

**MEMORANDUM OF UNDERSTANDING BETWEEN
BROKEN ARROW MUNICIPAL AUTHORITY AND
MIDAMERICA INDUSTRIAL PARK**

THIS Memorandum of Understanding (“MOU”) made and entered into this _____ day of _____, 2024, by and between the Broken Arrow Municipal Authority, a public trust (“BAMA”) and Oklahoma Ordnance Works Authority, a public trust whose beneficiary is the State of Oklahoma, d/b/a MidAmerica Industrial Park (“MAIP”)

RECITALS

WHEREAS, MAIP, currently has sufficient water rights to the Grand River as granted from the Grand River Dam Authority (“GRDA”) which are available for sale to BAMA in sufficient quantities to meet BAMA’s expected raw water needs as outlined below; and

WHEREAS, MAIP and BAMA agree that sale of raw water by MAIP to BAMA is mutually beneficial to each party to this MOU; and

WHEREAS, MAIP currently owns an approximately three (3) million-gallon water storage tank located at approximately 1847 6th Street, Pryor, Oklahoma, 74361; and

WHEREAS, BAMA wishes to purchase this three (3) million-gallon water storage tank and the real property on which the water storage tank is located; and

WHEREAS, GRDA currently has a raw water pump station with three (3) raw water transmission lines extending from it, one (1) owned by GRDA and two (2) owned by MAIP; and

WHEREAS, one of the transmission lines owned by MAIP is not currently in service and is in need of rehabilitation and/or replacement; and

WHEREAS, MAIP proposes to allow BAMA to use this raw water transmission line for the transmission of raw water to a delivery point (the “Delivery Point”) in MAIP’s system near its Water Treatment Plant I (“WTP I”) in exchange for BAMA’s participation in rehabilitation and/or replacement of the raw water transmission line; and

WHEREAS, a new raw water transmission line from the Delivery Point to BAMA’s existing system is vital to the BAMA’s ability to provide supplemental and a secondary source of raw water for treatment by BAMA and sale to its customers; and

WHEREAS, the expected raw water take by BAMA at the Delivery Point is approximately twelve (12) MGD once BAMA has made all necessary improvements to receive the expected raw water; and

WHEREAS, MAIP will retain the excess raw water delivered at the Delivery Point that is not sold to BAMA to provide raw water to MAIP’s WTP I and its industrial park; and

WHEREAS, BAMA will install a new raw water transmission line from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing 36" water line system.

PURPOSE

The purpose of this MOU is to provide a framework for negotiation of a definitive, binding agreement that will incorporate the terms of this MOU, including: (1) sale of raw water by MAIP to BAMA in amounts sufficient to meet BAMA's expected raw water needs as referenced in the WHEREAS clauses above, (2) the sale of a three (3) million-gallon water storage tank and real property, (3) rehabilitation and/or replacement of the third (3rd) unused raw water line from the GRDA Pump Station, and (4) installation of new transmission water lines. The attached Exhibit A is a map showing the areas referenced.

ARTICLE I

Proposed agreement for rehabilitation and/or replacement of third (3rd) raw water line from the GRDA Pump Station to the Delivery Point

1. BAMA will rehabilitate and/or replace the subject water transmission line depending on the line size required to carry the amount of raw water BAMA needs for the City of Broken Arrow.
2. MAIP shall retain partial usage of the subject water transmission line to provide additional raw water to either WTP 1 or for MAIP's use.
3. The Delivery Point will be a meter located near the intersection of N 4343 Rd. and E. 0538 Rd.
4. The allocation of raw water delivered by the subject water transmission line shall be split between BAMA and MAIP as determined in the definitive agreement between the parties.
5. The cost to rehabilitate and/or replace the relevant sections of the subject water transmission line from the GRDA pump station to the Delivery Point shall be shared by BAMA and MAIP.
6. MAIP shall coordinate the reconnection of the third water transmissions line to the GRDA raw water pump station; the costs of such reconnection shall be split between BAMA and MAIP as determined in the definitive agreement between the parties.
7. MAIP will provide or acquire all necessary easements for the subject water transmission line from the GRDA raw water pump station through MAIP's real property; provided that if any easements need to be acquired from third parties, BAMA will pay the cost of such acquisition.

8. The parties shall jointly determine which consultants will be utilized for the scope of the work referenced in this MOU.
9. The project schedule and project deadlines shall be determined by the parties at a later date.
10. MAIP or its designee will be responsible for any and all communication with GRDA.

ARTICLE II

Proposed agreement for three (3) million-gallon water storage tank and real property that is currently owned by MAIP.

1. MAIP will sell the three (3) million-gallon water storage tank and the real property on which it sits to BAMA for this purpose. The price shall be determined by the parties at a later date.
2. BAMA shall acquire the water storage tank and associated real property as-is, where-is, with all faults and without warranty as to its condition; provided, MAIP shall cause an internal inspection of the water storage tank to occur prior to establishing the price to be paid for the water tank by BAMA at closing the sale to BAMA.
3. MAIP shall provide BAMA with all necessary water line easements to complete the system connection, provided that if any easements need to be acquired from third parties, BAMA will pay the cost of such acquisitions.

ARTICLE III

Proposed agreement for raw water transmission point from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing water transmission line near WTP II.

1. BAMA shall hire all consultant(s) necessary to design a new raw water transmission line from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing water transmission line near Plant 2 and shall pay all costs associated with such consultant(s).
2. BAMA shall construct or cause to be constructed at its expense a new raw water transmission line from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing water transmission line near Plant 2.
3. BAMA shall coordinate with MAIP the alignment of a new raw water transmission line from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing water transmission line near Plant 2.

4. MAIP will provide or acquire all necessary easements for the subject waterline from the Delivery Point to the three (3) million-gallon water storage tank and from the three (3) million-gallon water storage tank to BAMA's existing water transmission line near Plant 2; provided that if any easements need to be acquired from third parties, BAMA will pay the cost of such acquisitions.

ARTICLE IV

Miscellaneous Provisions

1. This MOU shall terminate no later than December 31st, 2026, if a final agreement is not reached between the parties or this MOU is not extended by both parties, in writing.
2. Nothing in this MOU shall be construed to give any rights or benefits to any third parties.
3. No liability will arise or be assumed between the parties as a result of this MOU, in any such liability will only arise upon execution of the definitive agreement referenced in the PURPOSE section above.
4. This MOU shall be construed in accordance with the laws of the State of Oklahoma.
5. Neither party may assign or transfer the responsibilities or agreements made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonable withheld.
6. This MOU supersedes all prior or simultaneous representations, discussions, negotiations, whether written or oral.
7. It is mutually agreed upon and understood by the parties of the following:
 - a. This MOU will be effective upon the signatures of both parties.
 - b. Either party may terminate its participation in this MOU by providing written notice to the other party.
 - c. This MOU is not intended to and does not create any rights, benefits, or responsibilities. Such rights, benefits or responsibilities shall only be created and come into being upon execution of the definitive agreement referenced in the PURPOSE section above.
8. This MOU may be amended or supplemented in writing, if the writing is signed by the parties obligated under this MOU.
9. It is anticipated by both parties that the definitive agreement referenced in the PURPOSE section above will supersede this MOU.

10. To the extent permitted by law, the parties agree to keep this MOU and the negotiation for a definitive agreement confidential.

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BAMA:

Broken Arrow Municipal Authority

MAIP:

Oklahoma Ordnance Works Authority d/b/a/
MidAmerica Industrial Park

By: _____
Michael L. Spurgeon, General Manager

By: _____
David Stewart, CAO

Date: _____

Date: _____

(CORPORATE SEAL, IF APPLICABLE)

Attest: _____
Secretary [Seal]

Attest: _____
William Anderson, Secretary

Date: _____








Date: _____

Approved as to form:

Assistant City Attorney
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8441772.5

Exhibit A

Legend

-  3 MG Water Storage Tank
-  GRDA Raw Water Pump Station
-  MAIP WTP 1
-  Proposed BAMA WL from 3 MG water storage tank to BAMA's existing system near WTP 2
-  Proposed BAMA WL from WTP1 to 3 MG Water Storage Tank
-  Proposed third raw water line from GRDA Pump Station to WTP1
-  Water Treatment Plant 2 /BAMA Existing Pump Station

