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**EXERCISE OF EXTENSION OPTION
GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS**



DEPARTMENT OF PROPERTY & PROCUREMENT

CONTRACT NO.: P099VEOC22

DATED: May 11, 2022

EXERCISE OF EXTENSION OPTION

Contractor	Description of Scope of Work/Services
Waldemar (Tito) Toro Davila AT Construction Solutions, LLC P.O. Box 2128 San Juan, PR 00922	The Contractor shall develop, install, and commission a Solar plus Battery Storage Microgrid at the St. Croix Educational Complex located at Rural Route No. 2, Kingshill, VI 000850.

Pursuant to the extension option provision of Contract No. P099VEOC22, and subject to the appropriation and allotment of necessary funds, notice is hereby given that the Government of the U.S. Virgin Islands, the Energy Office exercises its option extend and does hereby extend the aforementioned contract for the period April 24, 2023 to October 20, 2023, at the stipulated cost therein.

All the terms, covenants, and conditions of the contract affected shall continue in full force and effect. A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

Please acknowledge receipt and acceptance hereby signing and returning to:

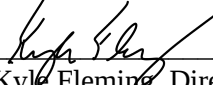
The Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

ACKNOWLEDGMENT & ACCEPTANCE:



Waldemar Toro Davila, Partner
AT Construction Solutions, LLC

GOVERNMENT OF THE VIRGIN ISLANDS



Kyle Fleming, Director
Virgin Islands Energy Office

DATE: 08/10/23

DATE: 9/21/2023

Renewal Option to P099VEOC22

Extension Option to Contract No. P099VEOC22
VIEO, VIDE & AT COstruction Solutions



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A handwritten signature in black ink, appearing to read "Dionne Wells-Heddrington".

Dionne Wells-Heddrington, Commissioner
Department of Education

DATE: 09/21/2023

A handwritten signature in blue ink, appearing to read "Lisa Alejandro".

MAN

Lisa Alejandro, Commissioner Designee
Department of Property & Procurement

DATE: 9/28/2023

Extension Option to Contract No. P099VEOC22

Approved pursuant to Section 7.b of EXO - 477-2016



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**AMENDMENT No. 1 OF
PROFESSIONAL SERVICES CONTRACT**

THIS AMENDMENT made as of the 25th day of October, 2022 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands **Department of Procurement and Procurement**, on behalf of the **Virgin Islands Energy Office** and the **Virgin Islands Department of Education** (hereinafter referred to as “**Government**”) and **AT Construction Solutions, LLC** whose address is P. O. Box 2128, San Juan, PR 00922 (hereinafter referred to as “**Contractor**”).

Both parties witness to being duly authorized to execute this agreement and will attest accordingly when and where necessary.

WITNESSETH

WHEREAS, pursuant to Contract No. **P099VEOC22** approved by the Governor on **May 11, 2022** (which constitutes and is hereinafter referred to as the “Contract”), the Government contracted with Contractor to develop, install, and commission a solar plus battery storage micro-grid system at the St. Croix Educational Complex located at Rural Route No. 2, Kingshill, VI 00850; and

WHEREAS, the Contract expires pursuant to its terms on **April 23, 2023**; and

WHEREAS, the parties desire to amend the Contract to include the Virgin Islands Department of Education as a signing party and source of funding; and

WHEREAS, the Virgin Islands Department of Education agrees to support the Contract in the amount of Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00) through the United States Department of Education American Rescue Plan Education Stabilization Fund, Grant Award Notification (GAN) No. S425A210004; and

WHEREAS, the funds provided by the Virgin Islands Department of Education will be used to pay for the Electrical Consumption Audit along with portions of the cost for the Electrical Drawings in Phase 1, and portions of the cost for “Materials and Parts” such as batteries, inverters, and photovoltaic (PV) modules, PV racking system, and PV switch gears; and

WHEREAS, the amendment of the Contract pursuant to this Amendment No. 1 of Professional Services Contract shall not result in any change to the scope of services provided for under the Contract and shall not require an increase to the compensation originally provided for under the Contract.

NOW THEREFORE, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:



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TERMS AND CONDITIONS

1. The Preamble of the Contract is amended to add “and the Virgin Islands Department of Education” after “the Virgin Islands Energy Office”.
2. Paragraph No. 3 – Compensation is hereby amended by adding the following text at the end of Paragraph 3:

“The Virgin Islands Department of Education (VIDE) will contribute an amount not to exceed Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00) which will be used to pay for the Electrical Consumption Audit along with portions of the cost for the Electrical Drawings in Phase 1, and portions of the cost for “Materials and Parts” such as batteries, inverters, and photovoltaic (PV) modules, PV racking system, and PV switch gears.”

3. Paragraph No. 21 – Notice is hereby amended by adding the following text after the address block for the Virgin Islands Energy Office:

Dionne Wells-Hedrington, Ed. D.
Commissioner Nominee
Department of Education
1834 Kongens Gade
St. Thomas, VI 00802

4. The signature page of the Contract is amended to add the Virgin Islands Department of Education as a signatory effectuated by the signatures herewith.
5. This Amendment is subject to the approval of the Governor of the Virgin Islands and to the appropriation and availability of funds.
6. Except as expressly amended in this Amendment, all terms of the Contract remain in full force and effect.
7. **FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

[INTENTIONALLY LEFT BLANK – SIGNATURES FOLLOW]



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IN WITNESS WHEREOF, the Parties have hereunto set their hands on the day and year first above written.

GOVERNMENT OF THE VIRGIN ISLANDS

Dionne Wells-Hedrington, Ed. D., Commissioner Nominee
Department of Education

10/04/2022

Date

Kyle Fleming, Director
Virgin Islands Energy Office

10/5/2022

Date

Anthony D. Thomas, Commissioner
Department of Property & Procurement

10/10/2022

Date

CONTRACTOR

Waldemar (Tito) Toro Davila, Partner
AT Construction Solutions, LLC

10/04/22

Date

APPROVED:

Honorable Albert Bryan Jr.
GOVERNOR OF THE VIRGIN ISLANDS

Date: 10-25-22

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY: Date 10/12/2022



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CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 11th day of May, 2022, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Virgin Islands Energy Office (hereinafter referred to as "Government") and AT Construction Solutions, LLC (hereinafter referred to as "Contractor"), both hereinafter referred to as the "Parties".

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to develop, install, and commission a solar plus battery storage micro-grid system at the St. Croix Educational Complex, which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the Government solicited the services under RFP-015-C-2021 (P); and

WHEREAS, the Contractor represents that it is willing and capable of providing such services; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

The term of this Contract shall be from March 9, 2022 and shall terminate four hundred ten (410) days thereafter. Upon the date of execution of this Contract by the Governor of the U. S. Virgin Islands, this Contract shall become effective for the Term set out herein. Government shall issue a Notice to Proceed subject to Section 16 of this Contract before Contractor can proceed with the Work. The Government in its sole discretion, shall have the option to extend this Contract for a period of one hundred eighty (180) days subject to the same terms noted herein, by providing the Contractor with thirty (30) days written notice of the Government's election to extend. Contractor can request an extension for just cause, including changes in the Work, encountering hazardous materials or concealed/unknown conditions, epidemics, terrorism, war, adverse governmental actions, adverse weather conditions, unavoidable circumstances, delays in materials or transportation deliveries out of the control of the Contractor, in such circumstances an equitable adjustment shall be made in accordance with the provisions of Section 13 of this Contract.



3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed **One Million Forty-Nine Thousand Three Hundred Thirty-Four Dollars and Zero Cents (\$1,049,334.00)** in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this contract.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed N/A (\$ N/A).

5. RECORDS

The Contractor when applicable, will present documented precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government. Contractor may retain copies of such documents necessary for tax and/or auditing purposes.

8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any



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such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance, gross receipt, excise, and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

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

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. 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.

12. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. 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 hereto or 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.

14. ENTIRE AGREEMENT

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this Agreement. This agreement supersedes all prior communications, contracts, or



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agreements between the parties with respect to the subject matter addressed in this agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor equivalent in value to the noncompliance, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor of the Virgin Islands. Before issuing a Notice to Proceed, Government shall certify to Contractor that all funds are appropriated and available.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on thirty (30) days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing thirty (30) days written notice to the Contractor. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the thirty (30) day notice and materials acquired but not yet installed and which will be turned over to the Government upon payment therefor.

19. NON-DISCRIMINATION



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No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

- (a) Contractor covenants 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 services required to be performed under this Contract.
- (b) Contractor further covenants that it is:
 - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or
 - (2) a territorial officer or employee and, as such, has:
 - (i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
 - (ii) not made, negotiated or influenced this Contract, in its official capacity; and
 - (iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

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 personally delivered, addressed to the parties as follows:

GOVERNMENT

Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

Kyle Fleming
Director
Virgin Islands Energy Office
4101 Mars Hill
Frederiksted, VI 00840



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CONTRACTOR

Waldemar (Tito) Toro Davila

Partner

AT Construction Solutions, LLC

P.O. Box 2128

San Juan, PR 00922

22. LICENSURE

The Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addenda I, II, III (Provisions from 2 CFR 200 - Appendix II), and Attachment A (U.S. Virgin Islands Water and Power Authority Requirements for Interconnecting Generating Facilities to the Electrical Distribution System – September 2019) attached hereto are a part of this Contract and are incorporated herein by reference.

24. 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 its subcontractors with the current "LIST 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 contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor



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acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

27. INSURANCE

Contractor shall maintain the following insurance coverages during the term of this Contract

- (a) **COMMERCIAL GENERAL LIABILITY:** Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars (\$1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars (\$1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement.
- (b) **PROFESSIONAL LIABILITY:** Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars (\$1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.
- (c) **WORKERS' COMPENSATION:** Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

[INTENTIONALLY LEFT BLANK – SIGNATURES FOLLOW]



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IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

Lynette Sierra

Kyle Fleming

Kyle Fleming, Director
Virgin Islands Energy Office

3/23/2022

Date

Angelene A. Francis

Anthony D. Thomas

Anthony D. Thomas, Commissioner
Department of Property and Procurement

4/1/2022

Date

CONTRACTOR

Waldemar (Wally) Toro

Waldemar (Tito) Toro Davila
Partner AT Construction
Solutions, LLC

03/18/22

Date

(Corporate seal, if Contractor is a corporation)

APPROVED:

Honorable Albert Bryan Jr.

Honorable Albert Bryan Jr.

GOVERNOR OF THE U.S. VIRGIN ISLANDS

Date: 5/11/22

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY: Carol E. McDougal

Assistant Attorney General

Date 4/4/2022

PURCHASE ORDER NO. _____