

**RIGHT OF ENTRY LICENSE**  
**FROM OKLAHOMA CITY WATER UTILITY TRUST**  
**TO DEPARTMENT OF THE AIR FORCE**  
**UNITED STATES OF AMERICA**

AC-24-0026-DR

**THIS AGREEMENT** ("ROE Agreement") is entered into this the 15th day of April 2023 by and between the **UNITED STATES OF AMERICA**, (hereinafter the "Government"), **THE CITY OF OKLAHOMA CITY** and **OKLAHOMA CITY WATER UTILITIES TRUST**, a public trust (hereinafter collectively the "Grantor").

**WITNESSETH:**

**WHEREAS**, the Grantor is the Owner of approximately 120.00 acres of real property described in **Exhibit "A"** attached hereto (hereinafter, the "Property"), and

**WHEREAS**, the Government is requesting access to property for the purposes outlined below, and

**WHEREAS**, Grantor is willing to grant the Government access to the Property in accordance with the provisions below.

**NOW, THEREFORE**, in consideration of the various recitals contained herein, the Parties agree as follows:

1. Subject to the terms and conditions set forth herein, the Grantor hereby grants to the Government, and its duly authorized agents, employees, representatives, and contractors (collectively referred to hereinafter as the "Government Parties"), a temporary, non-exclusive right of entry ("ROE") upon the Property. The Government hereby accepts this ROE Agreement and agrees that the Government's and the Government Parties' access to the Property shall conform strictly to the terms and conditions of this ROE Agreement.

2. The term of this ROE Agreement shall be for a term of five (5) years, commencing on 15 April 2023 and terminating 14 April 2028, and may be renewed, upon agreement of the General Manager of the OCWUT, up to three (3) times each for additional five (5) year terms; except that either party may at its sole option and for any reason or no reason terminate this ROE Agreement at any time upon sixty (60) days prior written notice. Termination of this ROE Agreement shall not affect the rights or liabilities of the respective parties accrued prior to the date of such termination.

3. This ROE Agreement is granted to the Government for the purpose of performing, at its sole cost and expense, and the Government and the Government Parties shall be permitted access to the Property to perform the activities listed below. The activities to be permitted are expressly limited to the following:

- a. To install, remove, repair, replace, maintain, and modify existing Government-owned groundwater monitoring wells, located approximately as outlined in Exhibit A.
- b. To collect groundwater samples from the existing Government-owned groundwater monitoring wells.
- c. Bring onto the Property such equipment and supplies as are required to conduct activities listed above, provided that such equipment and supplies will be removed from the Property upon completion of the relevant activity.

- d. The Government shall notify the Grantor in writing at least 30 days prior to the installation of any new wells. The location and installation of any new wells will be subject to the approval of the Grantor.
- e. The Government hereby agrees that it shall provide Grantor with a copy of reports, as they become available, analyzing data from these groundwater monitoring wells.

4. The Government shall be solely responsible, at its sole cost and expense, for obtaining any permits, licenses, or approvals, and for preparing, maintaining, and submitting any records or reports, as required under applicable Environmental Laws and Requirements for its activities or operations hereunder. The Government and the Government Parties shall comply with any and all Environmental Laws and Requirements and shall not cause, permit or allow the presence of and shall not generate, release, store, or deposit any Hazardous Substances on or about the Property in violation of any Environmental Laws and Requirements, or in a manner which may give rise to liability for environmental cleanup, damage to property, or personal injury to Grantor or any other person. The Government and the Government Parties shall not release any Hazardous Substances into the soil, water (including groundwater) or air on the Property or onto any other adjoining property in violation of Environmental Laws and Requirements, or in a manner which may give rise to liability for environmental cleanup, damage to property, or personal injury to Grantor or any other person. In the event of a spill or other release of Hazardous Substances caused by the Government or the Government Parties at or from the Property, the Government shall undertake immediate response as required by applicable law, including but not limited to reporting to appropriate agencies, and shall notify Grantor of same as soon as possible. Should the Government or the Government Parties fail to perform any of its obligations pursuant to this ROE Agreement or any and all Environmental Laws and Requirements, the Government shall at its own expense promptly remedy such noncompliance. The Government shall at its own expense remove or remediate any unsafe condition that the Government or the Government Parties has caused to occur and clean up or remediate any Hazardous Substance which the Government or the Government Parties has caused to be released at or from the Property. Should the Government fail so to do, Grantor shall have the right, but not the duty, to enter the Property personally or through its agents, consultants, or contractors to perform the same. The provisions of this Section 4 shall survive the termination of this ROE Agreement.

4.A.1 As used in this ROE Agreement, the term "Hazardous Substances" means any hazardous, toxic, chemical, or dangerous substance, pollutant, contaminant, waste or material, including petroleum, which is regulated under any and all federal, state, or local statute, ordinance, rule, regulation, or common law relating to chemical management, environmental protection, contamination, or cleanup including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act as amended (42 U.S.C. § 6901 et seq.) or any other applicable federal, state, county, or city law, or any other applicable ordinance or regulation existing or which may exist.

4.A.2 As used in this ROE Agreement, the term "Environmental Laws and Requirements" means any and all applicable federal, state, local laws, statutes, ordinances, rules, regulations and/or common law relating to environmental protection, contamination, the release, generation, production, transport, treatment, processing, use, disposal, or storage of Hazardous Substances, and the regulations promulgated by regulatory agencies pursuant to these laws, and any

applicable federal, state, and/or local regulatory agency-initiated orders, requirements, obligations, directives, notices, approvals, licenses, or permits, including but not limited to those for the reporting, investigation, cleaning, or remediation of Hazardous Substances on the Property. The Government shall use all means available to protect the environment and natural resources from damages arising from activities conducted pursuant to this ROE Agreement or incident to it, and where damages nonetheless occur, the Government shall be responsible for responding to such damages as provided herein.

5. All access required to perform any of the foregoing activities pursuant to the ROE Agreement and any scope of work shall be coordinated by Government and approved, in advance, by the Grantor and shall be subject to all security and safety requirements and restrictions which Grantor may reasonably impose upon the Government and the Government Parties. Without limiting the foregoing, all access to the Property shall be conditioned on and subject to the following:

5.1 The Government and the Government Parties understand and agree that the following activities are among those prohibited on the Property: Use of tobacco products of any kind; possession and/or consumption of alcoholic beverages; possession and/or use of firearms or explosives; possession and/or use of controlled substances and related paraphernalia. The Government and the Government Parties shall take such steps to enforce such prohibitions as Grantor shall reasonably request from time to time.

5.2 The Government understands that Grantor strictly controls access to the Property, and that the activities authorized under this Agreement may require access to secure areas which require close coordination with Grantor to avoid disruption of Grantor's operations, breach of Grantor's security requirements, or creation of safety hazards, as determined by Grantor.

5.3 All employees of the Government, and the Government Parties, may be required to obtain from Grantor badges, and, if applicable, visitor escort and security clearance in any special security areas.

6. The Government and Government Parties shall not take photographs or other images while on the Property. If the Government, or Government Parties, require any photographs for purposes hereunder, Government shall notify Grantor of such desire as part of the coordination discussions described in Paragraph 5 herein, in which case Grantor's Security Department shall determine, in its sole discretion, whether and under what conditions any such photographs or images shall be allowed. Any photographs or images taken will be documented and screened by the Security Department prior to delivery of prints to the Government or Government Parties. Neither the Government, nor any Government Parties, shall bring any camera or recording device upon the Property unless approved in advance by the Security Department. The prohibition on recording devices does not include cell phones that may have photograph or recording capabilities; provided however, use of the photograph or recording capability of the cell phone shall be strictly prohibited.

7. All tools, equipment, and other property taken or placed upon the Property by the Government shall remain the property of the Government and shall be removed by the Government within a reasonable period (but no more than 14 workdays) after the termination of

this ROE Agreement by expiration or otherwise, or completion of the activity authorized under this ROE Agreement, whichever occurs first. The activities of the Government upon the Grantor's Property shall not be construed to grant any legal or equitable interest, title, claim, or encumbrance in or against any portion of the Grantor's Property.

8. If any act or omission of the Government or the Government Parties in the exercise of the rights granted herein results in damage to the Property, the Government will repair or have repaired such damage or, at the option of the Grantor, reimburse Grantor for the full amount of such damage. All repairs and restoration under this ROE Agreement shall, to the extent reasonably practical, be made comparable to the existing Property condition, prior to the performance of any authorized activities. Notwithstanding anything to the contrary herein, and without limiting the Government's obligations hereunder or under Environmental laws and Requirements, with regard to the use of the Property and/or the exercise of any rights or the performance of any obligations hereunder by the Government and Government Parties, Grantor reserves its rights to pursue claims against the Government or the Government Parties under the Federal Torts Claims Act or any other applicable legal basis of liability for any property damage or personal injury that is caused by the Government or the Government Parties or results from any negligent act or omission by the Government or Government Parties in connection with or related to this ROE Agreement. The Government reserves the right to seek legal redress from third parties which may have caused or contributed to the damages or injuries. The Grantor shall not be responsible nor liable for any property damage or personal injury that is caused by or results from any negligent act or omission by the Government or Government Parties in connection with or related to this ROE Agreement, but the Government shall not be responsible for losses to the extent due to the negligence of the Grantor. The Government shall take all such steps or actions as are necessary or appropriate to effectuate this provision. The Government's obligations under this clause and ROE Agreement are subject to the availability of appropriations for such payment or obligations, and nothing contained in this Agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet any deficiencies. The provisions of this clause are without prejudice to any rights that the Grantor may have to make a claim under applicable laws for any damages.

9. The Government shall be solely responsible for management of any contracts necessary to perform any work, which it has the right to perform under this ROE Agreement, and the Grantor shall not supervise, direct, or otherwise attempt to direct the work of the Government or the Government Parties. All responsibility for operation and maintenance of any monitoring wells or other equipment installed on the Property pursuant to this ROE Agreement shall be the sole responsibility of the Government, and Grantor shall in no way be obligated to provide the Government with any equipment, tools or utilities that may be required by the Government to perform the activities described herein. The Government shall directly manage, supervise, and oversee all work and activities of the Government Parties while on the Property to ensure that such work and activities are conducted in a safe and prudent manner and that such work and activities are conducted in compliance with a standard of due care to avoid injury to persons or property.

#### 10. **CONDITION; "AS IS" DISCLAIMER**

10.1 Grantor warrants that it is the owner of the Property and that the Grantor has the power

and right to grant the ROE hereunder to the Government.

**10.2 DISCLAIMER.** EXCEPT FOR THE WARRANTY IN PARAGRAPH 10.1, THE PROPERTY, AND ALL OTHER GOODS OR SERVICES PROVIDED OR TO BE PROVIDED IN CONNECTION WITH THIS ROE AGREEMENT ARE BEING PROVIDED TO THE GOVERNMENT AND ITS CONTRACTORS "AS IS, WHERE IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. THE WARRANTIES, OBLIGATIONS AND LIABILITIES OF GRANTOR AND THE REMEDIES OF THE GOVERNMENT SET FORTH IN THIS ROE AGREEMENT ARE EXCLUSIVE AND IN SUBSTITUTION FOR ALL, OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY NONCONFORMANCE, DEFECT, OR OTHER CONDITION OF OR IN THE PROPERTY, AND ANY SERVICES, OR ANY OTHER ITEM PROVIDED UNDER THIS ROE AGREEMENT, INCLUDING BUT NOT LIMITED TO:

10.2.1 ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS.

10.2.2 ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

10.3 The provisions of Sections 10.2 shall survive the termination of this ROE Agreement.

11. In addition to the other limitations and conditions on the Government's activities on Grantor's Property as provided in this ROE Agreement, the Government and Government Parties shall perform all activities on the Property in a good and workmanlike manner and in accordance with any and all applicable or appropriate and relevant requirements of the United States Environmental Protection Agency or any other governmental body or agency. The Government and Government Parties further agree to not unreasonably interfere with the use and enjoyment of the Grantor's premises and operations.

12. This ROE Agreement represents the entire understanding of the parties and no oral statements may modify its terms and conditions.

13. Any notice to be given under this ROE Agreement shall be in writing and delivered to the address of each of the respective parties below.

**Government:**

72ABW/CEIA

Attn: Real Property Office 7535 5th St

Tinker AFB, OK 73145

(405)7347-3173 or (405)734-1613

72ABW.CE.RealProperty@us.af.mil

**Grantor:**

Chis Browning, General Manager

420 West Main Street, Fifth Floor

Oklahoma City, OK 73012

(405) 297-2422

[chris.browning@okc.gov](mailto:chris.browning@okc.gov)

Amy Simpson, City Clerk

200 North Walker Avenue, Second Floor

Oklahoma City, OK 73102

(405) 297-2391

[amy.simpson@okc.gov](mailto:amy.simpson@okc.gov)

or such other representative as Grantor may subsequently provide by notice to Government.

14. The Parties agree that any advice or recommendations provided to the Grantor by the Government pursuant to this ROE Agreement shall be for consultation purposes only. Implementation of such advice or recommendations is the sole and complete responsibility of the Grantor. Nothing in this ROE Agreement shall be deemed or construed to be an admission of any fact, responsibility, fault or liability by Grantor in connection with any contaminants, pollutants, or hazardous materials that may be detected on the Property, nor shall it be deemed or construed to obligate Grantor to perform or enter into an agreement for the performance of any investigation and/or removal or remedial action.

15. Upon termination of this ROE Agreement, by expiration or otherwise, the Government shall promptly quit the Property, having first removed all tools, equipment and debris from the Property and having restored the Property to the same condition it was in at the commencement of the Government's use thereof, normal wear and tear excepted.

Government shall properly close or cause to be closed all borings and monitoring wells in a reasonably prudent manner and in strict accordance with codes and Environmental Laws and Requirements. Government shall manage water, soil and any other residues or materials generated or produced as a result of any activities under this ROE Agreement in accordance with all applicable federal, state and local laws, ordinances and regulations.

The Government accepts all responsibility for the handling and transportation of regulated materials on and from the Property.

16. The Government hereby agrees to maintain strictly confidential all information, data, and materials disclosed, furnished or obtained by it or its contractors and subcontractors pursuant to this ROE Agreement and relating to types and composition of materials, procedures, business operations, production techniques, practices and the like of Grantor which are not otherwise available to the general public. The obligations of this Paragraph 16 shall survive the termination or modification of this ROE Agreement. Prior to undertaking any work hereunder, the Government shall obtain from its contractors and subcontractors, and deliver to Grantor, confidentiality agreements identical in substance to this paragraph, signed by an authorized officer of each contractor or subcontractor, which the Government intends to have access to the Property or information developed pursuant to this ROE Agreement.

17. As a condition of access to the Property as authorized by this ROE Agreement, the Government shall provide to Grantor's Representative all laboratory test results, reports, maps and other data resulting, in whole or in part, from the Governments activities on the Property. All such test results, reports, maps and other data shall be provided to Grantor's Representative as soon as practicable after it has been determined to satisfy QA /QC standards and requirements and shall be provided without charge to or demand by Grantor. Upon request by the Grantor, prior to completion of any required QA/QC on sample and test results to which the foregoing applies, the Government shall provide copies of available raw sample and test data to the Grantor.

18. Grantor shall be entitled, at its sole cost and expense, to monitor and participate in the activities conducted by the Government on the Property in a reasonable manner and without delay or disruption to the Government's activities. Such monitoring and participation may include,



without limitation: (i) the right to receive or take split samples from any borings or monitoring wells installed by the Government; and (ii) the right to receive and comment upon all reports and work plans prior to their submission to the Environmental Protection Agency or any other applicable federal, state, and/or local regulatory agency.

19. Nothing in this Agreement shall be interpreted to require any obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

IN WITNESS WHEREOF, I have hereunto set my hand by direction of the Secretary of the Air Force this 22 day of Jan, 2024

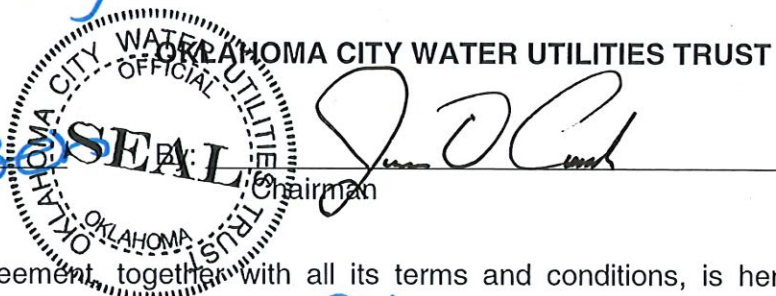
THE UNITED STATES OF AMERICA

By: Alta

ABIGAIL L.W. RUSCETTA, Colonel, USAF  
Commander, 72d Air Base Wing, Tinker AFB

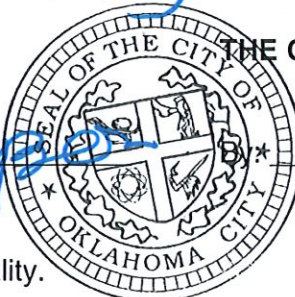
This Right of Entry Agreement, together with all its terms and conditions, is hereby accepted this th day of may, 2024.

Amey K. Simpson  
Secretary



This Right of Entry Agreement, together with all its terms and conditions, is hereby accepted this 21st day of may, 2024.

Amey K. Simpson  
City Clerk



Dan Holt  
Mayor

Reviewed for form and legality.

Patricia Mann  
Assistant Municipal Counselor



USAF-AFMC-WWYK-23-1-0009

OCWUT No. AC-18-0056-DR\_AFMCTK7-98-0002-Supp4\_\_\_\_\_

Supersedes AFMC TK 7-98-002

OCWUT General Counsel

The Property located at the Southeast quadrant of the intersection of South Douglas Boulevard and S.E. 59th Street, Oklahoma City, OK

Legal Description: SE quarter of the NW quarter and the W 1/2 of the NW quarter, Section 25, T11N, R2W, Oklahoma County, State of Oklahoma.

