contract and will remain in effect until fulfilled:

- Clause 3: Consideration
- Clause 16: Contract Documents (Order of Precedence)
- Clause 19: Governing Law
- Indemnification for Injury & Damages (See Appendix "A")

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


WITNESS


WITNESS

HAUGLAND VIRGIN ISLANDS, INC

By:



William Haugland
Chief Executive Officer/Chairman

V.I. WATER & POWER AUTHORITY

By:


Lawrence J. Kupfer
Executive Director (CEO)

APPROVED AS TO LEGAL SUFFICIENCY:


Lorelei Farrington, Esq.
General Counsel
Attachments

10/6/2020