

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 SYMBIOSA**

Contract No. SC-07-23

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 14th day of February, 2023 by and between SYMBIOSA, (the "Contractor") located at 2625 Redwing RD #315, Fort Collins, CO 80526 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 performing a post-storm Geographic Information Systems (GIS) Asset Field Inventory Assessment on the electrical transmission and distribution systems and upgrades to the current GIS system.

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 is responsible for inventory and field validation of Geographic Information Systems (GIS) of the Virgin Islands Water and Power Authority's Transmission and Distribution system, as outlined in the Authority's Request for Proposal PR-07-22, attached hereto

WWS

and incorporated by reference herein as Appendix "B". The Contractor's services include but are not limited to:

- Asset inventory to improve VIWAPA's disaster recovery practices;
- Detailed engineering model to enable proper analysis and reporting;
- Populated GIS to track the "as-built" condition of the T & D system; and
- Implement a Map Viewer to facilitate efficiency of business processes.

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", with agreed upon changes as listed in Paragraph 24 with revised WAPA Insurance Requirements attached hereto as Appendix "H" ;
2. The Authority's Request for Proposal PR-07-22 dated October 2021 attached hereto and incorporated by reference herein as Appendix "B";
3. The Authority's Request for Proposal PR-07-22 Addendum I attached hereto and incorporated by reference herein as Appendix "C";
4. The Authority's Request for Proposal PR-07-22 Addendum II attached hereto and incorporated by reference herein as Appendix "D";
5. The Authority's Request for Proposal PR-07-22 Addendum III attached hereto and incorporated by reference herein as Appendix "E";
6. The Authority's Request for Proposal PR-07-22 Addendum IV attached hereto and incorporated by reference herein as Appendix "F";
7. The Authority's Request for Proposal PR-07-22 Addendum V attached hereto and incorporated by reference herein as Appendix "G"; and

RWB

8. Contractor 's Response to the Authority's Request for Proposal PR-07-22, dated December 14, 2021, incorporated by reference herein as Exhibit "A"; agreed upon changes with revised Contractor Proposal attached hereto as Exhibit "B & B-1".

2. CONSIDERATION: In consideration of the Contractor's performance of the Work, the Authority shall pay to Contractor an amount not to exceed SIX MILLION SIX HUNDRED NINETY-SEVEN THOUSAND FOUR HUNDRED NINETEEN DOLLARS and 52/100 (\$6,697,419.52). The total consideration stated herein shall be for all Work performed by the Contractor pursuant to this Contract. Payment of any taxes, duties, customs, excise or other fees shall be the sole responsibility of the Contractor. The Authority shall not be responsible in any way for any taxes, customs, duties, excise, or other fees.

3. TERM/PROGRESS REPORTS: 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 one (1) year from the issuance of the Notice to Proceed. The Authority and Contractor may extend, in writing, the term of this agreement.

4. 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 pursuant to 33 V.I.C. § 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 V.I.C. §43(a). Despite the requirements under Title 33, Section 44, the Contractor agrees that calculation of gross receipts taxes shall

AWB

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 changes, the appropriate amount of gross receipt taxes to reflect the change in the consideration will be deducted.

5. TERMS OF PAYMENT: The Authority shall make payment to the Contractor in the amount of Two Hundred Thousand Dollars and 00/100 (\$200,000.00) of the Contract Consideration of Six Million Six Hundred Ninety-Seven Thousand Four Hundred Nineteen Dollars and 52/100 (\$6,697,419.52) upon execution of the Contract for the Project Set up and Mobilization. Monthly invoices of Work will be submitted by the Contractor. Corresponding payments will be made upon receipt of a Certificate of Acceptance from the Project Coordinator.

6. BUSINESS LICENSE: The Contractor, who will not be performing work in the U.S. Virgin Islands, shall provide a copy of their current business license from their state, jurisdiction, or county. All sub-contractors, however, hired in connection with this Scope of Work who will be performing work in the U.S. Virgin Islands shall obtain all necessary and applicable U.S. Virgin Islands 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 present its license and fails to do so in a timely manner.

KWB

7. 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 dated March 14, 2019, incorporated by reference herein as Appendix "A" with agreed upon changes as reflected in Appendix "H". A copy of the insurance certificate must be presented to the Authority's Contracting Officer upon contract execution, failing which the Contract award may be rescinded.

8. LIQUIDATED DAMAGES: The Authority may assess liquidated damages solely for Contractor's delay in performing the Work. For each day that performance of the Work extends beyond the specified completion date, for any cause other than excusable causes as defined in Clause 10 of the Authority's attached Professional General Contract Terms, the Contractor shall be liable to the Authority and shall be assessed liquidated damages in the amount of One Hundred Dollars and 00/100 (\$100.00) a day subject to a maximum of liquidated damages not to exceed fifteen percent (15%) of the total consideration stated herein. Liquidated damages shall, at the Authority's discretion, be the sole remedy for delay damages.

9. INDEMNIFICATION: The Authority is entitled to indemnification in accordance with Section 15 of the Authority's Professional General Contract Terms, dated March 14, 2019, as revised by Paragraph 24 below. 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.

10. COMPLIANCE WITH DAVIS-BACON ACT: The Contractor shall comply with the Davis-Bacon and Related Acts (DBRA) as found in the Code of

sub

Federal Regulations (Title 29 CFR, parts 1,3,5,6 and 7). Per the DBRA, the Contractor and its sub-contractors 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.

11. ENVIRONMENTAL RESPONSIBILITY: The Contractor shall, in the performance of the 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 attorneys of the Authority in connection with any action taken by the regulator in this matter.

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 as its Project Coordinator:

Ambi Blyden
Project Coordinator
V.I. Water and Power Authority
St. Thomas, VI 00804
Cell: (340) 626-1397
ambi.blyden@viwapa.vi

AMB

The Contractor designates the following:

Andrew Belvan
President
Symbiosa
2625 Redwing Rd. #315
Fort Collins, CO
Cell: (970)672-7795
awbelvan@symbiosa.com

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. CONTRACT DOCUMENTS: The Contractor shall perform and complete the Work in accordance with the Contract. The "Contract Documents" include Appendixes "A" through "H" (as revised by Paragraph 24 below) and Exhibits "A" 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.

15. 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.

16. 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.

17. RELIANCE: The Contractor's representations of its ability to perform the Work with skilled and competent personnel area substantial and material condition of this Contract. The Contractor agrees, or is otherwise aware, that the Authority shall

AWB

rely on all the representations in its correspondence as incorporated in the submitted documents attached hereto as Exhibits "A".

18. 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.

19. 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

AWB

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.

20. PRESENTATION OF COMPLIANCE WITH THE LAW: The Parties hereto represent and warrant that this Contract 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 Contract to the extent such performance would violate any law, regulation, or policy of the United States.

21. INDEPENDENT CONTRACTOR: The Contractor shall perform this Contract as an independent contractor, and nothing herein contained shall be construed to be inconsistent with this relationship or status.

22. 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.

23. ASSIGNMENT: The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Authority.

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

AWB

The Parties have agreed to delete the referenced Paragraphs and replace with the language as delineated herein:

3. COMMENCEMENT , PROSECUTION AND COMPLETION OF WORK

b. The Contractor shall furnish and maintain during the performance of the Work, a competent resident supervisory representative who shall have the title of Project Manager: Provided that the Authority shall have the right to require, to the extent legally permissible, the removal from the Site of any employee of the Contractor of any subcontractor if in the judgment of the Contracting Officer such removal is necessary to protect the interest of the Authority.

7. CHANGES

The Contracting Officer may at any time and without notice to the sureties issue a written request for changes in the Work if within its general scope. Within the time specified in the request but not later than thirty (30) days after its receipt, the Contractor shall submit an estimate of the effect of the changes, if any, upon the Contract price, the completion date, or other terms or conditions of the Contract. The changes shall not be put into effect, nor shall any work proceed, until ordered in writing by the Contracting Officer. Contractor's actions in proceeding with the changes to the scope of work without first securing written authorization from the Contracting Officer shall result in the legal presumption that shall be prima facie that the Contractor is not entitled to additional compensation. Compensation for changes to the scope of work, or extensions of the completion date because of changes, or other modifications of the Contract due to change shall be set forth in Contract change orders. Provided however, that disagreement between the parties on adjustments for changes shall not excuse the Contractor from proceeding with the prosecution of the Work as changed, unless the change involves an amount equal to or greater than 10% of the total amount due to Contractor for the original scope of work, in which case the Contractor shall not be obligated to perform the additional work until a change order is executed by the parties .

9. A. TERMINATION FOR DEFAULT

(i) If the Contractor shall commit a material breach or default of any of its covenants or obligations under the Contract and shall fail to commence to remedy the same within seven (7) work days after receipt of written notice thereof by the Authority, and also to proceed with due diligence to remedy the same and in all events, to remedy the same within ten (10) work days after such written notice, the Authority may terminate by fifteen (15) days written notice the Contractor's right to proceed with the Work or such part thereof as to which there has been a default. In such event, the Authority may take over the Work and prosecute same to completion by contract or otherwise and the Contractor and his sureties may be liable to the Authority for any excess reasonable 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

Amk

final completion of the Work. If the Contractor's right to proceed is so terminated, the Contractor shall provide so that the Authority can utilize in the completion of the Work such materials, data, reports, calculations, and information as has been compiled by Contractor in the performance of the Work which the Authority has previously paid for.

12. TERMS OF PAYMENT

(1) Payments will be in accordance with the following:

Payment will be made on a monthly basis on work completed and delivered that month. Invoicing shall reference the Item Numbers identified in Electric Distribution Asset Payment Schedule

c. In making such partial payments there shall be retained ten percent (10%) on the invoiced amount until final completion and acceptance of the Work contained within each invoice: Provided, however, that the Contracting Officer at any time after fifty percent (50%) of the Work has been completed, may approve the payment of any of the remaining partial payments in full.

(2) Upon completion and acceptance of the Work, the amount due the Contractor under this Contract will be paid upon the presentation of a properly executed and duly certified invoice thereof. The Contractor shall furnish the Authority with a release, if required, of all claims against the Authority arising under and by virtue of the Contract, other than such claims, if any, for retainage amounts and as may be specifically accepted by the Contractor from the operation of the release in stated amounts to be set forth therein.

15. INDEMNIFICATION FOR INJURY AND DAMAGE CLAIMS

(a) Contractor shall indemnify, defend, and hold the Authority and its servants, employees and agents harmless against any and all claims, damages, injuries, suits, actions, causes of action for damages or alleged damages, orders, judgments, expenses, costs, and reasonable attorney's fees, arising after the commencement of the contract, brought for damages or alleged damages arising out of any injury or loss of life, claim or demand of any person or property, to the extent caused by Contractor's subcontractors, subcontractor employees, agents, or invitees, negligent performance of the work. Notwithstanding anything to the contrary in this Contract, Contractor's indemnity, defense, and hold harmless obligations will not extend to any claim or liability that is alleged to be caused by the negligence or willful misconduct of the indemnified party or other third party not controlled by Contractor; rather, such indemnification claims will be administered based upon a determination of the degree of comparative fault of each party. Contractor retains the right to select counsel reasonably acceptable to the indemnified party. The indemnified party will provide reasonable cooperation and not unreasonably withhold consent to settle any claims for which Contractor is providing defense or indemnification. Notwithstanding anything to the contrary in this Contract, all of Contractor's indemnification, defense and hold harmless obligations in this Contract will survive the expiration or earlier termination of this Contract for a period of three years.

Handwritten initials

(b) If the Authority is sued for acts indemnifiable by Contractor pursuant to subsection (a) above, the Contractor shall promptly accept the tender of defense made by the Authority, as a condition of this contract .

(c) Notwithstanding any other provisions of this Agreement to the contrary, neither the Authority nor Contractor shall be liable whether in contract, tort (including negligence), strict liability, products liability, indemnity, contribution, or any other cause of action for punitive, special, indirect, incidental or consequential losses or damages, including loss of profits, use, opportunity, revenues, financing, bonding capacity, or business interruptions. Notwithstanding anything to the contrary in this Contract, in no event will Contractor's aggregate liability arising out of or related to this Contract, or the work performed under this Contract, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the amount of the applicable insurance limits set forth in Exhibit Appendix H.

(d) Notwithstanding anything to the contrary in this Contract, Contractor will provide information and services under this Contract as to the conditions present at the point in time the inspection is performed and shall not be liable for changes to such inspected conditions after such time and shall not be responsible for subsequent actions or inactions taken as a result of the work.

16. RIGHT TO AUDIT

Contractor shall establish and maintain a reasonable accounting system that enables the Authority to readily identify Contractor's assets, expenses, costs of goods, and use of funds. The Authority shall have the right to audit and to examine all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Agreement kept by or under the control of the Contractor, including, but not limited to those kept by the (Contractor), its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

Contractor shall, at all times during the term of this Agreement and for a period of five years after the completion of this Agreement, maintain such records, together with such supporting or underlying documents and materials. The Contractor shall at any time requested by the Authority, whether during or after completion of this Agreement, and at Contractor's own expense make such records available for inspection and audit by the Authority along with an adequate workspace . Such records shall be made available to the Authority during normal business hours at the Contractor's office or place of business and subject to a three-day written notice/without prior notice. In the event that

AWB

no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for the Authority.

Contractor shall ensure the Authority has these rights with Contractor's employees, agents, assigns, successors, and subcontractor, and the obligation of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligations to Authority.

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by the Authority unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the Contractor to the Authority in excess of one-half of one percent (.005%) of the total contract billings, the Contractor shall reimburse the Authority for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, the Authority may recoup the costs of the audit work from the Contractor. Any adjustments and/or payments that must be made, by Contractor or Authority, as the case may be, as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the Authority's findings to Contractor.

24. OTHER REQUIREMENTS

All of the reports, information, data, studies, reports, memoranda documents, etc., prepared or assembled by Contractor pursuant to the Work are confidential and Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the Authority.

All documents and data, written or otherwise generated by Contractor under the Contract including original drawings, estimates, reports, specifications, calculations, field notes, data, etc., and work product are to become the property of and shall be delivered to the Authority. Contractor to retain once reproducible copy of these documents generated by the Contractor.

Contractor shall, to the extent legally permissible, remove from the Work any person assigned thereto who is deemed by the Authority to be objectionable. Contractor shall not remove or reassign its Project Manager in charge of the Work or its other key personnel designated in the Contract without the prior approval of the Authority unless such person is no longer employed by the Contractor.


Hub

37. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, and Executive Orders, FEMA policies, procedures, and directives. Contractor's obligations under this Contract and the Authority's obligation to pay the Contractor for services performed under this Contract are contingent upon the availability of applicable disaster recovery funds. In the event the Authority becomes aware that funding for the Work is suspended or otherwise unavailable, the Authority shall give notice to Contractor immediately, and either Contractor or the Authority may terminate this Agreement. Notwithstanding the foregoing, Contractor shall be paid for all costs and services incurred to the date of any such non-availability of applicable disaster recovery funds. Payment for services rendered under this Contract to be paid is not eligible for reimbursement from any other funding source.

25. CONFLICT OF INTEREST: The Contractor warrants and represents that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its obligations under the Contract. If any such actual or potential conflict of interest arises under this Contract, the Contractor shall immediately inform the Authority in writing of such conflict. If, in the reasonable judgment of the Authority, such conflict poses a material conflict to and with the performance of Contractor's obligations under this Contract then the Authority may terminate the Contract immediately upon written notice to Contractor; such termination of the Contract shall be effective upon the receipt of such notice by the Contractor.

26. EMPLOYMENT OF U.S. VIRGIN ISLANDS RESIDENTS: The Contractor shall comply with 24 V.I.C. § 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.

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. The Contractor 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, the 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, the 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.

27. DEBARMENT CERTIFICATION: By execution of this construction 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 its subcontractors

amb

with the current "LISTS OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the contractor or any 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 construction contract or any subcontract and that the contractor or subcontractor shall promptly reimburse the Virgin Islands Water & Power Authority for any payment(s) heretofore made.

28. 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.

29. 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.

30. 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 extend 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,

AWB

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.

31. 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: 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

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

The Contractor: Andrew Belvan
President
Symbiosa
2625 Redwing Rd. #315
Fort Collins, CO
Cell: (970)672-7795
awbelvan@symbiosa.com

32. COUNTERPARTS: This 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.

AWB

33. SURVIVAL: The following sections of this Contract will survive the termination or expiration of this Contract for a period of three years and will remain in effect until fulfilled:

- Clause 2: Consideration
- Clause 9: Indemnification
- Clause 14: Contract Documents
- Clause 29: Choice of Law

34. 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.

35. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, and Executive Orders, FEMA policies, procedures, and directives. Contractor's obligations under this Contract and the Authority's obligation to pay the Contractor for services performed under this Contract are contingent upon the availability of applicable disaster recovery funds. In the event the Authority becomes aware that funding for the Work is suspended or otherwise unavailable, the Authority shall give notice to Contractor immediately, and either Contractor or the Authority may terminate this Agreement. Notwithstanding the foregoing, Contractor shall be paid for all costs and services incurred to the date of any such non-availability of applicable disaster recovery funds. Payment for services rendered under this Contract to be paid is not eligible for reimbursement from any other funding source.

Awb

36. 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)

RWB

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



WITNESS

SYMBIOSA


ANDREW BELVAN
PRESIDENT


WITNESS

V.I. WATER AND POWER AUTHORITY


ANDREW L. SMITH
Executive Director (CEO)

APPROVED AS TO LEGAL SUFFICIENCY:


Dionne G. Sinclair
General Counsel

Attachments

Am 5