



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 VIVOT EQUIPMENT CORPORATION

**Contract No. SC-04-23**

**The Within Contract is a properly negotiated agreement from 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 Agreement (hereinafter "the Contract") is entered into this 3rd day of August 2022 by and between VIVOT Equipment Corporation (hereinafter called the "Contractor") of 9010 Estate Cottage 2, Christiansted, U.S. Virgin Islands 00820 and the Virgin Islands Water and Power Authority (hereinafter called the "Authority"), located at 9720 Estate Thomas, mailing address, Post Office Box 1450, U.S. Virgin Islands 00820, to provide removal and disposal of Seaweed and installation of Deflection Booms in and around the Estate Richmond Seawater Intake, St. Croix, U.S. Virgin Islands,. The Authority and Contractor shall hereafter be jointly 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/WORK:** The Scope of Work set forth herein shall hereinafter be referred to as the "Work". Upon the issuance of a written "Notice to

Proceed" by the Authority, the Contractor shall, furnish all necessary labor, equipment and supplies for the removal of floating seaweed in between the Authority's Richmond Dock and the seawater intake as well sunken seaweed along the shoreline of Richmond Power Plant. The seaweed will initially be placed inland to dry and then into roll off bins for disposal to the approved debris sites designated by the Project Coordinator. In addition, Contractor will provide and install deflection booms from the Authority's dock around the seawater intake to the perimeter shoreline of the Richmond Power Plant. Work shall conform to the Authority's General Contract Terms with Federal Requirements, attached hereto as Appendix "A" and the Contractor's Scope of Work, attached hereto as Exhibit "A".

**2. CONSIDERATION:** In consideration of the Contractor's performance of the Work, the Authority shall pay to Contractor an amount not to exceed One Hundred Ninety Five Thousand Dollars and 00/100 (\$195,000.00). 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.

Monthly invoices of Work will be submitted by Contractor. Corresponding payments will be made upon receipt of a Certificate of Acceptance from the Project Coordinator.

**3. TERMS OF PAYMENT:** Contractor shall submit invoices to the Authority. Payment terms are Net 30 days after approval of the invoice by the Authority's Project Coordinator. 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.



**4. 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 October 31, 2022, from the issuance of the Notice to Proceed

**5. SCHEDULE:** The Parties shall mutually agree on any specific schedule of interim milestones required for the Work requested by the Authority.

**6. BUSINESS LICENSE** The Contractor must comply with all Virgin Islands' laws with respect to licensing which must be obtained in connection with its business operation(s). The Contractor shall further ensure that all subcontractors hired in connection with this Scope of Work comply with all Virgin Islands business license requirements. All necessary and applicable license(s) for Contractor and its subcontractor(s) shall be obtained by the Contractor and copies presented to the Contracting Officer concurrent with its execution of the Contract. Failure by Contractor to present business license(s) for itself and its subcontractors at the time of execution of the Contract by the Contractor may at the sole option of the Authority, be grounds to rescind the Contract award and consider the contract void.

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

Resident workers shall be given preference in employment in the Virgin Islands in any industry or occupation for which such workers are qualified and available. Nonresident workers shall be employed only to supplement the labor force of available and qualified workers. No resident workers shall suffer any reduction in workweek below 40 hours a week by reason of an employer employing a non-resident worker. No employer shall employ a non-resident worker except in strict



accordance with the provisions of this chapter and regulations hereunder. Nothing contained herein shall be construed to interfere with the policy of the Employment Services in canvassing of affiliated state employment services to obtain workers before issuing clearance certification for alien workers.

The Contractor shall comply with requirements of 31 VIC §§ 271 and 272 and Title 24, Chapter 6 (Protection of Resident Workers) and hire Virgin Islands Residents and 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 VIC §272 and 27 VIC §303b.

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



**8. DAMAGES:** Consequential Damages-Exclusion of Damages: Notwithstanding anything in this Contract to the contrary, neither party shall be liable to the other for any indirect, special, incidental, punitive, exemplary or consequential damages, whether based in contract, tort, warranty, strict liability or otherwise, including, but not limited to damages for lost production, lost revenue, lost product, lost profits, lost business or loss of use whether or not such damages were foreseeable or either party was advised of the possibilities of such damages; except to the extent of such party's (including parties under its control) willful misconduct, gross negligence, and/or breach of confidentiality provisions, and indemnity obligations hereunder for third party claims.

Limitation of Aggregate Liability: Contractor's aggregate liability hereunder, from any cause and based on any theory whatsoever, shall not in the aggregate exceed the Contract price, except to the extent of Contractor's (including parties under its control) willful misconduct, gross negligence, and/or breach of confidentiality provisions, and Contractor's indemnity obligations hereunder for third party claims, in which case no limits shall apply.

**9. LATENT SITE CONDITIONS:** Respective Responsibilities of the Parties at the Site – Latent Site Conditions: Anything to the contrary notwithstanding, should concealed or unknown physical conditions be encountered in the performance of the Work, below the surface of the ground or in an existing structure, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, the Contract rates and Contract time for performance shall be equitably adjusted by Change Order as mutually agreed to between the Parties.



Hazardous Materials: Anything to the contrary notwithstanding, Contractor shall have no liability for any hazardous material as described above not introduced to the Work location by it, and the Authority shall indemnify, defend and hold harmless Contractor for any claims or liabilities arising from preexisting or latent hazardous materials, except to the extent Contractor negligently or willfully exacerbates same and fails to take action to mitigate any resultant damage.

**10. 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 Exhibit "A".

**11. 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.

**12. 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.

**13. 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
3. RCRA- Resource Conservation and Recovery Act
4. TSCA- Toxic Substance and Control Act
5. DOT- Department of Transportation
6. NSF- National Sanitation Foundation

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

**14. COVID-19 REQUIREMENTS:** The Contractor shall, during the pendency of this Contract 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 dated May 5, 2020, as well as other applicable OSHA and CDC guidance documents in the



preparation of its plan. At execution of this Contract, the Contractor shall present the Authority with a copy of its COVID-19 plan.

The Contractor's 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 "C." Each employee of the Contractor performing work for the Authority who has traveled within the past three (3) months or has recently arrived in the Territory must fill out Appendix "C" 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.

**15. 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:

Maxwell George  
V.I. Water & Power Authority  
P.O. Box 1450  
St. Thomas, U.S. Virgin Islands 00804-1450  
(340) 774-3552, ext. 2273  
[Maxwell.George@viwapa.vi](mailto:Maxwell.George@viwapa.vi)  
[\(340\) 690-8993](tel:(340)690-8993)

The Contractor designates the following individual in the following capacity:

Patrick Vivot  
VIVOT Equipment Corporation  
9010 Estate Cottage Suite 2  
Christiansted, VI 00820  
[Patrick.vivot@gmail.com](mailto:Patrick.vivot@gmail.com)





**16. 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.

**17. 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

**18. 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 General Contract Terms dated March 14, 2019. A copy of the insurance certificate must be presented to the Authority's Contracting officer upon contract execution, failing which the Authority may rescind the Contract award.

**19. 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 General Contract Terms with Federal Requirements dated March 19, 2019. This document is incorporated by reference herein as Appendix "A";
2. The Authority's Contractor COVID 19 Protocol, incorporated by reference herein and identified as Appendix "B"; and



3. The Contractor's Proposal, dated July 22, 2022, collectively incorporated by reference herein and identified as Exhibit "A".

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

**20. GENERAL CONTRACT TERMS:** This Contract is subject to the Authority's General Contract Terms with Federal Requirements attached hereto and made a part hereof as Appendix "A".

**21. HAZARDOUS WASTE CONTROL:** The Contractor shall be responsible for complying with all applicable Rules, Regulations and Guidelines issued by the U.S. Environmental Protection Agency (EPA), V.I. Department of Planning and Natural Resources (DPNR), and any other Federal, State or local regulatory agencies with regard to the discharge or spill of oil, petroleum products, lead or lead based products, contaminated soil or other prohibited contaminants during the performance of the Work pursuant to this Contract. Contractor shall also become familiar with and adhere to the policies and practices of the Authority regarding the discharge or spilling of oil, petroleum products, lead or lead based products, and contaminated soil and any other hazardous or solid waste which the Contractor shall be required to work with or dispose of in the performance of the Work. The Contractor shall not discharge paint or any oily products into the Authority's storm drains. The Contractor shall indemnify the Authority for any and all fines, assessed the Authority as a result of the Contractor's failure to adhere to any CZM Permits, EPA, OSHA, DPNR, and Coast Guard's regulations and directives, and shall further pay all costs, expenses and attorney's fees, in connection therewith. Additionally,



the Contractor shall indemnify the Authority for the cost of cleaning up oil spills and any other discharges.

**22. 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.

**23. CONTRACT DOCUMENTS:** Contractor shall complete Work to be performed in accordance with the Contract documents. The Contract Documents include:

1. The Authority's General Contract Terms with Federal Requirements dated March 19, 2019. This document is incorporated by reference herein as Appendix "A";
2. The Authority's Contractor COVID 19 Protocol, incorporated by reference herein and identified as Appendix "B"; and
3. The Contractor's Proposal, dated July 22, 2022, collectively incorporated by reference herein and identified as Exhibit "A".

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

**24. 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  
                             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: Patrick Vivot  
President  
VIVOT Equipment Corporation  
9010 Estate Cottage Suite 2  
Christiansted, VI 00820  
[patrick.vivot@gmail.com](mailto:patrick.vivot@gmail.com)

**25. 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.

**26. GOVERNING LAW:** The laws of the United States 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 United States Virgin Islands. The Authority shall not invoke the defense of sovereign immunity in any litigation arising under the Contract.

**27. 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.

**28. SEPARABILITY:** If a court of competent jurisdiction declares any of the Contract provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of the Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

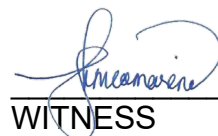
**29. SURVIVORSHIP.** The respective rights and obligations of the parties hereunder, including the rights and obligations set forth in Sections 1, 2, 3, 4, 7, 10 11, 12, of this Agreement, shall survive any termination of this Agreement to the extent necessary to the intended preservation of such rights and obligations.

**30. ENTIRE AGREEMENT:** The 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.

  
WITNESS

**VIVOT EQUIPMENT CORPORATION**

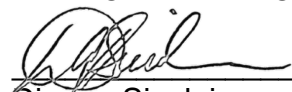
  
PATRICK VIVOT  
President

  
WITNESS

**V.I. WATER AND POWER AUTHORITY**

  
ANDREW L. SMITH  
Executive Director (CEO)

APPROVED AS TO LEGAL SUFFICIENCY:

  
Dionne Sinclair  
General Counsel

Attachments