

RETAIL WATER SALES AGREEMENT

This Retail Water Sales Agreement (hereinafter referred to as "Agreement") is made effective as of the latter signature date hereof (the "Effective Date") by and between The Midwest City Municipal Authority, (hereinafter referred to as "Authority") a public trust created for the benefit of the citizens of the City of Midwest City, a municipal corporation (hereinafter referred to as "City") and Oklahoma County Utility Services Authority, a public trust created pursuant to the authority at Title 60 of the Oklahoma Statutes, Sections 176-180.3, as amended, (hereinafter referred to as "Customer") (Authority and Customer being collectively referred to herein as the "Parties").

RECITALS

WHEREAS, the City owns and the Authority operates a public water supply system that provides potable water to its customers (hereinafter referred to as "City System"); and

WHEREAS, the Customer operates a community public water supply system in Oklahoma County, known as Crutcho Public Water Supply System; and

WHEREAS, the Crutcho Public Water Supply System serves approximately thirty-five (35) customers at the Southwest corner of Air Depot and Northeast 23rd Street in Oklahoma County; and

WHEREAS, the above-described property is located in an unincorporated area of Oklahoma County; and

WHEREAS, the Oklahoma State Environmental Agency (the Oklahoma Department of Environmental Quality) and the Customer, by and through its operator, Sooner Utilities, Inc. (hereinafter referred to as Customer's Operator) have entered into a Consent Order dated July 29, 2021; and

WHEREAS, the Consent Order found that the Customer and Customer's Operator was operating without an adequate secondary backup source; and

WHEREAS, the Consent Order requires the Customer to submit an approvable Corrective Action Plan; and

WHEREAS, the Customer has approached the Authority for assistance with a Corrective Action Plan; and

WHEREAS, the Public Water Supply owned by the City and operated by the Authority is located near the site of the Crutcho Public Water Supply; and

WHEREAS, the Customer and Authority have reached an agreement for the Public Water Supply owned by the City and operated by the Authority to provide potable water to the customers of the Crutcho Public Water Supply; and

WHEREAS, the Customer has contacted the Oklahoma Department of Environmental Quality who has expressed that such an agreement would meet the requirements of a Corrective Action Plan as required under the Consent Order; and

WHEREAS, the Customer, the Customer's Operator, the City and the Authority desire to enter into a Retail Water Sales Agreement as expressly provided herein; and

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Agreement Term.** This agreement shall commence on the Effective Date and remain in effect for five (5) years from the Effective Date. This agreement may be renewed by the Parties for two (2) additional five (5) year periods. All renewals shall be in writing and signed by all Parties.
2. **Permission.** The City and the Authority hereby grants the following permissions to the Customer's Operator:
 - a. To connect and/or to maintain the connection through a master water meter, to the City System.
 - b. Said connection shall be at the point identified in **Attachment "A"**.
 - c. Said connection shall be installed by a licensed plumber approved by the City, the Authority or designee. Prior to any connection to the City System, Customer shall submit plans and specifications, prepared by a professional engineer, licensed by the State of Oklahoma. An engineer for the City shall review and approve the plans and specifications.
 - d. Said connection shall only supply potable water to the Customer's approximately 35 current (at the time of the signing of this Agreement) customers. Potable water from the City System shall not be used for any other purpose or provided to any additional customers without written consent from the City, the Authority or designee.
3. **Rates and Payment.** Customer and/or Customer's Operator shall be billed at the rates established in Section 43-64 of the City's Municipal Code or future rates as established by the City in its Municipal Code for residential customers. The amount billed to the Customer and/or Customer's Operator shall be based on water usage as determined by the flow of water through the meter. Customer and/or Customer's Operator shall be billed monthly by the City and Customer shall pay in accordance with Section 43-67 of the City's Municipal Code. Any delinquent payments or actions taken due to failure to pay shall be governed by Sections 43-67 and 43-68 of the City's Municipal Code.
4. **Customer's Operator Duties and Responsibilities.** Except as modified herein, the Customer's Operator shall, at its own expense:
 - a. Hire a licensed professional engineer, to design the connection to the City System;
 - b. Hire a licensed utility contractor, approved by the City, to make the connection to the City System;
 - c. Incur all costs of construction for the connection, meter fees, backflow preventer and pressure reducing valve (BPV), tap fees and system development changes applicable to any new connection;
 - d. Incur all costs to test and make repairs to the master water meter upon request of the City; and
 - e. Incur all costs to disconnect from the City System;
 - f. Incur all costs to flush and test Customer's system to prior to allowing consumption;

- b. Make repairs to the Customer's meter in the event any damages occur due to the temporary stoppage of the flow of water due to the need of the City to make repairs;
 - c. Allow only one connection to the Customer; and
 - d. Notify the Customer's Operator or successor in interest, by telephone, in the event the City finds it necessary to temporarily stop or reduce the flow of water to the Customer due to an emergency, Act of God, water rationing, or suspension of water service to all customers on the City's System due to a reason other than to make repairs. Customer shall not hold the City responsible for any loss, cost or expense resulting from the reduction or suspension of the supply of water.
 - e. Notify the Customer of any change in rate for the water usage to be charged to the Customer prior to the rate change becoming effective.
9. **City Delegation.** The City and the Authority hereby delegates the authority to amend this agreement or to make any approvals under this agreement to the City Manager/Authority's General Manager. The City Manager/General Manager may delegate this authority to the Assistant City Manager, the Public Works Director or Assistant Public Works Director as necessary.
10. **Notices.** All notices required by this Agreement shall be in writing, delivered either in person or by first class mail to the following:

Midwest City Municipal Authority
c/o of the General Manager
100 N. Midwest Boulevard
Midwest City, OK 73110

The Oklahoma County Utility Services Authority
c/o Chris Byrom, Registered Agent
3134 N.W. 23rd Street
Oklahoma City, OK 73107

Sooner Utilities, Inc.
c/o Chris Byrom, Registered Agent
P.O. Box 958
Edmond, OK 73083-0958
(405) 285-5687

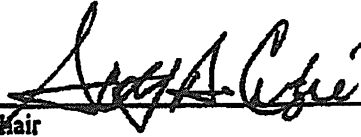
11. **General Provisions.**

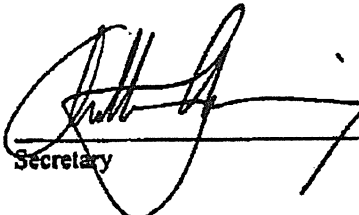
- a. **Amendment.** Any Amendment to this Agreement shall be in writing and executed by the Customer, the Authority or designee and the City or City's designee.
- b. **Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Oklahoma and the City Ordinances of the City of Midwest City. Any matter filed concerning this Agreement shall be filed in the District Court for Oklahoma County after all administrative processes have been exhausted.

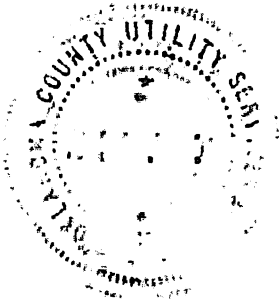
- c. **City Liability.** Any claims filed against the City shall be filed in accordance with the Oklahoma Governmental Tort Claims Act, Title 51 of the Oklahoma Statutes, Section 151 *et seq.*
- d. **No Creation of Rights.** The Customer hereby acknowledges that by entering into this agreement does not create any rights of the Customer to any property owned or under the control of the City, nor creates any rights to the City System. The City hereby acknowledges that this agreement does not create any rights of the City or the Authority, to any property owned by the Customer, unless specifically expressed herein.
- e. **Termination.** Either Party has the right to terminate this agreement by giving one hundred and twenty (120) days written notice to the other party.
- f. **Complete Agreement.** The Parties agree that this is the complete Agreement and no statements, representations or discussions not set forth herein or not contained in any written Amendment shall be binding on the Parties and no Party is or shall be bound by any statement or representation that does not conform to this document. No agent or any Party to this Agreement has the authority to alter, modify or change this Agreement except as expressly provided herein. This Agreement shall be read as a whole and shall not be interpreted either for or against either party.
- g. **Open Records Act.** Customer understands that all records of the City, including this Agreement are open to the public for inspection, review and mechanical reproduction in accordance with the Oklahoma Open Records Act, Title 51 of the Oklahoma Statutes, Section 24A.1 *et seq.*
- h. **Non-Transferable.** This Agreement cannot be transferred to any third party without written permission of the other party. Any attempt to transfer this Agreement to a third party without the written consent of the other party nullifies and makes void the Agreement.
- i. **Change in Ownership.** Should the Customer sell or transfer the property to a third-party, the new owner shall be required to obtain a new agreement from the City. Any new agreement will not be unreasonably denied.

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APPROVED by The Oklahoma County Utility Services Authority and signed by the Chair,
this 20th day of September, 2023.


Chair


Secretary



APPROVED by the City Council and signed by the Mayor for the City of Midwest City,
this 24 day of October, 2023.

Sara Hancock
City Clerk

[Signature]
Mayor

Approved as to form and legality:

[Signature]
City Attorney



APPROVED by the Midwest City Municipal Authority and signed by the Chair for the
Municipal Authority, this 24 day of October, 2023.

Sara Hancock
Secretary

[Signature]
Chair

Approved as to form and legality:

[Signature]
Authority Attorney

