SALLISAW MUNICIPAL AUTHORITY
REGULAR MEETING

February 12, 2024

Time: Immediately Following the
Meeting of the Board of City Commissioners

Council Chambers
113 North Elm Street
Sallisaw, Oklahoma

A G E N D A

"POSSIBLE ACTION" INCLUDES, BUT IS NOT LIMITED TO, APPROVAL, AUTHORIZATION, ADOPTION, REJECTION, DENIAL, AMENDMENT, TAKING NO ACTION, OR TAKING THE ITEM FOR DISPOSITION AT A LATER DATE OR TIME.

1. **Meeting Called to Order**

2. **Declaration of a Quorum**

3. **Discussion and Possible Action of Minutes of Regular Meeting of January 8, 2024**

4. **Discussion and Possible Action on Updated Utility Relocation Agreement Between the Sallisaw Municipal Authority and the State of Oklahoma Department of Transportation**

5. **Discussion and Possible Action on the GRDA Advanced Metering Infrastructure (AMI) Program Intent to Participate Request and the GRDA AMI Rider**

6. **Discussion and possible action on Resolution No. 2024-01, a Resolution agreeing to file application with the Oklahoma Water Resources Board (the "OWRB") for financial assistance through the Clean Water State Revolving Fund Loan Program, with the loan proceeds being for the purpose of funding the acquisition, construction, equipment and installation of an**

automated meter reading system for the Authority's water system; approving a legal services agreement and financial advisory agreement with respect to the aforesaid automated meter reading system project; and containing other provisions related thereto

7. **Discussion and possible action on Resolution No. 2024-02, a Resolution declaring the official intent of the Authority for providing for the reimbursement of certain funds to be expended for the Authority's automated meter reading system for the Authority's water system to be reimbursed from future indebtedness to be incurred by the Authority; and establishing compliance with tax-exempt bond regulations under the Internal Revenue Code**

8. **Discussion and Possible Action on Agreement Between the Sallisaw Municipal Authority and Utility Technology Services (UTS) for the Purchase and Possible Installation of Water AMI Meters**

9. **Discussion and Possible Action on The Purchase of Property Situated at the Northwest Corner of Quesenbury and Elm Streets by Conveying Parts of the Old Railroad Station Grounds Belonging to The Sallisaw Municipal Authority and in Addition Paying $360,000.00 to be Financed Through Lease Purchase or Note and Mortgage and, To Take Any Approprate Action Authorizing Ernie Martens, Chairman of the Board, to Execute any Instrument Necessary to Facilitate Such Purchase.**

10. **Administrative Reports**

11. **Adjourn**

Posted: **FEBRUARY 9, 2024**
Time: **10:15 A.M.**

Kim Jamison

MINUTES

SALLISAW MUNICIPAL AUTHORITY

REGULAR MEETING

JANUARY 8, 2024

The Sallisaw Municipal Authority met in a regular meeting on January 8, 2024, in the Council Chambers, 113 North Elm, Sallisaw. Notice of the meeting was given by emailing Sequoyah County Times; by emailing KXMX; by posting at city hall on January 5, 2024, at 9:45 a.m.; by posting on the city's website; and, by giving notice to the City Clerk.

Members present:	Ernie Martens,	Chairman
	Ronnie Lowe,	Trustee, Ward 1
	Josh Bailey,	Trustee, Ward 2
	Julian Mendiola,	Trustee, Ward 3
	Kristin Peerson,	Trustee, Ward 4
Members absent:	None	
Staff present:	Keith Skelton,	General Manager
	John R. Montgomery,	City Attorney
	Kim Jamison,	Secretary
	Robin Haggard,	Director of Finance
	George Bormann,	Economic Development Director
	Ben Spyres,	Computer Technician
	Caleb Dotson,	Patrolman

Others present: Lynn Adams; Jeannie Richardson; Jonathon Richardson; Laura Pool; James Pool; Brian Becker; Julie Becker; Robert Lee Morris; Kenneth Corn; Lenora Skelton; Others Unidentified.

Meeting Called to Order

Chairman Martens called the meeting to order. The meeting began at 6:24.

Declaration of a Quorum

A quorum was declared present.

Discussion and Possible Action on Minutes of Regular Meeting of December 11, 2023

Motion was made by Lowe, seconded by Mendiola, for approval of the minutes. Vote: Lowe aye; Mendiola aye; Bailey aye; Peerson aye; Martens aye. Motion carried 5-0.

Discussion and Possible Action on Contract for Engineering Services with Neel, Harvell and Associates, in the Amount of $16,700.00 for Sanitary Sewer System

Motion was made by Mendiola, seconded by Bailey, for approval of Contract for Engineering Services with Neel, Harvell and Associates in the amount of $16,700.00. Vote: Mendiola aye; Bailey aye; Lowe aye; Peerson aye; Martens aye. Motion carried 5-0.

Discussion and Possible Action on Memorandum of Understanding between CLN, LLC and Sallisaw Municipal Authority for Extension of an Existing Sewer Line

No action taken, item was stricken.

Discuss Current Status of DiamondNet Video Rates

Robin noted that the main part that we wanted to discuss was the retransmission portion of the rates. Every three (3) years we renegotiate retransmission agreements. Dave Stockton along with NCTC work diligently on trying to get the programmer as low as they possibly can. Sallisaw DMA is out of NW Arkansas, which is our must carry channels for ABC, CBS, and NBC. Currently, we carry duplications of those channels out of Tulsa. We are at the mercy of the market and industry and feel like soon we will no longer be able to sustain the duplications of these channels. Contracts have been negotiated for the 3 years and one for 5 years. We will be looking at dropping KTUL Channel 8 out of Tulsa in the next month. Starting January 21st when we do the billing, our retransmission rate will increase from $33.31 to $37.18. This is a straight pass through to subscribers, we don't make anything off of the local channels.

Administrative Reports

Robin noted that she had received word that Brett Adams, Regulatory Project Manager, U.S. Army Corps of Engineers, Tulsa that he would be on site (Landfill) on January 11th.

Adjourn

Motion was made by Lowe, seconded by Peerson, to adjourn the meeting. Vote: Lowe aye; Peerson aye; Bailey aye; Mendiola aye; Martens aye. Motion carried 5-0. The meeting ended at 6.32 p.m.

Approved this **12th** day of **February 2024**.

____

Secretary to the Authority

(SEAL)

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	ODOT Utility Relocation Agreement

ITEM TITLE: Discussion and Possible Action on Updated Utility Relocation Agreement Between the Sallisaw Municipal Authority and the State of Oklahoma Department of Transportation

INITIATOR: General Manager
State of Oklahoma Department of Transportation

STAFF INFORMATION SOURCE: State of Oklahoma Department of Transportation
House Bill 2241

BACKGROUND: Due to changes in state statutes, ODOT will now pay 100% for the relocation of electric and fiber utilities related to the Highway 59 North project. With this change, SMA will not be responsible for the relocation costs. SMA is still responsible for contracting the work and submitting all pay requests on the project. Also, SMA will be reimbursed for all engineering and material costs.

EXHIBITS:
1. 12A. rw-305.New ODOT 100 Percent
2. HB 2241 Municpal Utilities
3. ODOT Letter Project NHPPY-168N(181)UT

KEY ISSUES: With this change, the previous loan agreement between SMA and ODOT is now void.

FUNDING SOURCE: State of Oklahoma Department of Transportation

RECOMMENDATION: Staff recommends approval of the updated relocation agreement.

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
UTILITY RELOCATION AGREEMENT

PROJECT NO. NHPPY-168N (181) JOB PIECE NO. 23107(09) UTILITIES 09 COUNTY SEQUOYAH

THIS AGREEMENT, made and entered into by and between the Department of Transportation acting for and on behalf of the State of Oklahoma, hereinafter called the "State" and SALLISAW MUNICIPAL AUTHORITY
(Company Name/Address)
hereinafter called the "Utility Owner".

WITNESS TO THAT

WHEREAS, the State proposed to improve NORTH Highway No. 59 and such improvements will necessitate rearrangement of facilities by said Utility Owner (state scope and nature of work on reverse side), and

WHEREAS, it is understood that if said project is to be financed in part from funds appropriated by the United States and expended under its regulations, that acceptance of work and procedure in general are subject to Federal Laws, Rules, Regulations, Orders, and Approvals applying to it as a Federal Project, and that costs for items entering into the improvement are reimbursable to the State in such amounts and forms as are proper and eligible for payment from Federal Funds. Reference is made to U.S. Department of Transportation, Code of Federal Regulations, Title 23, Parts 645A, 645B and 635.410, included in the Right-of-Way and Utilities Division Policies and Procedures, and

WHEREAS, it is understood that Title 69, O. S., § 1205 and 1403 each as amended, define the extent to which the State and the Utility Owner may be obligated in the costs of utility rearrangements, and the utility locations on all highways are governed by Regulations and Policies adopted by the State Transportation Commission for the protection and maintenance of the highways, and for the safety of the highway users, and

WHEREAS, the State reserves the right to cancel this Agreement at any time prior to the beginning of the adjustment or relocation of the facilities of this Utility Owner, and

WHEREAS, the State agrees to pay the Utility Owner for the proportionate share of the actual cost to prepare approved preliminary engineering plans and estimates at the State's request, if for any reason the State cancels this Agreement.

WHEREAS, this project has a federal action and hence requires compliance with all regulations and permits associated with it.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Utility Owner agrees:

1. To prepare a detailed estimate of the cost of work to be performed in accordance with the Department's Right-of-Way and Utilities Division Policies and Procedures, and such estimate of cost must be attached and be a part of this Agreement. The estimate will include: (1) The accounting system to be used in computing the relocation costs; (2) Credit for Expired Service Life setting forth therein the conditions on which such credit was determined or complete justification if the credit is not applicable; and; (3) Whether equipment costs are developed from experience records.
2. To include the costs for backfill and compaction of any trenches or holes within the right-of-way limits in the estimate of costs. The backfill will be placed and compacted to a density as directed by the Resident

Engineer/Manager, but will not be compacted to less than that of the adjacent soil.

3. Any and all existing fencing that may require alteration during the utility relocation process shall be restored to its original condition during and after the time of utility relocation/rearrangement. It is the responsibility of the utility owner to ensure that the integrity of the fencing is not compromised at any time to an extent in which it prevents the fencing from performing its intended purpose.

4. To prepare drawings showing the present, temporary and proposed location of its facilities with reference to the centerline of survey and/or the new or existing right-of-way lines using highway stationing in both plan and profile. Delineate details, including date of installation, class, and type of present facility. To comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (DEQ) requirements for pollution prevention, including discharges from storm water runoff on this project. Further, agrees to secure a Storm Water Permit from the DEQ, when required. It is agreed that the project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the storm water pollution prevention plans and the appropriate location map contained in the plans constitute the Storm Water Management Plan for the project previously described in the document. Agrees to have daily operational control of those activities, at the site, necessary to ensure compliance with plan requirements and permit conditions. Agrees to file the Notice of Intent (NOI), when required, for a general construction Oklahoma Pollutant Discharge Elimination System Permit with DEQ, which authorizes discharges of storm water associated with construction activity from the project site identified in this document. Such drawings will be attached to and become a part of this agreement.

5. To begin the process of adjustment or relocation of the facilities as shown on the plans and covered by this Agreement within a reasonable time, depending on the availability of material and work forces, but the actual time must not exceed thirty (30) days after receipt of notice from the state to do so, and in no event proceed with any adjustment or relocation work until such notice is received. To inform the State's Resident Engineer/Manager of: (1) The proposed starting date, prior to commencing work, and continually maintaining liaison with his/her office for the duration of the physical relocation; (2) The materials to be disposed of by scrapping, or sale, and to inform him/her of a time and place for his/her inspection thereof; (3) The date work is completed.

   a. Buy America requirements are in effect only on federal projects as identified in this agreement. The utility owner is responsible for meeting the Buy America requirements specified in the ODOT Special Provision 106-5 for Buy America. After work is completed on the project, the Contractor must submit a notarized or electronically verified certification signed by the Contractor's authorized agent to the Engineer with the following information:

      i. Buy America does not apply to assembly materials, attachment materials, housing encasements, or miscellaneous electronics, as defined below.

         Assembly Materials (miscellaneous steel) – The collection of miscellaneous materials used to fasten, hold, attach, secure and/or assemble materials including but not limited to nuts, bolts, U-bolts, screws, washers, clips, fittings, sleeves, lifting hooks, mounting brackets, pole steps, clamps, brackets, mountings, straps, fasteners, hooks, pins, braces, disks, clevises, couplers, swivels, snaps, crimps, trunnions, dead-ends, compression swages and other miscellaneous materials used to assemble.

         Attachment Materials – Items or material that is not an integral part or permanently attached to a pole, pipe or valve. Attachment materials include, but are not limited to cross arm bracing, insulators, avian equipment, miscellaneous hardware (as defined below), fittings, racks, ladders, encasements, guy wire, strand, conductors and tubing 0.75-inch or less in diameter.

         Housing Encasements – Include cabinets, housings, boxes, vaults, covers, shelves and other items use to protect or house equipment or miscellaneous electronics.

Miscellaneous Electronics – Manufactured products or assemblies consisting of many components such as electronic equipment, routers, switches, radios, processors, power supplies, batteries, antennas, splice cases, pre-connected hubs and terminals, and cross-boxes.

b. I hereby certify that all construction materials furnished to the Oklahoma Department of Transportation for the construction of the above referenced project that are required to be compliant with the Buy America Act have been produced in the United States of America as defined by §70912 "Definitions" of the Infrastructure and Investment Jobs Act (IIJA) (Public Law 117-58 - Nov. 15, 2021). I further certify that all supporting documentation is on file and will be maintained for a period of three (3) years after project completion.

c. I also hereby certify that all manufacturing processes of all products permanently incorporated into this Oklahoma Department of Transportation referenced project including protective coating are procured in the USA and are in accordance with 23 CFR 635.410

d. The Utility Owner may maintain this documentation electronically or in paper format. The Department or FHWA may request to review the Utility Owner's supporting documentation to verify compliance with the Buy America provisions at any time. The Utility Owner shall provide the supporting documentation within five (5) business days of the request. The burden of proof to meet the Buy America provisions rests on the Utility Owner. If the supporting documentation does not undeniably demonstrate to the Department or FHWA that the manufactured products, or construction materials identified in the Certificates of Compliance were produced in the United States of America, then such manufactured products or construction materials will be considered unacceptable and must be replaced at no cost to the Department.

6. That no contract with any individual will be entered into without meeting the requirements of the Department's Right-of-Way and Utilities Division Policies and Procedures.

a. That contract work for technical services, professional services or other labor classifications involved in the rearrangement of the facility proposed under this Agreement will be supported by a statement to the effect that, "The Utility Company is not adequately staffed or equipped to perform such work with its own forces." Proper approval must be obtained in accordance with the Right-of-Way and Utilities Division Policies and Procedures prior to executing a contract with any outside firm **or continuing contractor.**

7. To submit to the State, withing ninety (90) days after satisfactory completion of rearrangement of their facilities under this Agreement, a claim using *ODOT Claim Form 324A*, with a certified statement of costs in accordance with the provisions of the aforementioned memorandums.

It is understood this Agreement does not change the rights or obligations of the Utility Owner as they exist in accordance with present State Law.

In consideration of the faithful performance by the Utility Owner of the foregoing, the State agrees:

To reimburse the Utility Owner for the actual costs of work completed, prorated on the basis of the following percentage or for the lump sum as proposed:

(1) Utility Owner Share of Cost _____% Estimated Utility Owner Cost $__________

(2) State Share of Cost 100 % Estimated State Cost $ 1,223,047.72

OR

(3) Lump Sum Proposal State Cost $__________

Nothing herein shall in any way be construed to relieve the Utility Owner from its liability, if any, for payment of a portion of these costs pursuant to 69 O.S. 2001 § 1205, as amended.

IN WITNESS WHEREOF, the parties hereto have caused this Utility Relocation Agreement to be executed by their duly authorized officers on the day and year last below written.

APPROVAL RECOMMENDED:

SALLISAW MUNICIPAL AUTHORITY

Resident Engineer/Manager Date

Name: Utility Owner

2/12/2024

District Engineer Date

Signature: Utility Owner/Agent Date

Chief, Right-of-Way & Utilities Division Date

DEPARTMENT OF TRANSPORTATION FOR THE STATE OF OKLAHOMA (ACTING FOR AND ON BEHALF OF THE STATE OF OKLAHOMA)

Director of Project Delivery & Design Date

(State scope and nature of work in space provided below)

RELOCATION OF ELECTRIC AND FIBER UTILITIES

DATE: 2/12/2024

FROM: KEITH SKELTON

SALLISAW MUNICIPAL AUTHORITY

SUBJECT: ELECTRIC/FIBER RELOCATION HWY 59 N

I hereby certify this project will meet the requirements of Buy America in accordance with the Federal Regulations (23 USC § 313 and 23 CFR § 635.410) and ODOT Special Provision 106-5. Buy America requires all manufacturing processes, including the application of a coating, for all predominantly steel or iron products permanently incorporated into the project shall have occurred in the United States.

A product is considered to be manufactured "predominantly of steel and iron" if the product is at least 90% steel or iron content (measured by weight) when it is delivered to the job site for installation.

"All manufacturing processes" are defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (smelting, rolling, extruding, bending, etc.).

"Coating" is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (epoxy, galvanizing, painting, etc.).

I understand that I must comply with Buy America and provide all required documentation prior to incorporating any steel or iron products into the project. Any noncompliance will be justification for rejection of the steel and/or iron products or nonpayment of the work.

I the undersigned hereby certify that I am an authorized agent of: SALLISAW MUNICIPAL AUTHORITY
(Company Name)

Sincerely:

____
(Name/Title)

State of OKLAHOMA)
) §
County of SEQUOYAH)

Subscribed and sworn to before me this 12 day of February, 2024 by ______________________________.

(SEAL)

____
Notary Public

My Commission Expires: ______________

My Commission No.: ________________

CERTIFICATE OF MATERIALS ORIGIN

PROJECT NO: NHPPY-168N(181)UT

CONTRACT ID:

COUNTY: SEQUOYAH

J/P: 23107(09)

RESIDENCY: SALLISAW

CONTRACTOR:

DATE: 2/12/2024

BID ITEM NAME & NO:

QUANTITY:

DOMESTIC MATERIALS SOURCE (NAME AND ADDRESS) TO INCLUDE SUPPLIER, FABRICATOR, AND MANUFACTURER

DOMESTIC MATERIALS DESCRIPTION

ELECTRIC AND FIBER OPTIC DISTRIBUTION MATERIALS

DOMESTIC ENTITIES INVOLVED IN OTHER MANUFACTURING PROCESSES (I.E.: GALVANIZATION, EPOXYCOATING, WELDING, BENDING, ETC.)

DESCRIPTION OF MATERIALS OF UNKNOWN ORIGIN OR FOREIGN MATERIALS DELIVERED TO THE PROJECT

This certification is made for the purpose of establishing the materials acceptance under the Buy America Certification (23CFR 635.410) and the Contract Special Provisions. All iron and steel manufacturing processes, including protective coating, for the domestic materials described above occurred in the United State of America.

Manufacturer's certificates verify the origin above described in the domestic materials will be kept on file for three years by the supplier following the final payment. Copies will be provided to the Oklahoma Department of Transportations upon their request: I declare under the penalty of perjury under the Oklahoma and Federal Laws that the foregoing is true and correct;

Supplier Name and Address	Authorized Representative
	Name: Title: GENERAL MANAGER 2/12/2024 Signature Date

An Act

ENROLLED HOUSE
BILL NO. 2241

By: Dobrinski and Patzkowsky of the House

and

Murdock of the Senate

An Act relating to roads, bridges and ferries; amending 69 O.S. 2021, Section 1403, which relates to public utilities on state highways; exempting municipally owned utilities from certain costs and expenses for removal and relocation; and providing an effective date.

SUBJECT: Roads, bridges and ferries

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 2021, Section 1403, is amended to read as follows:

Section 1403. A. The location and removal of all telephone, telegraph, electric light and power transmission lines, poles, wires and conduits, water, sewers and all pipelines erected, constructed or in place upon, across or under any state highway shall be under the control and supervision of the Department of Transportation; and the location and removal of any facility placed under rights granted hereunder on county highways shall be under the jurisdiction of the particular board of county commissioners involved insofar as same affects the public travel or interferes with the construction and maintenance of such highway.

B. Prior to conducting the design survey for a proposed improvement, construction, or reconstruction of a highway, the authority having jurisdiction over the highway shall notify any person, firm, or corporation overseeing the operating or maintaining of any facility within the proposed project boundaries. Upon receipt of notice or from a date specified in the notice, the person, firm, or corporation shall have ten (10) days to locate and mark the facilities.

C. Whenever the authority having jurisdiction over a particular highway plans an improvement or construction or reconstruction of the highway, and before the work is started, it shall serve a written notice upon the person, firm or corporation owning or maintaining any such facility, which notice shall contain a plan or chart indicating the places on the right-of-way where the facilities may be maintained. The notice shall state the time when the work of improving the highway is proposed to commence, and a reasonable time shall be allowed to the owner of the facility to remove and relocate its property. The effect of any change ordered by the public authority shall not be to exclude the facilities from the right-of-way of highways.

D. The removal and relocation of all the facilities located within the public right-of-way prior to the planned improvement, construction or reconstruction shall be made at the cost and expense of the owners, unless otherwise provided by law or order of the Department of Transportation, and in the event of the failure of such owners to remove the same at the time set out in the notice, they may be removed by the public authority and the cost of the removal collected from the owners, and the authority shall not be liable in any way to any person for the locating or relocating of the facilities at the places prescribed. Any corporation or association, or the officers or agents of such corporation or association, or any other person who shall erect or maintain any such lines, poles, wires, conduits, pipelines, equipment or other facilities within the right-of-way of such highways in a manner not in complete accordance with the orders of the respective public authority shall be deemed guilty of a misdemeanor.

E. The Department of Transportation may promulgate such rules as it may deem necessary for the planting of trees and shrubbery and parking along such state highways.

F. Rural water districts, nonprofit water corporations, and ~~municipal public water systems in~~ <u>all municipally owned utilities serving</u> municipalities with a population of ten thousand (10,000) or less, according to the latest Federal Decennial Census, or their beneficial trusts shall be exempt from the payment of the costs and expenses for the removal and relocation of ~~water and sewer pipelines and all such facilities~~ municipally owned utilities constructed or in place in the public right-of-way when the removal and relocation of such facilities is necessary for the improvement, construction or reconstruction of any road or highway which is part of the state highway system or turnpike project as defined in subsection A of Section 501 and Section 1705 of this title. Any costs and expenses, including any unpaid on July 1, 1990, shall be paid by the public authority having jurisdiction over the particular road or highway.

SECTION 2. This act shall become effective November 1, 2023.

Passed the House of Representatives the 9th day of May, 2023.

Presiding Officer of the House of Representatives

Passed the Senate the 25th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 10th day of May, 2023, at 2:49 o'clock p. M.

By: ______________________

Approved by the Governor of the State of Oklahoma this 11th day of May, 2023, at 3:47 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 11th day of May, 2023, at 5:30 o'clock P. M.

By: ______________________

115 East Choctaw P.O. Box 525 Sallisaw, OK 74955
Ph. 918-775-6241 Fax 918-775-4194 www.sallisawok.org

January 9, 2024

Mr. Chris Wallace, District Engineer
Oklahoma Department of Transportation
2800 South 32nd Street
Muskogee, Oklahoma 74401

RE: Project Number: NHPPY-168N(181)UT
State Job Number: 23107(09)

Dear Mr. Wallace:

Some six plus years ago, Sallisaw Municipal Authority signed an Agreement for Payment of Utility Adjustments for Project Number: NHPPY-168N(181)UT, Job Number: 23107(09) pursuant to 69 O.S. §1403, payments of $6,666.27 to begin January 1, 2018. Project Number NHPPY - 168(181)UT has been delayed several times. Sallisaw Municipal Authority never received a copy of the Agreement "reviewed and approved" by the Department of Transportation.

> Title 69 O.S. §1403 has in the meantime been amended to provide "*Rural water districts, nonprofit water corporations, and all municipally owned utilities serving municipalities with a population of ten thousand (10,000) or less, according to the latest Federal Decennial Census, or their beneficial trusts shall be exempt from the payment of the costs and expenses for the removal and relocation of municipally owned utilities constructed or in place in the public right-of-way when the removal and relocation of such facilities is necessary for the improvement, construction or reconstruction of any road or highway which is part of the state highway system or turnpike project as defined in subsection A of Section 501 and Section 1705 of this title. Any costs and expenses, including any unpaid on July 1, 1990, shall be paid by the public authority having jurisdiction over the particular road or highway.*"

The Sallisaw Municipal Authority is a public trust with sole beneficiary being the City of Sallisaw, an Oklahoma municipality with a population of less than 10,000, according to the latest Federal Decennial Census thereof. In accordance with Title 69 O.S. §1403, as amended, the Sallisaw Municipal Authority, a public trust of the City of Sallisaw, is now exempt from any payment of costs and expenses for the removal and relocation of municipally owned utilities constructed or situated in place within public right-of-way when the removal and relocation of such facilities is necessary for the improvement, construction or reconstruction of any road or highway which is part of the state highway system as defined in state statutes. Therefore, it appears that in accordance with Title 69 O.S. §1403, as amended, Sallisaw Municipal Authority is no longer obligated in regards to the Agreement for Payment of Utility Adjustments for Project Number: NHPPY-168N(181)UT, Job Number: 23107(09), being ODOT Road Improvement Project of U.S. Highway No. 59 within the city limits of the City of Sallisaw.

Sincerely,

John Robert Montgomery
City Attorney
City of Sallisaw

Keith Skelton
City Manager
City of Sallisaw

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	GRDA AMI Program

ITEM TITLE: Discussion and Possible Action on the GRDA Advanced Metering Infrastructure (AMI) Program Intent to Participate Request and the GRDA AMI Rider

INITIATOR: General Manager, Director of Finance

STAFF INFORMATION SOURCE: Grand River Dam Authority

BACKGROUND: City staff has been working on the implementation of an Automated Meter Infrastructure program for over ten years now. Valuable time has been spent on research and identifying financing means to implement the system. During this time, the AMI systems have gotten less expensive and technology has greatly improved. For the last two years, the GRDA customer group has worked with GRDA on financing the electric portion of this project.

City staff requests formal approval to proceed with the GRDA AMI program. We request approval of the Intent to Participate Form and adoption of the GRDA AMI Rider which will become part of our existing 2007 GRDA contract. Under this program, GRDA will finance (at 0%) the installation of the electric meters and the collector infrastructure. The water meter side of this project will be funded by the SMA.

The Grand River Dam Authority has completed their RFP process for the selection of AMI vendors to provide needed AMI installations for their municipal customers. During this process, the GRDA Customer Group participated in the RFP review. After a short list of vendors was approved, each municipal customer was then free to choose from this list the vendor and system that would best fit their utility system. For the Sallisaw Municipal Authority, we reviewed and interviewed Nighthawk, Tantalus, and Utility Technology Services(UTS). After reviewing the proposals, and onsite in person interviews and demonstrations, city staff selected Utility Technology Services to provide the electric and water AMI systems for Sallisaw.

EXHIBITS: 1. GRDA AMI Forms

KEY ISSUES:

- Both GRDA and city staff have completed a thorough review of the AMI vendors.
- For the GRDA AMI program, GRDA will finance the electric meters and collector infrastructure.

- For the electric portion of this project, the estimated project cost is $1,469,390. Final numbers related to the project are still being calculated.
- This system not only provides a great improvement to city electric operations, but will also allow us to build upon the basics of the system with SCADA equipment for the distribution system. This will allow us to head off issues, and gather valuable data on the system for future maintenance and expansion. This will be a great improvement to our electric utility system.
- For the electric system, the AMI system will allow us to remotely connect and disconnect electric meters. Greatly improving our customer service functions. We will also be able to access real-time data on the system to assist customers with questions regarding their service.
- The AMI system will allow us to implement time of use electric rates in the future. This will be very important for future rates in Sallisaw and will be required by GRDA.

FUNDING SOURCE: Sallisaw Municipal Authority Series 2020 Construction Funding, Grand River Dam Authority.

RECOMMENDATION: Staff recommends approval of the GRDA AMI Program Intent to Participate form, and the GRDA AMI Rider.

Grand River Dam Authority
8142 SH-412B
Chouteau, OK 74337

2023 GRDA Advanced Metering Infrastructure Program
Intent to Participate Form

Please complete the required information below to request participation in the 2023 GRDA Advanced Metering Infrastructure and submit via email to AMI.Program@grda.com.

Contact Information:

Name: Keith Skelton

City/Trust: Sallisaw Mun Authority

Email: kskelton@sallisawok.org

Address: Sallisaw Municipal Authority

Po Box 525, Sallisaw, OK 74955

Office Phone: 918-775-6241

Cell Phone: 918-315-1030

Please select one of the following:

☑ The above-named utility authority through this form provides notification of interest to participate in the 2023 GRDA Advanced Metering Infrastructure Program.

Year to participate: 2024 Current meter count: 4475

☐ The above-named utility authority through this form elects to not participate at this time in the 2023 GRDA Advanced Metering Infrastructure Program, however reserves the right to participate at a future date.

☐ The above-named utility authority declares they have an operating commercial advanced metering system. This system became active on: ____________________.

Authorized Signature and Date: [signature]

City/Trust Sallisaw Municipal Authority

V1/10-23

Approved: June14, 2023
Effective: June 14, 2023

GRDA AMI Rider

AVAILABILITY:

This Rider is available to eligible Customers.

I. INTENT:

Advanced Metering Infrastructure (AMI) enables both GRDA and wholesale customers to maintain operational awareness of distribution systems in real-time. GRDA's AMI Rider allows Customers to seek GRDA's assistance in negotiating and procuring AMI equipment and services, thereby facilitating economies of scale. Furthermore, the AMI Rider could provide GRDA with the additional technical capability to receive high-resolution information about the Customer's distribution system, which would provide GRDA operational advantages. Lastly, access to AMI Equipment and AMI data allows GRDA to more reliably plan for events involving manual load separation. Each of these factors facilitate improved system reliability and efficiency, allow customers to better respond to market signals, and improve GRDA's delivery of wholesale power and energy to Customers.

II. DEFINITIONS:

1. "AMI" means advanced metering infrastructure, an integrated metering system in which utility equipment, information management systems, and communications systems may coordinate to increase the reliability and/or efficiency of a utility system.

2. "AMI Base Cost" means the total capital cost to GRDA of procuring, supplying, and installing AMI Equipment for an individual participating Customer.

3. "AMI Billing Date" means, for any Customer, the billing month following the date of commercial operation of the Customer's AMI system, as determined by GRDA.

4. "AMI Costs" means AMI Base Cost and AMI Ongoing Costs, collectively.

5. "AMI Data" means the electronic and digital information derived from the operation of a Customer's AMI Equipment that can reasonably be shown to grant GRDA efficiency or other operational advantages.

6. "AMI Equipment" means AMI metering and all related hardware and software (including computer systems necessary for implementation, outage-tracking software, mapping software, and related equipment) necessary for a fully operational municipal electrical AMI system. AMI Equipment includes the communication equipment (i.e., radios and repeaters) necessary to wirelessly transmit AMI data to a central source. AMI Equipment excludes:
   (i) AMI Water Modules; (ii) AMI Gas Modules; and (iii) monthly service and/or software fees.

7. "AMI Gas Module" means meters, nodes, endpoints, and infrastructure to interconnect AMI to a Customer's municipal gas system(s).

8. "AMI Ongoing Costs" means any applicable ongoing monthly costs (i.e., subscription and meter support fees, supplemental services, applicable warranties, telecom fees, etc.) billed to GRDA by Vendor, for the benefit of an individual participating Customer for the operation and maintenance of AMI Equipment.

9. "AMI Water Module" means meters, nodes, endpoints, and infrastructure to interconnect AMI to a Customer's municipal water system(s).

10. "Customer" means wholesale customers that are: (i) parties to a current Wholesale Power Purchase and Sale Agreement with GRDA; (ii) and purchasing Wholesale Full Requirements Service from GRDA pursuant to GRDA *Schedule WP*.

11. "GRDA AMI Study Window" means one or more periods of time, established by GRDA, in which GRDA aggregates AMI Rider interest and attempts to achieve economies of scale via this Rider.

12. "Service Agreement" the written agreement in which the Customer agrees to participate in and make payments to GRDA pursuant to this *Rider*, a form of which is attached as **Exhibit A**.

13. "Vendor" means a qualified AMI vendor that has: (i) been approved by GRDA; (ii) entered into a master agreement with GRDA, in a form approved by GRDA, to furnish AMI services pursuant to this Rider.

III. AMI PARTICIPATION PROCESS:

1. Request for Participation by Customer. A Customer that seeks to participate in this AMI Rider shall submit a written request to GRDA during a GRDA AMI Study Window, on such form as provided by GRDA. Provided, GRDA may, at GRDA's discretion, extend AMI Study Window periods to address Customer requests that are presented out of time, if GRDA determines that the extension would not cause harm to other Customers.

2. AMI Evaluation. For each AMI Study Window, GRDA will:

   a. negotiate and evaluate the costs and details associated with an AMI program with Vendor; and

   b. review the study results with the requesting Customer(s). Upon GRDA's request, Customers will execute a confidentiality agreement with GRDA to protect proprietary or confidential Vendor information.

3. Written Agreement to Participate. If a participating Customer agrees to proceed with the AMI program, the Customer must provide GRDA with an executed Service Agreement within ninety days from the close of the GRDA AMI Study Window, or within such other time as established by GRDA for good cause shown.

4. GRDA Board Approval. Participation Agreements under this Rider are subject to and conditioned upon approval of the GRDA Board of Directors.

5. Final Procurement. If approved by the Board of Directors, GRDA will negotiate final procurement of the AMI Equipment in an AMI Study Window from Vendor. GRDA will not be required to proceed with any purchase until and unless GRDA is able to negotiate acceptable terms and conditions with Vendor.

6. Guidelines and Flexibility. This process is designed to establish general guidelines with respect to the process that GRDA may use to negotiate, procure, and invoice for AMI Equipment. GRDA may modify or deviate from these guidelines if, in GRDA's discretion, the modification or deviation promotes enhanced efficiency, expediency, or value for itself or for the Customer.

IV. AMI EQUIPMENT

1. Installation of Equipment. Vendor will coordinate with Customer regarding the details of installing AMI Equipment on the Customer's distribution system, as more particularly described by the Service Agreement.

2. AMI Water and Gas Modules. Nothing in this Rider is intended to prevent Customer from: (i) installing AMI Water Modules or AMI Gas Modules; or (ii) using Customer's AMI Equipment to transmit data to and from AMI Water Modules or AMI Gas Modules. Provided any such interconnection of AMI Water Modules or AMI Gas Modules will be separately and directly contracted for and procured by Customer, at Customer's sole expense.

3. Ownership of AMI System. Title to and Ownership of AMI Equipment shall pass directly from Vendor or its vendor to Customer, and at no time will GRDA assume an ownership interest therein.

V. GRDA ACCESS TO AND CONTROL OF AMI DATA

Vendor and Customers shall provide GRDA with access to AMI Data as more particularly described in the Service Agreement.

VI. BILLING AND INVOICING

1. AMI Cost Recovery. Upon successful completion of the AMI Participation Process, as outlined in Section III, GRDA will incur AMI Costs for the installation of a commercially operational AMI system for an individual participating Customer and will recover those costs from the participating Customer.

2. Cost Recovery Methodology. Beginning on the AMI Billing Date and ending on the 60th billing month following the AMI Billing Date, GRDA will invoice participating Customer and the Customer will pay a monthly charge equal to 1/60th the AMI Costs.

Provided, GRDA will convert the AMI Costs (which are calculated in dollars per month) into a cost per AMI meter for each participating Customer; and (ii) reflect that cost on the Customers' invoices.

> For example, during a particular month, if a customer is responsible for $45,000 of AMI Costs, and has 4,500 meters, GRDA will use reasonable efforts to convert the AMI Costs into a cost per AMI meter of $10.00. *
>
> **Please note that these amounts are for illustration purposes only. Furthermore, please note that a customer's retail customer meter charge <u>will likely differ from this amount</u>, because the Customer will probably assume a longer useful life than five years per meter.*

If any AMI Costs remain unpaid by a customer following the 60th month of the AMI Cost recovery period, the Customer will pay GRDA for the unpaid amounts within thirty days following the end of the 60th month.

3. <u>Form of Invoice and Supporting Documentation</u>. GRDA may, in GRDA's discretion, either: (i) include charges arising under this *Rider* as a separate line item on the Customer's PPSA wholesale power invoice; or (ii) invoice the Customer separately. Included with the first invoice, GRDA will provide sufficient information for the Customer to reasonably verify the legitimacy of the AMI Costs invoiced under this *Rider*. If a customer requires additional information other than the information initially supplied by GRDA, the Customer may request that additional information from GRDA, and GRDA will use commercially reasonable efforts to timely provide that additional information.

4. <u>Customer Assumption of AMI Ongoing Costs</u>. Customer will assume responsibility to directly pay Vendor for all of Customer's AMI Ongoing Costs at any time but must assume such responsibility beginning no later than the 61st month following the AMI Billing Date, as more particularly described by the Service Agreement. Provided that if GRDA incurs any such costs, Customer will promptly reimburse GRDA for the same.

5. <u>AMI Base Cost True-Up and Close-Out</u>. GRDA will calculate the AMI Base Costs described in paragraph 2 for each Customer. However, GRDA may utilize estimates to calculate AMI Base Costs if actual figures are not available. As such actual figures become available, GRDA will recalculate AMI Costs and distribute such costs, in a fair and equitable manner.

6. <u>Utility Cost Recovery</u>. The AMI Equipment is an investment in utility infrastructure, and therefore GRDA intends to recover its AMI Equipment costs over a sixty- month period beginning upon the AMI Billing Date.

VII. AVAILABILITY:

This Program will become available on the Effective Date and may be terminated or amended at any time by GRDA. Provided, Customers who execute a Participation Agreement will continue to be invoiced for, and must continue to pay, all charges arising from and related to this Rider.

Exhibit A
Pro Forma Service Agreement
AMI Rider

This *Service Agreement* ("**Service Agreement**") is made and entered into between the Grand River Dam Authority, a governmental agency of the State of Oklahoma created and existing pursuant to 82 O.S. § 861, *et seq.* ("**GRDA**"), and SALLISAW MUNICIPAL AUTHORITY ("**Customer**") (collectively, the "Parties") on Feb 12, 2024 ("**Effective Date**").

Article 1. Background

1.1 GRDA and Customer are parties to that certain *Power Purchase and Sale Contract* dated Oct 10, 2007 ("**PPSA**"), the contents of which are hereby incorporated by reference.

1.2 Customer seeks to participate in the GRDA *AMI Rider* ("**Rider**"), the contents of which are hereby incorporated by reference.

1.3 Customer seeks to select Utility Technology Services as Customer's applicable Vendor under the *Rider*.

1.4 The terms of this Service Agreement define certain restrictions, parameters, and details regarding Customer's participation in the *Rider*.

Therefore, the Parties agree as follows:

Article 2. Customer Payment under AMI Rider and Coordination with Vendor

2.1 <u>Scope of AMI Rider Participation</u>. Customer seeks for Vendor to implement an AMI system in Customer's community as more particularly described by **Exhibit A.1 – AMI System Specifications**. Provided, and notwithstanding any provision to the contrary, in the event of a conflict between terms in **Exhibit A.1** and this *Service Agreement*, this *Service Agreement* will prevail and supersede the conflicting term.

2.2 <u>Customer Representative and Personnel Duties</u>. Customer will, at Customer's cost:

2.2.1 designate in writing an authorized representative to communicate with Vendor, and who is authorized to make decisions about the AMI Equipment on Customer's behalf ("Customer Representative"). The Customer Representative will attend any pre-implementation, progress and other related meetings and inspections applicable to the AMI services.

2.2.2 provide information, comments and approvals as required in a timely manner to Vendor when such input is necessary for Vendor to perform AMI services, including providing prompt written notice to Vendor whenever the Customer Representative observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of the AMI services or any defect or nonconformance in the AMI services, or in the work of any vendor or other contractor related to the AMI services;

2.2.3 reasonably cooperate with Vendor in such a manner as to facilitate Vendor's performance of its obligations under any AMI services agreement(s).

2.2.4 provide all necessary personnel, access to facilities, and assistance to Vendor with respect to the configuration, installation, and operation of the AMI Equipment.

2.2.5 arrange access to and make all provisions for Vendor, AMP, and/or related vendors to enter upon private property as required to perform AMI services; and

2.2.6 comply with all applicable export laws and restrictions.

2.3 Customer Cooperation with GRDA. Customer recognizes that GRDA will enter into an AMI services agreement with Vendor for the benefit of Customer; Customer will therefore reasonably cooperate with GRDA in such a manner as to facilitate GRDA and Vendor's obligations under any such AMI services agreements.

2.4 Payment of All Amounts Due under Rider. Each month, the Customer will pay all AMI Costs due from Customer, as calculated pursuant to the *Rider*, in the same manner that other PPSA charges are paid, and until all such AMI Costs are paid in full. Provided, if the Customer's PPSA is terminated prior to the payment in full of all AMI Costs, Customer will pay GRDA: (i) the remaining balance of Customer's AMI Costs upon termination of the PPSA; and (ii) all AMI Ongoing Costs incurred by GRDA. In such a case, Customer will contract with Vendor to assume responsibility for all AMI Ongoing Costs prior to termination of the PPSA.

2.5 Customer Assumption of AMI Ongoing Costs. Customer will assume responsibility for and pay all AMI Ongoing Costs. Customer will agree in writing with Vendor to assume the responsibility to pay all such AMI Ongoing Costs and will provide GRDA with a copy of any such agreement. Provided, if Customer fails to assume responsibility for such AMI Ongoing Costs, and/or if GRDA incurs any such AMI Ongoing Costs, Customer will reimburse GRDA for the same.

2.6 Payment for Non-Electric Equipment. Customer will directly contract for, procure, and pay for any applicable AMI Gas Modules and/or AMI Water Modules, and their related services.

2.7 Payment for Additional AMI Equipment. The Customer will contact Vendor directly if Customer requires additional AMI Equipment not included in the GRDA AMI Base Costs.

Article 3. General Terms and Conditions

3.1 Software License. Pursuant to the terms of the AMI services agreement between GRDA and Vendor, Customer consents to the terms in Articles ______________________, which relate to software use and licensure.

3.2 No Warranties and Release of GRDA from Liability. Customer agrees to release and hold harmless GRDA from and against any liability whatsoever arising from or related to the *Rider* or this Service Agreement, or any products or services provided thereunder, including, but not limited to, liability arising from or related to the terms that GRDA negotiates (or does not negotiate, as the case may be) with Vendor. Customer acknowledges that any goods or services furnished by GRDA pursuant to the Rider are provided WITH NO IMPLIED OR STATUTORY WARRANTIES BY OR FROM GRDA WHATSOEVER, INCLUDING WARRANTIES OF MERCHANTABILITY, QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE.

3.3 Just and Reasonable Terms and Assistance of Counsel. The customer acknowledges that the terms and conditions of the Rider and this Agreement are just, reasonable, and not unduly discriminatory. Both parties have entered into this agreement after an opportunity for review by their respective legal counsel.

3.4 AMI Cost Recovery is Not Financing. Customer acknowledges that neither the *Rider* nor this Service Agreement is a financing or lending vehicle; instead, the *Rider* and Service Agreement create a mechanism to facilitate GRDA's investment in utility infrastructure, and thereby gain additional system visibility. Customer will not represent that the *Rider* or this Service Agreement is a financing or lending vehicle.

3.5 Choice of Law and Jurisdiction. This Service Agreement will be governed exclusively by Oklahoma Law, and the state district courts of Tulsa County, Oklahoma will have exclusive jurisdiction to adjudicate any disputes arising from or related to this Service Agreement. Customer irrevocably submits to the jurisdiction of the state district courts of Tulsa, Oklahoma with respect to any such dispute.

3.6 Notices. Each notice, request, demand, statement, or routine communication allowed or permitted by this Service Agreement, or any notice or communication which either Party may desire to give to the other, shall be performed in the manner described by the PPSA. Provided, the Parties agree that notice under this Service Agreement may be made via email, at the email addresses listed below:

Grand River Dam Authority
9933E. 16th Street
Tulsa, OK 74128
[GRDA Notice Email]

[Customer Contact Information]
Sallisaw Mun Authority

3.7 Representation of Authority. The individual signing below represents that he/she: (i) is a duly authorized representative of Customer; (ii) has obtained all necessary approvals prior to executing this Service Agreement and executes this Service Agreement without condition precedent; and (iii) possesses adequate and sufficient authority to bind Customer to each of the terms and conditions listed herein.

3.8 GRDA Access to Data. At no additional cost to GRDA, and upon request from GRDA, Customer will authorize GRDA to electronically access AMI Equipment historical and real-time data. Provided, the Customer will not be required to pay for any additional hardware or software necessary for GRDA to access such data other than the hardware and software provided with the AMI system. Customer may, at Customer's expense and at Customer's discretion, redact personally identifying information (including customer names) from the data supplied to GRDA.

3.9 Termination.

3.9.1 Automatic Termination. This Service Agreement will automatically terminate upon the earlier to occur of: (i) termination of the PPSA; or (ii) Customer's payment of all AMI Costs; or (iii) upon GRDA's exercise of a right to terminate based upon the occurrence of any of the Events of Automatic Termination listed in paragraph 3.9.2 below.

3.9.2 Termination for Cause. GRDA may terminate this Service Agreement for cause by providing written notice to Customer at least five days prior to the effective date of the termination. Any of the following events will be considered to give GRDA the right to terminate this Service Agreement for cause:

3.9.2.1 Failure by Customer to make, when due, any payment under this Service Agreement or the PPSA;

3.9.2.2 Breach or repudiation of this Service Agreement or the PPSA by Customer

3.9.2.3 Customer's failure to comply with or perform any material obligation under this Service Agreement or the PPSA;

3.9.2.4 Any misrepresentation made by on or behalf of Customer and involving any material aspect of this Service Agreement or the PPSA;

3.9.2.5 Default under or breach of the PPSA; or

3.9.2.6 Customer insolvency or assignment on behalf of creditors.

3.9.3 Effect of Termination for Cause. If GRDA terminates the Service Agreement for cause, the Customer will become ineligible to participate in the *Rider*, and Customer will pay GRDA for any damages incurred by GRDA, including any unpaid AMI Costs and any AMI Ongoing Costs incurred by GRDA.

3.9.4 No Termination of PPSA. Notwithstanding any other provision to the contrary, termination of this Service Agreement will not terminate the PPSA.

3.9.5 Survival Clause. Articles 2 and 3 will survive termination of this Service Agreement.

3.9.6 Termination not Exclusive Right. Termination of this Service Agreement is not intended to be a waiver of any rights or remedies available to GRDA under Oklahoma law, and GRDA specifically preserves all rights and remedies.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Service Agreement as of the Effective Date.

CUSTOMER

By____________________________

Keith Skelton

ATTEST:
(Seal)

____
[name, title]

GRAND RIVER DAM AUTHORITY

By____________________________
Daniel S. Sullivan, CEO

ATTEST:
(Seal)

____
Sheila Allen, Corporate Secretary

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	Clean Water State Revolving Fund Loan Program

ITEM TITLE: Discussion and possible action on Resolution No. 2024-01, a Resolution agreeing to file application with the Oklahoma Water Resources Board (the "OWRB") for financial assistance through the Clean Water State Revolving Fund Loan Program, with the loan proceeds being for the purpose of funding the acquisition, construction, equipment and installation of an automated meter reading system for the Authority's water system; approving a legal services agreement and financial advisory agreement with respect to the aforesaid automated meter reading system project; and containing other provisions related thereto

INITIATOR: SMA General Manager
Chris Byrom, Bond Attorney
Randy Nelson, Financial Consultant

STAFF INFORMATION SOURCE: Oklahoma Water Resources Board

BACKGROUND: Approval of this resolution will allow us to make an application to the Oklahoma Water Resources Board (OWRB) to access funding from the Clean Water State Revolving Fund Loan Program. Our intent is to apply for $1.5 million for the purchase and installation of AMI water meters. This project has a total cost of approximately $1,534,565. This will allow us to replace all residential water meters that we service (3,100 meters). This program will allow a maximum of $1.5 million of the loan funding to be forgiven after the project is completed.

Chris Byrom and Randy Nelson will be present at the meeting to discuss and answer any questions regarding this item.

EXHIBITS: 1. RESOLUTION APP OWRB.2024.01

KEY ISSUES:

- Launching of our AMI project has been ten years in the making. During this time, staff has invested many hours in researching AMI systems. During the last two years, GRDA has also participated in these discussions and has assisted their customers in establishing a program to assist in getting these systems installed.
- This is a significant one-time opportunity to access OWRB funding for AMI water meters, with up to $1.5 million of the funding debt forgiven once the project is completed. Essentially, OWRB funding will pay close to 100% of project.
- The water meter AMI program goes hand in hand with the electric

meter AMI program.

FUNDING SOURCE: Clean Water State Revolving Fund Loan Program
Sallisaw Municipal Authority Series 2020 Construction Funds

RECOMMENDATION: Staff recommends approval of Resolution No. 2024-01

RESOLUTION NO. 2024-01

A RESOLUTION AGREEING TO FILE APPLICATION WITH THE OKLAHOMA WATER RESOURCES BOARD (THE “OWRB”) FOR FINANCIAL ASSISTANCE THROUGH THE CLEAN WATER STATE REVOLVING FUND LOAN PROGRAM, WITH THE LOAN PROCEEDS BEING FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, EQUIPPING AND INSTALLING AN AUTOMATED METER READER SYSTEM FOR THE AUTHORITY’S WATER SYSTEM; APPROVING A LEGAL SERVICES AGREEMENT AND A FINANCIAL ADVISORY AGREEMENT WITH RESPECT TO THE AFORESAID AUTOMATED METER READER SYSTEM PROJECT; AND CONTAINING OTHER PROVISIONS RELATED THERETO

WHEREAS, The Sallisaw Municipal Authority (the “Authority”) has under consideration a project consisting of acquiring, constructing, equipping and installing an automated meter reader system for the Authority’s water system (the “Project”); and

WHEREAS, it is deemed desirable for the Authority to retain professionals in connection with the issuance of obligations through the Oklahoma Water Resources Board for such purpose;

BE IT RESOLVED BY THE TRUSTEES OF THE SALLISAW MUNICIPAL AUTHORITY:

Section 1. Application. The Authority shall file an Application(s) with the Oklahoma Water Resources Board seeking financial assistance through the Clean Water State Revolving Fund Loan Program; and the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized to execute said Application(s) for and on behalf of the Authority. The Authority is further authorized to advance to the Oklahoma Water Resources Board the necessary application fees in connection with the referenced Application(s), if any.

Section 2. Legal and Financial Advisory Services Agreements. The Authority is hereby authorized to enter into a legal services agreement with Johanning & Byrom, PLLC as bond counsel and Montgomery and Montgomery, P.C. as general counsel, as well as a financial advisory agreement with The Baker Group LP, Oklahoma City, Oklahoma as financial advisor, each with respect to the aforesaid Project.

Section 3. Other Matters. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized and directed to do all other lawful things necessary to carry out the terms and conditions of this Resolution.

PASSED AND APPROVED THIS 12TH DAY OF FEBRUARY, 2024.

THE SALLISAW MUNICIPAL AUTHORITY

By____________________________________

Chairman of Trustees

ATTEST: (Seal)

____

Secretary of Trustees

I, the undersigned Secretary of The Sallisaw Municipal Authority, a public trust, hereby certify that the foregoing is a true, correct, and complete copy of a Resolution adopted by the Trustees of the Authority at a meeting held on the date therein stated, as the same appears on file in my office as a part of the official records thereof.

____

Secretary of Trustees

(Seal)

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	Clean Water State Revolving Fund Loan Program

ITEM TITLE: Discussion and possible action on Resolution No. 2024-02, a Resolution declaring the official intent of the Authority for providing for the reimbursement of certain funds to be expended for the Authority's automated meter reading system for the Authority's water system to be reimbursed from future indebtedness to be incurred by the Authority; and establishing compliance with tax-exempt bond regulations under the Internal Revenue Code

INITIATOR: SMA General Manager
Chris Byrom, Bond Attorney
Randy Nelson, Financial Consultant

STAFF INFORMATION SOURCE: Oklahoma Water Resources Board (OWRB)

BACKGROUND: This resolution is a companion to the previous OWRB agenda item. It provides for reimbursement of funding to the SMA and ensures we are in compliance with IRS rules regarding this program. Chris Byrom and Randy Nelson will be present at the meeting to discuss and answer any questions regarding this item.

EXHIBITS: 1. OWRB Reimbursement Resolution 2024.02

KEY ISSUES: None

FUNDING SOURCE: Clean Water State Revolving Fund Loan Program
Sallisaw Municipal Authority Series 2020 Construction Funds

RECOMMENDATION: Staff recommends approval of Resolution No. 2024-02.

RESOLUTION NO. 2024-02

A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE AUTHORITY FOR PROVIDING FOR THE REIMBURSEMENT OF CERTAIN FUNDS TO BE EXPENDED FOR THE AUTHORITY=S AUTOMATED METER READING SYSTEM FOR THE AUTHORITY=S WATER SYSTEM TO BE REIMBURSED FROM FUTURE INDEBTEDNESS TO BE INCURRED BY THE AUTHORITY; AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

WHEREAS, the Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Regulations") dealing with the issuance of bonds and other evidences of indebtedness, a portion of the proceeds of which are to be used to reimburse The Sallisaw Municipal Authority (the "Authority") for project expenditures made by the Authority prior to the date of issuance; and

WHEREAS, the Regulations generally require that the Authority make a prior declaration of its official intent to be reimbursed for such prior expenditures out of the proceeds of any such subsequent evidence of indebtedness, that the issuance of such evidence of indebtedness occur and the reimbursement allocation be made from the proceeds of such evidence of indebtedness within eighteen (18) months of the payment of the expenditure or, if longer, within one year of the date the project is placed in service (but in no event more than three (3) years after the date of expenditure), and that the expenditures be capital expenditures (including, but not limited to, engineering costs); and

WHEREAS, the Authority desires to comply with the requirements of the Regulations with respect to all capital expenditures in connection with providing capital improvements to the Authority's water system;

BE IT RESOLVED BY THE TRUSTEES OF THE SALLISAW MUNICIPAL AUTHORITY:

SECTION 1. Official Intent Declaration.

(a) The Authority proposes to undertake the acquisition, construction, equipment and installation of a new automated meter reading system for its water system and shall be reimbursed from the proceeds of a subsequent evidence of indebtedness issued by the Authority for some of the costs associated with, but not limited to, acquisition, construction, equipment and installation of a new automated meter reading system for the Authority's water system in an amount not reasonably expected to exceed $1,500,000.00, as more particularly described in Exhibit A attached hereto.

(b) The Authority reasonably expects to pay the expenditures to be reimbursed from funds on hand in the Authority's Fund 90 Operating Fund.

(c) Other than (i) expenditures to be paid or reimbursed from sources other than a borrowing, or (ii) expenditures permitted to be reimbursed pursuant to the provisions of Section 1.150-2(d) of the Regulations, or (iii) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f) of the Regulations, no expenditures have been made more than sixty (60) days prior to the date of the adoption of this Resolution.

(d) The Authority reasonably expects to reimburse some or all of the expenditures made for the above described project out of a portion of the proceeds of a subsequent evidence of indebtedness with said reimbursement to be in an amount reasonably expected not to exceed $1,500,000.00 from said indebtedness to be issued by the Authority after the date of payment of all or a portion of the costs thereof. The Authority reasonably expects to utilize revenues generated from the aforesaid capital improvements project to pay a portion of debt service on the subsequent evidence of indebtedness, if repayment of such indebtedness is required. All reimbursed expenditures shall be capital and preliminary expenditures as defined in Section 1.150-2(d) and (f) of the Regulations.

(e) This declaration is a declaration of official intent adopted pursuant to Section 1.150-2(d) of the Regulations and for purposes thereof shall be treated as being adopted on February 12, 2024.

SECTION 2. Budgetary Matters. As of the date hereof, there are no Authority funds reserved, allocated on a long term basis, or otherwise set aside (or reasonably expected to be reserved, allocated on a long term basis, or otherwise set aside) to provide permanent financing for the expenditures related to the project, other than pursuant to the issuance of the bonds, notes, or other evidences of indebtedness of the Authority. This Resolution, therefore, is determined to be consistent with the Authority's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

SECTION 3. Reimbursement Allocations. The Authority's Manager shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the borrowing to reimburse the source of temporary financing used by the Authority to make payment of the prior costs of the project. Each allocation shall be in accordance with the directives of the Trustees of the Authority and in accordance with the Regulations. Each allocation shall be evidenced by an entry on the official books and records of the Authority maintained for such purpose, shall specifically identify the actual prior expenditure being reimbursed and shall be effective to relieve the proceeds of the evidence of indebtedness from any restriction under such resolutions and relevant legal documents for the borrowing.

ADOPTED this _______ day of February, 2024.

____
Chairman of Trustees

ATTEST: (Seal)

____
Secretary of Trustees

I, the undersigned Secretary of Trustees of The Sallisaw Municipal Authority, a public trust, hereby certify that the foregoing is a true, correct and complete copy of a Resolution adopted by the Trustees of the Authority at a meeting held on the date therein stated, as the same appears on file in my office as a part of the official records thereof.

____
Secretary of Trustees

(Seal)

EXHIBIT A

IMPROVEMENTS

Acquisition, construction, equipment and installation of a new automated meter reading system for the Authority's water system, together with any engineering costs related thereto.

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	UTS AMI Agreement

ITEM TITLE: Discussion and Possible Action on Agreement Between the Sallisaw Municipal Authority and Utility Technology Services (UTS) for the Purchase and Possible Installation of Water AMI Meters

INITIATOR: General Manager
Director of Finance

STAFF INFORMATION SOURCE: Utility Technology Services

BACKGROUND: This agreement is for the purchase of AMI water meters for our upcoming AMI project. From UTS, we will purchase 3,100 water meters for residential services. Contract language allows us to void the agreement, based on our application for funding through the Oklahoma Water Resources Board. If our application is denied, then we will revisit the project and make changes. Contract language also allows us the option of having a UTS contractor install the water meters.

EXHIBITS: 1. UTS.Meter Contract Forms - agreement between uts and owner final

KEY ISSUES:

- UTS has been chosen to provide AMI services for our electric and water systems. UTS has over 30 installations across Oklahoma alone. Their system has proven to be dependable and accurate.
- For both electric and water meters, SENSUS meters will be installed.
- For Sallisaw, only two collector points will be required. In addition, UTS utilizes a private frequency for communications, which eliminates cross interference from other technology providers.
- The UTS system is very flexible. In the future, we will be able to add numerous SCADA access points throughout our service area to monitor electric and water systems.

FUNDING SOURCE: Clean Water State Revolving Fund Loan Program
Sallisaw Municipal Authority Series 2020 Construction Funds

RECOMMENDATION: Staff recommends approval of the agreement between the Sallisaw Municipal Authority and Utility Technology Services.

AGREEMENT

This "Agreement" is made as of February ___, 2024 ("Effective Date"), by and between the Sallisaw Municipal Authority, with offices located at 115 E. Choctaw – Sallisaw, OK. 74955 (the "Owner") and Utility Technology Services, Inc. an Oklahoma Corporation, with offices located at 9636 W Reno Ave, Oklahoma City, OK 73127 ("Distributor"), and .

Recitals:

A. Distributor is an independent distributor serving a market area for products made by Sensus USA, Inc. ("Sensus"), including electric and water flow measurement products, Automatic Meter Reading (AMR), and Advanced Metering Infrastructure (AMI).

B. the Owner desires to purchase from Distributor such products and services as described in the attached **Exhibit A** (the "Project").

C. the Owner has entered, or will enter, into an Advanced Metering Infrastructure Agreement with Sensus (the "AMI Agreement").

D. Contract is pending based on funding being granted by the OWRB-CWSRF or any other type of funding agency. Owner also agrees that if funding is secured by the Federal Government's BABA program, Owner will secure a waiver for Distributor allowing Sensus Metering Systems as their selected product.

In consideration of these premises and the mutual agreements hereinafter set forth, the parties agree as follows:

1. **Incorporation of Recitals**. All of the Recitals are true and incorporated herein by reference.

2. **Contract Amount**. The Owner agrees to pay to Distributor the sum not to exceed One Million Five Hundred Thirty five Thousand Five Hundred Sixty five and 00/100 ($1,534,565.00) adjusted based on Owner selection to have Distributor perform installation tasks for those items described in **Exhibit A** (the "Contract Price"). For any items relating to the Project in addition to those set forth on **Exhibit A**, the Owner shall pay the price, and in the manner, as invoiced by Distributor.

3. **Schedule of Work**. The parties agree to the following estimated schedule of work:

    a. Distributor is not required to place any order for any product until the Effective Date.

    b. Distributor shall install the base stations first, and within 90 days from the Effective Date.

    c. Distributor shall complete the meter and Smart Point installation within 180 days after all product has been delivered to Sallisaw and if the installation is selected by (Owner).

    d. If Distributor is delayed in performance of any of its obligations under this Agreement by any cause beyond its control, then it shall be entitled to an extension of time for any deadlines set forth herein, commensurate with length of such delay.

4. **Terms of Sale.** Except as modified herein, all purchases will be governed by Distributor's Terms

and Conditions of Sale, which Terms and Conditions can be located at https://www.utssupply.com/Terms-and-Conditions-of-Sale, and which Terms and Conditions are incorporated by reference into this Agreement. In no event shall any terms in any purchase order, confirmation or other document issued by the Owner or its agents or representatives be binding on Distributor.

a. **Payment**. Distributor may invoice the Owner for goods sold under this Agreement when such goods are delivered to Distributor at Distributor's staging site(s) in or around Texhoma, Oklahoma. Distributor may invoice the Owner monthly for services under this Agreement for the amount of goods installed, or other services provided, the previous month. The Owner shall pay Distributor the invoiced amounts within 21 days of receipt of the invoice. A time-price differential charge equal to 1.7% per month (20.4% per annum) will be charged on all balances not paid when due. If the Owner's financial responsibility shall become unsatisfactory to Distributor at any time and for any reason, Distributor shall have the right, in addition to whatever other rights Distributor may have at law or equity, to require payment in cash or to obtain satisfactory security from the Owner before making any further deliveries. In case any payment is not made when due, Distributor shall have the right, in addition to its other remedies, to seek specific performance of this Agreement, to suspend any further deliveries, alter payment terms, or terminate this Agreement. Approval of credit for one or more deliveries shall not be deemed a waiver of this provision.

b. **Hosting Fee**. If the Owner has purchased hosting services, then Owner shall pay for such hosting services within 30 days of the invoice date. If Owner fails to pay for the hosting services within 30 days of the invoice date, then without further notice or opportunity to cure, Contractor may terminate the hosting services, which will result in Owner's inability to access meter data.

c. **Limited Installation Services Warranty, Exclusive Remedy, Exceptions and Disclaimer**.

i. Distributor warrants that its installation services will be free from defect for one (1) year following installation. The one year period begins to run on the date the individual product was installed. The Owner shall notify Distributor in writing of any claimed defect within thirty (30) days following the appearance of such defect. Failure of the Owner to provide such notice will void this Limited Installation Services Warranty.

ii. Extent of Warranty Obligations/Exclusive Remedy: Subject to the exceptions set forth below, Distributor's obligations under this Limited Installation Services Warranty are limited to the costs of correcting the defect attributable to Distributor's installation services. Except for such costs of correction, Distributor shall not be liable to the Owner or any other person or entity for damages of any kind, including, without limitation, indirect, special, incidental, consequential or punitive damages, arising from the goods or services sold hereunder or in connection with the use or inability to use such goods or services for any purpose whatsoever, irrespective of whether the claims or actions for such damages are based upon contract, tort, negligence, strict liability, warranty or otherwise. In no event shall Distributor incur any liability whatsoever for damages of any kind arising out of or relating to delay in delivery. Without narrowing the breadth of the type of damages excluded by this provision, which provision shall be interpreted as broadly in favor of Distributor as the law permits, the following damages are specifically excluded:

1. Any damages for lost revenue, including without limitation, revenue relating to electricity, gas or water consumption;
2. Any damages relating to transportation of goods; and
3. Any damages relating to manual meter reading costs and expenses.

iii. Exceptions to Limited Installation Services Warranty:

1. Distributor does not warrant any goods sold under this Agreement in any respect, such sale being on an "As Is" basis. Distributor does, however, hereby assign to the Owner any and all manufacturer's warranties relating to such goods sold under this Agreement to the extent such warranties are assignable. If this assignment is held to fail for any reason, then the Limited Warranty described above shall apply with respect to the goods sold.
2. This Limited Installation Service Warranty does not cover bodily injury or property damage to property other than the product installed by Distributor.

iv. **EXCEPT AS EXPRESSLY SET FORTH HEREIN, DISTRIBUTOR DISCLAIMS ALL WARRANTIES IN CONNECTION WITH THE GOODS AND SERVICES SOLD HEREUNDER, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION DESCRIPTION, QUALITY, DESIGN, PERFORMANCE, SPECIFICATIONS, CONDITION, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. NO PERSON, INCLUDING THE OWNER AND/OR SENSUS, IS AUTHORIZED BY DISTRIBUTOR TO MAKE WARRANTIES OR ASSUME ANY LIABILITY FOR DISTRIBUTOR WITH RESPECT TO THE GOODS OR SERVICES SOLD HEREUNDER. ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES AND SHALL NOT BE RELIED ON BY THE OWNER AND ARE NOT PART OF THIS AGREEMENT. DISTRIBUTOR'S WARRANTY OBLIGATIONS AND THE OWNER'S REMEDY ARE SOLELY AS STATED IN THIS AGREEMENT.**

v. The disclaimer of warranties and limitation of liabilities set forth herein and/or in Distributor's Terms and Conditions of Sale shall apply even if the express warranty set forth above fails of its essential purpose. The Owner acknowledges and agrees that Distributor has set its prices and entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties. No other remedies shall be available to the Owner other than as set forth herein.

vi. Warranty Servicing Agent. Without accepting any liability for, or extending any warranty relating to, the goods sold under this Agreement, Distributor agrees to act as a Servicing Agent for the Owner's warranty claims against the manufacturer of such goods, so long as a valid warranty remains with respect to such goods. In that regard, Distributor will communicate such claims by the Owner to the manufacturer and use reasonable efforts to work with the manufacturer to satisfy the claim. The Owner may at all times contact the manufacturer directly and Distributor is not responsible for any delay, expense, costs or damages of the Owner relating in any way to such warranty claims.

d. **Notice of Claims**. The Owner shall inspect the goods provided by Distributor immediately upon delivery. Notice of any claim for shortage or defects discoverable on such inspection shall be made to Distributor within fifteen (15) days thereafter. The Owner shall, upon Distributor's request, furnish reasonable proof of any claimed defect and Distributor shall be given an opportunity to investigate. Failure of the Owner to give notice of any claim within the specified period shall be deemed an absolute and unconditional waiver of such claim.

e. **Risk of Loss**. The goods sold pursuant to this Agreement are sold F.O.B. Distributor's place of business. The Owner assumes responsibility for all costs of transportation. If Distributor assists the Owner in this regard, it is agreed that such assistance is gratuitous, and Distributor shall have no obligation or liability arising out of such assistance. Distributor's responsibility for carriage of goods, if any, is addressed in paragraph 8.

f. **Force Majeure**. Distributor shall not be liable for any delay or impairment of performance resulting in whole or in part from any cause beyond Distributor's control including, without limitation, fires, floods, explosions, accidents or other catastrophes, acts of God, strikes, lockouts or labor disruption, wars, riots or embargo delays, government allocations or priorities, shortages of transportation, fuel, labor or materials, inability to procure the goods or raw materials, severe weather conditions, changes of law or regulation, inaccessibility of any worksite not caused by Distributor, or any other circumstance or cause beyond Distributor's control. Such excuse from performance shall extend so long as the event continues to delay or impair Distributor's performance.

g. **Field Representatives**. The services of Distributor's representatives in the field are offered on request and when personnel are available for such period of time and for such charge as Distributor deems appropriate. Any such service is offered only on the condition that Distributor shall not be deemed to have approved of, or in any manner to have assumed responsibility for, the engineering, design, supervision, inspection, or quality of the workmanship of the AMR products and/or the AMI System.

h. **Miscellaneous**.

i. Unless specifically noted otherwise, prices do not include present or future federal, state or local taxes. All taxes shall be the responsibility of the Owner.

ii. Prices do not include the cost of any independent laboratory inspection if such should be required.

iii. Quoted deliveries are based on estimates at the time of quotation. Distributor will devote its best efforts to meeting the delivery schedules but assumes no liability for additional costs or damages resulting from later deliveries.

5. **Additional Contract Documents**. The following attachments to this Agreement identify and clarify the parties' responsibilities pursuant to this Agreement, and are incorporated herein by reference. To the extent any term of this Agreement conflicts with anything set forth in the attachments identified in this paragraph, the terms of this Agreement will control.

   a. Distributor Responsibilities. **Exhibit B**.

   b. The Owner Responsibilities. **Exhibit C**.

6. **Costs of Collection**. If either party shall default in any way on obligations under this Agreement, including without limitation the failure to make a timely payment, then the breaching party shall be liable to the other party for all costs of collection including, but not limited to, attorney's fees and expenses.

7. **Insurance/Bonding**. The Owner agrees to maintain and pay for such insurance coverage as is customary for entities such as the Owner, and in the amounts as is customary for entities such as the Owner. The Owner agrees and acknowledges that Distributor is entering into this Agreement in reliance on the Owner's representation that the policies of insurance contemplated by these provisions will be in place, with all premiums paid.

   a. Such coverage must be maintained in a form and with companies acceptable to Distributor and must, notwithstanding the requirements of this section, cover bodily injury, and property damage.

   b. Each policy of insurance must name Distributor as an additional named insured, on a primary and non-contributory basis, which may not be limited, and must provide that the same may not be canceled or altered, except upon thirty (30) days prior written notice to Distributor.

   c. In the event any policy or policies of insurance that the Owner is required to maintain is written on a "claims made" insurance form, each policy must have a "retroactive date" which is not later than the date on which the parties entered into their agreement. Furthermore, should insurance coverage be written on a "claims made" basis, the Owner's obligation to provide insurance must be extended for an additional period equal to the statute of limitations for such claims in the State of Oklahoma, plus one year.

   d. By executing this agreement, and thereafter upon request, the Owner must provide to Distributor a certification, signed by an authorized agent of the Owner and sworn to before a notary public under penalty of law, of the following: the Owner hereby certifies that it has not cancelled any insurance described herein, and that the Owner has not delivered, sent by overnight courier, mailed, faxed, sent by telegram, or transmitted by any other means any notice of cancellation of such insurance.

   e. Certificates evidencing coverage by the policies of insurance identified in the provisions of this Agreement (the "Policies"), must be delivered to Distributor prior to the delivery of any goods or services and from time to time thereafter at Distributor's request. The delivery to Distributor of current certificates is an absolute condition precedent to any obligation by Distributor to the Owner.

f. The Owner is independently responsible for any desired coverage against damage or loss to its own materials, facilities, roofs, equipment, scaffolds, bracing and similar items not covered by other policies of insurance.

g. Distributor and the Owner waive all rights against each other, including, but not limited to, rights of subrogation for damages caused by fire and other perils to the extent covered by the insurance required to be maintained hereunder.

8. **Shipping Terms**. In addition to the other terms and conditions of sale, the following terms and conditions shall apply to Distributor's carriage of goods when Distributor is accommodating the Owner by delivering to the Owner, or on the Owner's behalf, goods that are purchased by the Owner from Distributor.

a. The Owner's signature on a Shipping Manifest or similar document will be evidence of receipt of the goods identified in the Shipping Manifest and related documents in apparent good order and condition.

b. Distributor's liability for carriage of goods will end when Distributor arrives at the intended shipment destination or, as applicable, if Distributor is required by contract to unload the goods, when Distributor completes the unloading of goods at the intended shipment destination.

c. To pursue any claim arising from Distributor's carriage of goods, the Owner's claims must be filed with Distributor no later than 9 months after the delivery of the goods. Any civil action to recover damages or amounts claimed arising from carriage of goods must be commenced, if at all, within two (2) years after the delivery of the goods. Any claims not filed within the nine (9) month limitations period or suits not instituted within the two (2) year period are barred and Distributor will have no liability for such claims.

9. **Assignment.** The parties hereto have entered into this Agreement intending to be bound hereby, and this Agreement shall be a binding enforceable agreement and shall inure to the benefit of, and be enforceable by, the parties hereto, and to the parties' successors and permitted assigns. The rights granted to the Owner hereunder are personal and not transferable and the Owner shall not assign or transfer, directly or indirectly, any of its rights or obligations under this Agreement without the prior written consent of Distributor, which consent may be withheld for any reason or for no reason. Any attempted assignment or transfer by the Owner without the prior written consent of Distributor shall be void.

10. **Entire Agreement; Severability; Amendments; Waiver.**

a. This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous written or oral negotiations and agreements between them regarding the subject matter hereof. All terms and conditions, representations and operative terms representing the parties' agreement are set forth herein, and the parties acknowledge that there are no other terms and conditions, representations or other operative terms of this Agreement. Neither party shall be entitled to plead that there were additional inducements or oral terms.

b. If any provision of this Agreement shall be determined to be invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement.

c. No modifications, alterations, amendments, or variations of this Agreement shall be binding against Distributor unless the same is specifically set forth in a written contract signed by Distributor. Changes to the scope of the Project and the Contract Price may be made by Distributor by way of invoice. No such change by Distributor shall be effective if, within 10 days of receipt of such invoice, the Owner objects in writing.

d. No waiver shall be deemed to have occurred unless the same is in writing and validly executed by each of the parties hereto. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at any later time nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of such provision.

e. The Owner hereby acknowledges and represents and warrants to Distributor that it has, as of the Effective Date, no legal claim or cause of action against Distributor of any nature whatsoever. Any and all claims or causes of action of any nature whatsoever, be it under a contract (including, without limitation, any earlier distribution agreement or representative agreement) in tort, under statute or otherwise, that the Owner could assert or bring against Distributor based on any facts arising prior to the Effective Date are hereby waived and released by the Owner. If the Owner asserts any such claim or cause of action, Distributor is entitled to all legal costs and attorneys' fees it incurs in defending such claim or cause of action.

11. **Governing Law/Jurisdiction-Venue/Statute of Limitations**: This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to its conflict of law doctrine. By entering into this Agreement, the Owner waives any right to a jury trial. By entering into this Agreement Distributor agrees to submit itself to jurisdiction in Oklahoma and to venue in any state or federal court located in Canadian County, Oklahoma**. THE OWNER WAIVES ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY WAY IF NOT BROUGHT WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION FIRST ACCRUED TO THE OWNER.**

12. **Survival.** The provisions of this Agreement that are applicable to circumstances arising after its termination or expiration shall survive such termination or expiration.

13. **Definitions**. The definitions in the AMI Agreement are incorporated by reference into this Agreement, except that any term defined in this Agreement shall be interpreted as defined in this Agreement.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be treated as an original, but all of which, collectively, shall constitute a single instrument.

IN WITNESS HEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

Sallisaw Municipal Authority	**Utility Technology Services, Inc.**
_____________________________	_____________________________
By: _______________________	By: _______________________
Its: _______________________	Its: _______________________
Date:_____________________________	Date:_____________________________

EXHIBIT A – PROJECT DESCRIPTION

Description - Annual Hosting Fees	Quantity	Unit Price	Total Price
Annual SA-Enhanced Hosting Fee - Water - Year 1	1	$ 6,965.00	$ 6,965.00
		Total	**$ 6,965.00**

Description - Water Meters - Solid State	Quantity	Unit Price	Total Price
Iperl Meters - 3/4"	1,860	$ 160.00	$ 297,600.00
Iperl Meters - 1"	1,240	$ 270.00	$ 334,800.00
Smart Points 520M - Single Port	3,100	$ 195.00	$ 604,500.00
		Total	**$1,236,900.00**

Description	Quantity	Unit Price	Total Price
Mobilization	1	$ 5,500.00	$ 5,500.00
		Total	**$ 5,500.00**

Description	Quantity	Unit Price	Total Price
Installation - 3/4" Water Meter	1,860	$ 90.00	$ 167,400.00
Installation - 1" Water Meter	1,240	$ 95.00	$ 117,800.00
		Total	**$ 285,200.00**

Sallisaw AMI		**Project Total:**	**$1,534,565.00**

EXHIBIT B – DISTRIBUTOR RESPONSIBILITIES

Distributor's obligations relating to the Project are as follows:

1. General Responsibilities:

   a. To provide a project manager to coordinate all of Distributor's work pursuant to this Agreement, which project manager shall be the Owner's main point of contact for the installation of the goods purchased under this Agreement.
   b. Distributor may subcontract all or a portion of the work contemplated hereunder.
   c. As it relates to installation of meters, Distributor agrees to:
      i. Exchange existing water meters with new meters at targeted locations.
      ii. Program the FlexNet endpoint.
      iii. Take digital photographs of exceptions identified in the field.
      iv. GPS coordinate collection.
      v. Drill or replace meter box lids, where applicable.
   d. Distributor shall not be responsible for the following:
      i. Re-plumbing existing meter services.
      ii. Work to correct lay length discrepancies. Any work that would be required because the existing meter has a different lay length than the specified new meter to be installed is not part of the Project. Any such work shall be performed, if at all, on a time and materials basis.
      iii. Repair or correct any pre-existing code violations.
      iv. Repair existing meter pits or lids.
      v. Be required to dig out full meter boxes (some slight soil removal will be performed).
   e. Over the duration of the project, some service locations may be turned back to the Owner for repair if the meter service is deemed "inaccessible." Once the repair is made by the City, and so long as Distributor has completed 95% or less of the Project, Distributor will return and install the new meter and AMR transmitter using normal installations techniques. If the repair is made when Distributor has completed more than 95% of the Project, then Distributor shall not be required to return and install the new meter and AMR transmitter.
   f. "Inaccessible" is generally defined as a meter service location that is in a condition that prevents the removal of the existing meter and installation of a new meter using reasonable installation techniques. Conditions that may cause a meter to be classified as "inaccessible" include:
      i. Locations where a faulty valve prevents Distributor from shutting off the water to the point where changing the meter is not practicable.
      ii. Locations where the meter flange or coupling is located outside of the meter pit or is incased in concrete making it inaccessible.
      iii. Locations where the meter box is not appropriate for installation of the meter due to being too full of debris or otherwise incapable of being properly accessed.

iv. Locations that cannot be reached and require that the lid ring and/or meter vault be removed to facilitate access.
v. Meters where the City's customer prevents Distributor from accessing the meter after three documented attempts are made to perform the change-out or schedule an appointment.
vi. Locations where corrective or additional plumbing is required.

g. Any repair, remediation or remedy by the Owner called for herein must be performed within 2 weeks of receipt of notice that such repair, remediation or remedy is necessary. If the repairs, remediation or remedies are not timely made, then Distributor is not required to perform the installation services at the location at issue, and the required metering products (meter, register, and transmitter) will be turned over to representatives of the Owner for installation at their convenience.

2. Responsibilities Relating to Sensus Network:

   a. Distributor has no responsibilities relating to Sensus network because the hardware and data management software will be housed at Sensus' Data Operations Center.

3. FlexNet Base Station Responsibilities:

   a. To provide to the Owner the appropriate current FlexNet Base Station Installation Guide to allow the Owner to perform the necessary site preparation work.
   b. To install, setup and configure FlexNet Base Station.

EXHIBIT C – THE OWNER'S RESPONSIBILITIES

The Owner's obligations relating to the Project are as follows:

1. General Responsibilities:

    a. To provide a key point of contact to communicate with and be the interface with Distributor's project manager to ensure timely installation of the AMI System.
    b. To provide legal access to all locations necessary to allow Distributor to perform the work contemplated by this Agreement.
    c. To pay all fees relating to network access for all sites where network access is needed.
    d. To provide a communication link between the Sensus network and the FlexNet Base Station.
    e. To purchase or acquire such hardware and/or software as necessary to connect the Sensus network to the Owner's network.
    f. To pay for all fees relating to any software needed or used in connection with the work contemplated by this Agreement including but not limited to all Software identified in the AMI Agreement.
    g. After installation of the SmartPoint Modules, to be responsible to visit and troubleshoot SmartPoint Modules that are not reporting into the system. To investigate any non-reporting SmartPoint Modules to ensure that no cut wires, improper installation or improper programming exists, and to resolve all date entry errors in the AMI System.
    h. To provide to the Distributor a SmartPoint Module installation schedule, shipment quantities and overall Project timeline.
    i. To pay any taxes, renewals, regulatory or licensing fees associated with any work contemplated by the Agreement.
    j. To apply for and purchase all required work or other permits.
    k. To timely conduct repairs of meter service locations that are deemed "inaccessible."

2. Responsibilities Related to Sensus Network:

    a. Obtain and pay for the acquisition and maintenance of the static IP addresses need to access the Sensus network and equipment, and provide the IP address to Sensus.
    b. Take all steps necessary to allow the Owner's existing billing software to interface with the Sensus network.
    c. Provide all equipment and services necessary for any computer redundancy and/or backup system, including power backup.
    d. Provide to Sensus remote network access to allow Sensus to provide technical support.

3. FlexNet Base Station Responsibilities:

a. To purchase the required number of Base Stations as identified by Sensus in the Propagation Analysis.
b. To provide all products and services as identified in the applicable FlexNet Base Station Installation Guide.
c. To provide an area at the Base Station for installation, if the Base Station is installed at a site provided by the Owner.
d. To provide a power source to the Base Station. All necessary electric requirements will be located within 1 foot of the final location of the Base Station installation. If trenching of the power line is needed, the Owner will be responsible to provide the necessary trenching, conduit, and cabling needed to supply power from the power source to the Base Station cabinet. All electrical equipment and work will be installed and performed in accordance with local codes.
e. To provide internet access to at the site where the Base Station is located to allow the FlexNet Base Station to communicate with the Sensus network.
f. To provide CAT 5 UV and weather resistant network cabling from the internet network service provider access link to the Base Station cabinet. The Ethernet connector on the FlexNet Base Station unit is an RJ-45 type, 10/100 auto signaling rate. Minimum WAN bandwidth requirements are 128 kbps with a redundant path. Any network equipment to interface with the Base Station, such as juniper router, firewalls, switches, etc., will be provide by the Owner.
g. To provide any conduit or trenching needed to run the internet data cable to the Base Station, and to ensure that the internet data cable is located within 1 foot of the final location of the Base Station.
h. To provide connectivity information to Sensus (for example, IP address, default gateway and/or sub-net mask).
i. To provide a proper ground field at the Base Station site.
j. To provide a suitable antenna mounting structure such as a tower, monopole, or building that is capable of supporting the weight of the antenna, cable, mounting hardware and wind loading.

AGENDA ITEM COMMENTARY

Meeting Date:	February 12, 2024
Board:	Sallisaw Municipal Authority
Subject:	Property Purchase

ITEM TITLE: Discussion and Possible Action on The Purchase of Property Situated at the Northwest Corner of Quesenbury and Elm Streets by Conveying Parts of the Old Railroad Station Grounds Belonging to The Sallisaw Municipal Authority and in Addition Paying $360,000.00 to be Financed Through Lease Purchase or Note and Mortgage and, To Take Any Approprate Action Authorizing Ernie Martens, Chairman of the Board, to Execute any Instrument Necessary to Facilitate Such Purchase.

INITIATOR: City Manager
City Attorney

STAFF INFORMATION SOURCE: City Manager
City Attorney

BACKGROUND: On September 11, 2023, the Board of City Commissioners approved the purchase of the old cookson building at Quesenberry and Elm (next to the city's electric building). Since we have two former railroad properties that are owned by SMA, and desire to transfer these properties as part of the building purchase, we have moved the building purchase to SMA. We request approval by the SMA Board to complete the purchase.

EXHIBITS:

KEY ISSUES:

- The building and property will be a great asset for the city for future use. We plan to use the building and attached storage for city offices and storage of city materials.
- Future use of the property include a new above ground fuel farm for city vehicles and equipment.
- City/SMA will use the storage bays for staging AMI equipment as we begin that project.

FUNDING SOURCE: SMA via a lease purchase or mortgage note (to be determined)

RECOMMENDATION: Staff recommends approval of purchasing the old cookson property by conveying the old railroad property and purchasing via a lease purchase agreement or mortgage note as determined; authorize Ernie Martens to execute all required documents.