

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 Z2SOLUTIONS, LLC**

**SC-06-23**

**The following 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 9th day of January, 2022, 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 Z2Solutions LLC (hereinafter the "Contractor") located at 29 Kennebec Drive, Durango, Colorado 81301, to provide AMI System Assessment of the Tantalus AMI System at the Virgin Islands Water and Power Authority due to the severe damage caused by the hurricane related winds, storm surges and torrential rain. 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 is responsible for the Scope of Work (hereinafter the "Work") which, upon notification from the Authority, The Contractor shall provide AMI System assessment services as outlined in the Authority's Request for

Proposal PR-14-22, attached hereto and incorporated by reference herein as Appendix

“B”. The Contractor’s services include but are not limited to:

**A. Complete System Assessment:**

- Hardware AMI and Communication network (Towers, Collectors, meters etc.)
  - Engineering analysis to include root cause of failures, life expectancy in a tropical environment of devices to including but not limited to meters, communication modules, collectors, etc. Additionally, examine the Meter Reads Reliability (MRR) obtained from Tantalus to determine the cause of the overall decline. Assess and provide recommendations for the pros and cons of meter repair via module replacement vs. full meter replacement. Tantalus will cooperate with the analysis and provide all required data and information.
  - Assess the location of existing collectors to determine ideal placement for new collectors (if needed) to provide complete coverage throughout the territory. Tantalus, or the Authority will provide location and installation height of existing collectors.
- Provide an overall report of current state of system including but not limited to the failed devices, the failure rate of devices, the life expectancy of existing devices, the actions needed to repair.
- Review Propagation Study (provided by Tantalus) on 220Mhz frequency to determine if the network is reliable and effective in the territory’s terrain.
- Perform frequency analysis from meter to collector in the 900Mhz
- Full report of findings and actions to be taken and make recommendations for resiliency improvements.

**B. Professional Services**

- Provide engineering estimate for full repair/replacement of the AMI system.
- Provide anticipated annual cost to maintain system and system devices.
- Provide a cost/benefit analysis of converting from tower based to IP based collectors.
- Provide a recommendation for meter specifications for a tropical and corrosive environment.
- System optimization
- Review and provide input on VIWAPA’s mitigation plans based on approved FEMA project worksheet. The Authority will provide access to the FEMA project worksheet.

- Write a "Request for Proposal" to include an estimate to perform work (repair or replacement of existing system) based on the results of the of the assessment, actions to be taken and needs of the Authority.
- If applicable, Review and respond to "Request for Proposal" from vendors and /or contractors during the repair or replacement bidding process.
- Review and level bids for conformance to contract specifications.
- Review and evaluate submittals from vendors and/or contractors to insure conformance to contract documents.

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 attached hereto and incorporated by reference herein as Appendix "A";
2. HUD General Provisions "HUD RIDER" attached hereto and made a part hereof as Appendix "B";
3. The Authority's Request for Proposal PR-14-22 dated January 2022 attached hereto and incorporated by reference herein as Appendix "C";
4. The Authority's Request for Proposal PR-14-22 Addendum I attached hereto and incorporated by reference herein as Appendix "D";
5. The Authority's Request for Proposal PR-14-22 Addendum II attached hereto and incorporated by reference herein as Appendix "E";
6. The Authority's Request for Proposal PR-14-22 Addendum III attached hereto and incorporated by reference herein as Appendix "F";
7. The Authority's Request for Proposal PR-14-22 Clarification I attached hereto and incorporated by reference herein as Appendix "G";
8. The Authority's Request for Proposal PR-14-22 Clarification II attached hereto and incorporated by reference herein as Appendix "H";



9. The Contractor's response to the Authority's Request for Proposal dated February 4, 2022, incorporated by reference herein as Exhibit "A";
10. The Contractor's response to the Authority's Clarification I, attached hereto and incorporated by reference herein as Exhibit "B"; and
11. The Contractor's response to the Authority's Clarification II, attached hereto and incorporated by reference herein as Exhibit "C".

No segment of work shall be commenced until the Contractor has obtained approved work packages from the Authority's Project Manager. Tantalus will be a willing and active participant in the Complete Assessment activities and VIWAPA will gain the cooperation and participation by Tantalus, should Tantalus be unwilling or uncooperative to data requests. VIWAPA will also provide access to subject matter experts within the company who can provide data and information about the system.

**2.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 the effective termination date of the contract, which is three hundred eighty (380) days from the effective date in the Notice to Proceed.

**3.CONSIDERATION:** In Consideration of the Contractor's performance of the Work, the Authority shall pay the Contractor the total sum of One Thousand Nine Hundred Ninety Four Dollars and Zero Cents (\$194,000.00). The Consideration shall be based upon the rates outlined in the Contractor's response to the Authority's Request for Proposal, PR-14-22, dated February 04, 2022, identified as Exhibit "A". Consideration for the Work shall also be subject to the Authority's Request for Proposal, PR-14-22, dated



January 2022, attached hereto as Appendix "B". 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:** All invoices shall be submitted electronically to the Project Coordinator. Invoices should also be submitted to the Grants Management Department at [grantsmanagement@viwapa.vi](mailto:grantsmanagement@viwapa.vi). Invoicing shall be submitted upon completion of milestones met for each Phase. All invoices will be based upon thirty (30) days payment terms of approval of the invoices. Payments shall be made on a progress billing and payment method, after review and approval by the Authority's Project Coordinator, in accordance with the below payment schedule:

• 5%- Mobilization:	\$ 9,700.00
• 20%- Data Discovery and Analysis:	\$38,800.00
• 10%- Onsite Evaluation Plan:	\$19,400.00
• 10%-Onsite Evaluation Execution:	\$19,400.00
• 5%- Propagation study Completion:	\$ 9,700.00
• 5% Frequency Analysis Completion:	\$ 9,700.00
• 10%- Failure Report & Life Expectancy Report Completion:	\$19,400.00
• 5%- Meter Read and Reliability Assessment:	\$ 9,700.00
• 20%- overall Recommendation:	\$38,800.00
• 10% -RFP Development and Proposal Evaluation:	<u>\$19,400.00</u>

**TOTAL CONSIDERATION \$ 194,000.00**

**\*Note: A ten percent (10%) retainage shall be withheld from each progress payment and shall be released to the Contractor upon final acceptance of the Work.**

**\*Note: Any approved travel will be invoiced at cost and paid without retainage.**

**5.BUSINESS LICENSE:** The Contractor and, if applicable, any of its sub-contractors, 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.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. The Contractor agrees, or is otherwise aware, that the Authority shall rely on all the representations in its correspondence as incorporated in its submitted document attached hereto as Exhibit "A".

**7.COMPLIANCE WITH DAVIS-BACON ACT:** The Contractor shall comply with the Davis-Bacon and Related Acts (DBRA) as found in the Code of Federal Regulations (Title 29 CFR, parts 1,3,5,6 and 7). Per the DBRA, the Contractor and its subcontractors performing services under this Contract on federal contracts shall pay not less than the prevailing wage rates and fringe benefits listed in the Davis-Bacon Wage Rate Determination for corresponding classes of laborers and mechanics employed on similar projects in the area.

**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. For clarity, the Authority acknowledges that the Contractor is not responsible for indemnification of any claim by Tantalus.

**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 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 any and all applicable U.S. Virgin Islands' fire, health, environmental and public safety codes.

**11.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:

Chavante Marsh  
Project Manager  
V.I. Water and Power Authority  
P.O. Box 1450  
St. Thomas, U.S. Virgin Islands 00804-1450  
(340) 774-3552, ext. 2278  
[chavante.marsh@viwapa.vi](mailto:chavante.marsh@viwapa.vi)

The Contractor designates the following individual in the following capacity:

John O. Wambaugh  
Z2Solutions LLC  
29 Kennebec Drive  
Durango, CO 81301  
(650) 483-5721  
[jwambaugh@z2solutionsllc.com](mailto:jwambaugh@z2solutionsllc.com)

**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.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 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.

**15.INDEPENDENT CONTRACTORS:** It is expressly agreed that the Parties shall be independent contractors and that the relationship between the Parties shall not constitute a partnership, joint venture, or agency. Neither Party shall have the authority to make any statements, representations, or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior consent of such other Party.

**15.FORCE MAJEURE:** Notwithstanding anything to the contrary contained herein, Contractor shall not be liable for any delays or failures in performance resulting from acts



beyond its reasonable control including, without limitation, acts of God, terroristic acts, shortage of supply, labor difficulties, war, or civil unrest.

**16.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 Professional General Contract Terms with Federal Requirements dated March 14, 2019. A copy of the insurance certificate must be presented to the Authority's Contracting officer at contract execution.

**17.CONTRACT DOCUMENTS:** The Contractor shall perform and complete the Work in accordance with the Contract. The "Contract Documents" include Appendixes "A" through "G" and Exhibits "A" through "C" as listed in Paragraph 1 above and incorporated fully by reference herein. In the event of any conflict, the terms of this Contract shall govern.

**18.NON-DISCRIMINATION:** No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of the contracted services on account of race, creed, color, sex, religion, disability, or national origin.

**19.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".

**20.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.

**21.HUD RIDER:** This Contract is subject to the HUD Rider attached hereto and made a part hereof as Appendix "B".

**22.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.

**23.VENUE:** The Parties agree that all causes of action against either Party shall be brought in the court of competent jurisdiction in the United States Virgin Islands.

**24.CHOICE OF LAW:** This Contract shall be governed by and construed in accordance with the laws of the United States Virgin Islands without regard to applicable principles of conflicts of law. Each of the Parties hereto irrevocably consents to the exclusive jurisdiction of any federal or state court located within the United States Virgin Islands, in connection with any matter based upon or arising out of this Contract or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by the laws of the United States Virgin Islands for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction and such process.

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

**26.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: Andrew L. Smith  
Executive Director (CEO)  
V.I. Water and Power Authority  
P.O. Box 1450  
St. Thomas, U.S. Virgin Islands 00804  
[andrew.smith@viwapa.vi](mailto:andrew.smith@viwapa.vi)

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

The Contractor: John O. Wambaugh  
Z2Solutions LLC  
29 Kennebec Drive  
Durango, CO 81301  
(650) 483-5721  
[jwambaugh@z2solutionsllc.com](mailto:jwambaugh@z2solutionsllc.com)

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.

**27.DEBARMENT CERTIFICATION:** By execution of this Contract, the Contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish it subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the Contractor or subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Virgin Islands Water and Power Authority for any payment (s) heretofore made. Contractor understands that the Authority will not release any funds until Contractor's SAMs number has been provided to the Authority and the Authority has verified Contractor's debarment status.

**28.COUNTERPARTS:** 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.

**29.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 15: Contract Documents
- Clause 18: Governing Law
- Indemnification for Injury & Damages (See Appendix "A")

**30.SEVERABILITY CLAUSE:** Should any provision of this Contract be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement shall be unaffected thereby and shall continue to be valid and enforceable.

**31.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.

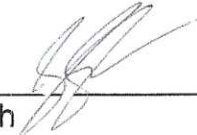
**SIGNATURE PAGE TO FOLLOW**



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

Debra R Wambaugh  
WITNESS

**Z2Solutions LLC**

By:   
John O. Wambaugh  
Managing Principal

  
WITNESS

**V.I. WATER & POWER AUTHORITY**

By:

  
Andrew L. Smith  
Executive Director (CEO)

APPROVED AS TO LEGAL SUFFICIENCY:

Patricia Quinland 1/09/2023  
Patricia Quinland, Esq.  
Assistant Deputy General Counsel

Attachments