

**VIRGIN ISLANDS WATER AND POWER AUTHORITY POST OFFICE BOX 1450  
SAINT THOMAS  
U.S. VIRGIN ISLANDS 00804 1450**



**CONTRACT BETWEEN THE VIRGIN ISLANDS WATER AND POWER AUTHORITY  
AND DAVEY RESOURCE GROUP, INC.**

**SC-16-25**

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

This Contract is entered this 7th day of March, 2025, by and between the **VIRGIN ISLANDS WATER AND POWER AUTHORITY** (hereinafter called "VIWAPA" or the "Authority"), at mailing address Post Office Box 1450, St. Thomas, U.S. Virgin Islands 00804 and **DAVEY RESOURCE GROUP (DRG), INC** (hereinafter called the "Contractor"), located at 295 South Water Street, Ste. 300, Kent, Ohio 44240, to provide field assessments/data collection on poles, development of VIWAPA client file in pole loading analysis software, perform clearance and structure analysis, determine pole strength and loading conditions, evaluate results for make-ready engineering recommendations, and document and update of VIWAPA Geographic Information System (GIS) platform. The Authority and the Contractor shall hereinafter each be referred to as the "Party" and jointly as the "Parties".

## WITNESSETH

In consideration of the mutual promises, covenants, and conditions contained herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

**1. SCOPE OF WORK:** The Contractor, upon notification from the Authority, shall provide field assessments/data collection on poles, development of VIWAPA client file in pole loading analysis software, perform clearance and structure analysis, determine pole strength and loading conditions, evaluate results for make-ready engineering recommendations, and document and update of VIWAPA Geographic Information System (GIS) platform, including but not limited to the following:

- **Field Data Collection Services** – Field data will be collected during the inventory stage to verify and evaluate the serviceability of the pole for the intended attachments (loading, clearance, condition). Contractor will provide experienced staff with data collection as well as the Make Ready Engineering (MRE) services. Data will be collected in Katapult, or using an IKE device, and go or no-go status will be determined. During this phase Contractor will collect the required measurements that will allow Contractor to perform the make ready and do the engineering and work order creation.
- **Make-Ready Engineering (MRE)** – Contractor will provide VIWAPA with an engineering design for each pole requiring it. The design will provide new pole attachment heights, as well as the heights for any rearrangement of current facilities. This task will involve several subtasks and will be guided by VIWAPA's business practices. Contractor will operate inside of

VIWAPA's MapWise system to develop the staking sheet – this is a fairly standard approach in the industry. If not, Contractor can provide a suite of tools and solutions as a "standalone" approach. The general workflow of make-ready Engineering involves:

- Design of remedies to VIWAPA standards
- Creation of itemized lists of tasks and materials-usually tied to the utilities work management system
- Documentation of other work and costs (communications make-ready, permitting, easements, ROW preparation)
- Coordination of any power make-ready with VIWAPA's construction resources

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

1. The Authority's Professional General Contract with the Basic Insurance requirements dated March 14, 2019. This document is attached hereto and incorporated by reference herein as Appendix "A",
2. The Contractor's Proposal to perform the Work received on October 12, 2024, and incorporated by reference herein as Exhibit "1";

**2. TERM:** This Contract shall take effect upon full execution ("Effective Date").

Once the 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 six (6) months from the effective date. The Parties may extend the Contract for an additional six

(6) months by mutual written agreement, no later than thirty (30) days prior to the expiration of the term of the Contract.

**3. CONSIDERATION:** In consideration of the Contractor's performance of the Work, the Authority shall pay the Contractor up to the sum of **Three Hundred Eighty Thousand Dollars and 00/100 (\$380,000.00)**. This Contract is a requirements contract under which Contractor agrees, subject to the terms of this Contract, to provide the Work as and when required by the Authority. The Authority shall purchase and pay only for the Work actually requested and completed, with no obligation to remit the full approved contract value. The Contractor shall charge the Authority for the Work in accordance with the Payment Schedule as indicated in Section 4 of this Contract.

The Consideration 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. Unless otherwise authorized by law, the Authority shall not be responsible in any way for any taxes, customs, duties, excise, or other fees.

**4. TERMS OF PAYMENT:** All invoices shall be submitted electronically to the Project Manager, with a copy to Accounts Payable at [accountspayable@viwapa.vi](mailto:accountspayable@viwapa.vi). Invoicing shall be submitted monthly for work completed that month. All invoices will be based upon a thirty (30) day payment term of approval. Payments shall be made on a progress billing and payment method, after review and approval by the Authority's Project Manager, in accordance with the payment schedule below:

**PER 1,000 POLE ESTIMATE**

		Unit Rate Per Pole	Emergency Rate
ITEM #	Per 1000 pole estimate		
1	Project Mobilization- <b>off Island</b>	Flat Rate	\$ 2,750.00
2	Field Crew Mobilization- <b>on Island</b>	Flat Rate	\$ 3,000.00
3	Field Data Collection - <b>On Island</b>	\$63.00 per pole	\$ 63,000.00
4	Client File Build in PLA software - <b>off Island</b>	Flat Rate	\$ 2,500.00
5	Pole Loading Analysis - <b>off Island</b>	\$78.34 per pole	\$ 78,340.00
6	Processing updates in GIS platform (ESRI/ArcGIS)- <b>off Island</b>	\$40.20 Per pole	\$ 40,200.00
7	Additional Field Rate - <b>on Island</b>	Per Hour	\$ 110.00
8	Additional Design Rate - <b>off Island</b>	Per Hour	\$ 100.00
			\$ 190,000.00

**CONTRACT TOTAL COST \$190,000.00/1,000 Poles (\$190.00 Per Pole)**

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

**5. GROSS RECEIPT TAXES:** Title 33, Section 44 of the Virgin Islands Code, the Authority shall withhold and forward to the Bureau of Internal Revenue the sum of Three Thousand One Hundred and fifty Dollars and 00/100 (\$3,150) based on Line Item 3 in pricing or such amount as required by any changes to the law at 33 VIC Section 43(a). The Contractor agrees that calculation of gross receipts taxes shall be the sole responsibility of the Contractor. The Authority shall not be responsible in any manner for miscalculation of the gross receipts due under this contract or for any additional assessments by the Bureau of Internal Revenue resulting from work performed under this contract.

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

**6. 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 the 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.

**7. RELIANCE:** The Contractor's representations of its ability to perform the Work with skilled and competent personnel are a substantial and material condition of this Contract. The Contractor agrees, or is otherwise aware, that the Authority shall rely on all the representations in its Proposal attached hereto as Exhibit "1".

**8. OWNERSHIP AND USE OF DOCUMENTS:** 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 shall retain one reproducible copy of these documents generated by the Contractor. Notwithstanding anything to the contrary, Contractor is and will remain the exclusive owner of all of Contractor's proprietary software and intellectual property owned by or licensed to Contractor prior to the Effective Date or created or developed outside the scope of this Contract, including all additions, enhancements, and derivatives thereto.

**9. 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, government acts, terroristic acts, pandemics, war, or civil unrest.

**10. LIQUIDATED DAMAGES:** The Authority may assess liquidated damages solely for the 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 Paragraph 10 of the Authority's attached Professional General Contract Terms dated March 14, 2019, with Federal Requirements incorporated by reference herein as Appendix "A"; the Contractor and his sureties 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 ten percent (5%) of the total consideration stated herein. Liquidated damages shall be the sole remedy for delay damages.

The Authority reserves the right under this clause to forego its claim for liquidated damages for delays and to sue for actual damages incurred as a result of such delays.

**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 reasonable defense and such 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. NEC – National Electrical Code
4. NESC – National Electric Safety Code

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

**14. 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:

Ambi Blyden  
Project Manager  
V.I. Water & Power Authority  
P.O. Box 1450  
St. Thomas, U.S. Virgin Islands 00804-1450  
[ambi.blyden@viwapa.vi](mailto:ambi.blyden@viwapa.vi)  
(340) 227-6511 (cellular) / (340) 774-3552, ext. 2270

The Contractor designates the following individual in the following capacity:

Tommy Maloney  
Senior Project Developer  
Davey Resource Group, Inc.  
295 South water Street, Ste. 300  
Kent, OH 44240  
[tommy.maloney@davey.com](mailto:tommy.maloney@davey.com)  
(770) 377-1584

**15. 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.

**16. 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, except to the extent caused by the Authority's gross negligence or willful misconduct, 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.

**17. INSURANCE:** The Contractor shall, at his expense, before any Work is commenced, cause to be issued and maintained until sixty (60) days after acceptance of the Work, insurance as described in the Authority's Professional General Contract Terms dated March 14, 2019, with Federal Requirements. A copy of the insurance certificate must be presented to the Authority's Contracting Officer at contract execution.

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

1. The Authority's Professional General Contract Terms with Basic Insurance Requirements dated March 14, 2019. This document is attached hereto and incorporated by reference herein as Appendix "A";
2. The Contractor's Proposal to perform the Work and schedule received on October 18, 2024, and incorporated by reference herein as Exhibit "1".

In the event of any inconsistencies between the written agreements comprising the Contract, the matter will be resolved according to the following descending order of precedence: (1) This Contract; (2) the Authority's Professional General Contract Terms attached as Appendix "A"; and (3) the Contractor's Proposal dated October 12, 2024 attached as Exhibit "I". 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.

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

Clause 3 – COMMENCEMENT, PROSECUTION AND COMPLETION OF PROJECT

Subsection b –insert the words "*and is legally permissible*"

Clause 7- CHANGES

Insert the words at the end of paragraph, "*unless the change involves an amount equal to or greater than 25% 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*".

Clause 9- A. TERMINATION FOR DEFAULT

Insert the word after second sentence after the Authority for any '*reasonable*' excess

Clause 12 – TERMS OF PAYMENT

Subsection (2) insert in second sentence words after Contract, other than "*for retainage amounts and*" such claims...

Clause 15- INDEMNIFICATION FOR INJURY AND DAMAGE CLAIMS

Subsection (a) insert words: reasonable attorney's fees, "*to the extent caused by the 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 one year". "It is the intention and express agreement of the parties that the Authority shall not be liable for any bodily or personal injuries, loss of life or damage, to Contractor, its servants, employees, agents, invitees, or to Contractor's subcontractors, subcontractor employees, agents, or invitees, or to any other person, or property of Contractor, caused, from action of the elements, or acts of negligence the Contractor, its servants, employees, agents, or invitees, or the Contractor's subcontractors, subcontractor employee, agents and invitees.*

Subsection (b) delete *"arising out of those set out in"*  
Insert words *"indemnifiable by Contractor pursuant to subsection"*

Subsection (c) delete entire section

Subsection (d)-now subsection(c) insert words  
*"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 A".*

Now Subsection (d) Insert words *"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."*

#### Clause 16- RIGHT OF AUDIT

First paragraph, second sentence insert the word *'and'* after audit, then delete *'and to make copies of or extracts from' after examine'.*

Second paragraph, second sentence delete *'(including copies and extracts of records as required)'* after audit; also delete *'and access to photocopying machines' after the word Workspace'.*

Fourth paragraph, second sentence insert *'five'* remove *'one half of one' percent.* Fourth sentence, insert after made, *'by*

*contractor or Authority, as the case may be,'*

Clause 24- OTHER REQUIREMENTS

Third paragraph, insert after shall, '*to the extent legally permissible*,'. Delete after objectionable '*and shall indemnify and hold harmless the Authority regarding any claim arising out of such action*'.

Exhibit A – WAPA INSURANCE REQUIREMENTS

All edits were previously accepted in the former contract SC-17-24.

**20. 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.

**21. 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.

**22. GOVERNING LAW:** The 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.

**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. The Parties further 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.

**24. 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.

**25. 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:	Karl Knight Executive Director <b>V.I. Water &amp; Power Authority</b> P.O. Box 1450 St. Thomas, U.S. Virgin Islands 00804 karl.knight@viwapa.vi
Copy to:	Office of the General Counsel <b>V.I. Water and Power Authority</b> P.O. Box 1450 St. Thomas, U.S. Virgin Islands 00804 legaldepartment@viwapa.vi
The Contractor:	Tommy Maloney Senior Project Developer-Asset Management <b>Davey Resource Group, Inc.</b> 295 South Water Street, Ste. 300 Kent, OH 44240 (770) 377-1584 tommy.maloney@davey.com



**26. COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original and the same instrument, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of 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. 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 11: Indemnification
- Clause 18: Contract Documents
- Clause 22: Governing Law

**28. 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 last written below.

**DAVEY RESOURCE GROUP, INC.**

Signed: 3/24/2025  
\_\_\_\_\_  
WITNESS

By: *Steven Johnston*  
Signed: 3/24/2025 \_\_\_\_\_  
Steven Johnston Date  
Regional Vice President - Utility Asset Management

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

*Claudia Charles*  
WITNESS

By: *Karl Knight* 4/14/2025  
Karl Knight Date  
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY:

*Dionne G. Sinclair*  
Dionne G. Sinclair  
General Counsel

Attachments

## Record of Signing

For  
Name  
Title



**Signed on 2025-03-24 13:27:37 GMT**

Secured by Concord™  
DocumentID: 02zRTTRqRMvaSiUXdjPPtC  
SigningID: 02zR1TRqFHV9JReZxJqTH4  
Signing date: 3/24/2025  
IP Address: 129.222.87.68  
Email: steven.johnston@davey.com

For  
Name  
Title



**Signed on 2025-03-24 13:31:01 GMT**

Secured by Concord™  
DocumentID: 02zRTTRqRMvaSiUXdjPPtC  
SigningID: 02zRTYdNDhJHylfinnCdG4  
Signing date: 3/24/2025  
IP Address: 40.128.76.224  
Email: lindsey.golick@davey.com



Signed with <https://www.concord.app/>