



Approved as to Form:



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Frost Brown Todd, LLC, Law Director

SCOPE OF WORK NO. 1  
TO THE MASTER SERVICES AGREEMENT BETWEEN  
UTILITY SERVICE CO., INC.  
AND  
VILLAGE OF COMMERCIAL POINT, OHIO

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**METER MAINTENANCE PROGRAM**

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1. **Effective Date.** The Effective Date for this Scope of Work No. 1 ("SOW1") shall be November 4, 2019.
2. **Term.** This SOW1 shall commence on the Effective Date and shall continue in full force and effect for a period of fifteen (15) years ("Term"), unless terminated as set forth in Section 9 of the Master Services Agreement.
3. **Description of Meter Maintenance Program and Company's Obligations.** The Meter Maintenance Program shall consist of two phases: an initial deployment phase and a maintenance phase. This SOW1 outlines the Company's responsibility for deployment, commissioning and maintenance of a Meter Maintenance Program. The Company shall provide all labor, equipment, and materials and use proprietary technology and know-how to complete installation for the Meter Maintenance Program.
  - a. The Company shall supply water meters ("meters") at locations throughout the Village of Commercial Point. The meters supplied will be in the following quantities by size:

Meter Size	Quantity
5/8" x 3/4"	10

The residential and light commercial meters will comply with the following specifications:

- All meters shall meet or exceed the latest version of the American Water Works Association Standard C700 or C710 for positive displacement type meters.
- All materials used in the construction of the main cases shall have sufficient dimensional stability to retain operating clearances at working temperature up to 105 degrees Fahrenheit.
- The meter serial number shall be stamped on the main case of the meter.
- Measuring chambers shall be made of a suitable engineered plastic as described in AWWA C700 or C710.
- The measuring chamber shall employ a stainless-steel shaft for the drive magnet.
- The measuring chamber drive magnet shall be encapsulated in plastic.
- The measuring chamber shall incorporate a locating device that aligns to the main case of the meter to ensure proper chamber orientation and alignment.

- The measuring chamber shall be locked into place with a chamber retainer.
- All meters shall be 100% factory tested for accuracy and have the factory test results provided with each meter.
- Meters shall be pressure tested to ensure against leakage.

The commercial meters will comply with the following specifications:

- Shall meet or exceed all requirements of ANSI/AWWA Standard C701 and C702 for Class II compound and turbine meter assemblies or ANSI/AWWA Standard C715 or C750 for transient time meters. Each meter assembly shall be performance tested to ensure compliance.
- The meter main case shall be stainless steel, bronze or epoxy coated ductile iron composition.
- The meter package shall meet or exceed all requirements of NSF/ANSI Standard 61, Annex F and G.

b. The company will supply 10 Advance Metering Infrastructure (AMI) water modules ("AMI Modules") which meet the following specifications:

- The AMI Module shall be capable of receiving meter data from the meters described above.
- AMI Modules meters/service and other related endpoint devices shall be capable of being configured to communicate with the installed Data Collector Units ("DCUs").
- The AMI Module shall communicate using licensed 450 MHz band, certified to comply with FCC Part 90 rules.
- The AMI Module shall be designed and built for installation in outdoor water meter boxes
- Water endpoint devices shall be housed in a single package design designed for rugged, harsh environments and capable of complete submersion in water without damage.
- The AMI Module must function accurately and not be damaged over an operating temperature range of -40 deg. C to +70 deg. C.
- The AMI modules shall be designed to operate in the above conditions and have an estimated battery life of 15 years.
- Battery life data shall be transmitted alerting of low battery levels for preemptive maintenance.
- The AMI module shall have the capability to receive and process commands from the host system for all firmware updates to eliminate the need to manually perform the update function at each locale.

- The AMI Module shall employ actionable reports/alerts, to include:
    - Tamper Alert or Meter disconnected
    - Bad Read - ? or – marks
    - Small Leak Detected
    - Large Leak Detected
    - No Flow detected – Specific period of time set in the host software
    - Reverse Flow / Backflow
    - High Flow Rate Detected – Specifics set in host software
    - Battery Health
  - Each AMI module's clock date & time settings shall be updated to match reference date & time that shall be regularly provided to the meter via the Host Software, defined below.
- c. The company will supply and install sufficient Data Collector Units (DCU) to provide adequate coverage of the Owner's service territory. The DCUs will comply with the following specifications:
- The DCUs shall be battery powered with either AC or solar powered battery charger, which communicates in the licensed 450 MHz range with all the AMI modules in its assigned area.
  - The DCUs shall communicate to the Network Control Center (NCC) via a universal wide area network (WAN) connection, such as GSM/GPRS cellular, Ethernet or fiber to allow communication with the Host Software.
  - The DCUs shall collect and aggregate the stored meter data from all the AMI Modules in its zone a minimum of once per day and upload the information to the Host Software a minimum of once per day providing interval reads from each AMI module as programmed.
  - The Host Software shall allow self-diagnosis of any problems associated with the back haul of the communication system and the ability to automatically seek an alternate communication path if initial daily or real-time upload is unsuccessful.
  - The DCU shall have the ability to time synchronize all devices to within 5 seconds once per day and allow daily upload of meter data and system health checks is required.
  - The DCU shall allow remote firmware and software upgrades.
- d. The Company will assist the Owner with the preparation of a license application for submittal to the Federal Communications Commission for the issuance of a license which would allow the Owner to operate the AMI system within the utility service territory of the Owner. The Company cannot guarantee the issuance of a license by the Federal Communications Commission, and the Company shall not be liable to the Owner for any damages in the event that the license is not issued; however, if the license is not issued, the Owner shall pay the Company for all Services performed/completed prior to the Federal Communications Commission's decision not to issue the license.
- e. The Company shall provide the Owner with accessibility to a managed hosting service, which will include monitoring services and backup services, installation of security patches and various levels of technical support. The hosted solution shall utilize a secure web-based application.

- f. The Company will provide a hosted software system ("Host Software") with the following capabilities:
- The Host Software shall act as the central collection point for the data within the system. The server collects data from all of the DCUs and stores the gathered data in a secure database. Once data is stored and analyzed on the server, the data shall be available for display via an easy to use web based graphical interface. Access to the data shall be provided to the Owner by means of a user name and password.
  - The data will be available via a user interface that will allow for analysis, as well as bill generation.
  - The Host Software shall manage and archive data for five years such that it can be accessed by any Owner computers, handheld devices remotely via the web.
  - Using information from alerts uploaded in the data, the Host Software shall have the ability to generate user specific reports for each status code, configured by the User Interface.
- g. The Company will establish and maintain communications service between the DCUs and the Host Software.
- h. The Company shall be completely responsible for supplying and delivering the AMI System components, including training and ensuring the proposed AMI system is operational prior to full deployment. This includes the development of an exporting interface to the utility billing system and functional testing of the system.
- i. The Company's project manager shall oversee the execution of all aspects of the project and provide regular progress reports to the Owner.
- j. The Company will provide replacement hardware of any component, detailed above, which fails, except as detailed in Section 7 of this SOW1.
4. **Software License.** This Section sets forth the terms and conditions of the license for the Host Software ("Software") provided to Owner. Company and its suppliers grant to Owner a limited, nontransferable, non-exclusive and perpetual license to use the Software in object code form on a single central processing unit or computer network owned or leased by Owner or otherwise embedded in equipment provided by Company's supplier, solely in connection with the Owner's business operations. Owner may not modify or change the Software.

No right, title, or license in the Software shall transfer to the Owner, including any of Company supplier's trademarks, copyrights, patents, trade secrets, trademarks or other intellectual property rights embodied therein or used in connection therewith. The Owner is expressly prohibited from sublicensing, selling or otherwise transferring any of the Software. The Owner is required, as soon as practically possible, to notify Company and Company's supplier of any actual or suspected infringement of all or any part of the Software. The Software may be used only for the Owner's own business and the Owner shall not permit any parent, subsidiary, affiliated entity or third party to use the Software. The Owner may make one archival copy of the object code for the Software, provided that the copy shall include the copyright and other proprietary notices found herein.

Company's supplier owns all proprietary rights, including patent, copyright, trade secret, trade name, trademark, service mark, logo, and other proprietary rights, in and to the Software, the training and instructive materials, and any corrections, bug fixes, enhancements, derivative works, updates or other modifications, including custom modifications, of or to the Software and the training and instructive materials related thereto, whether made or created by Company's supplier, Company, the Owner or any third party. Except as expressly agreed by Company's supplier and Company in a signed writing, all rights in and to Company's supplier's intellectual property are expressly retained by Company's supplier. Except as expressly set forth herein, no license or right related to Company's supplier's intellectual property shall be deemed to be granted to Company, the Owner or any third party.

Only Company's supplier or its authorized agents shall have the right to alter, maintain, enhance, customize, or otherwise modify the Software. Company's supplier shall not be responsible for any malfunction, error, or failure of the Software resulting from any alteration, maintenance, enhancement, customization or modification performed by the Owner or any unauthorized third party. The Owner shall not disassemble, decompile, reverse engineer, reverse assemble, reverse compile or make extracts from the Software or create any derivative works or similar methods therefrom or permit others to do so.

#### Restrictions on Use.

Licensing parameters. The Owner's use of the Software is restricted to these Licensing Parameters. Use of the Software outside the Licensing Parameters is subject to the express written consent of Company and Company's supplier and the payment of all required additional fees.

#### 1. Technology System

- a. The Owner may not rent the Software or use the Software on a time share basis. This restriction is specifically applicable to any service or service bureau arrangement to which the Owner is, or may be, a party. The Owner shall not directly or indirectly, make the Software available to others.
- b. If the Owner has a Multi-Utility license, the Owner's use of the Software and training and instruction materials is restricted to (i) the Owner's internal use solely in connection with the Owner's use of Company's Technology System and to (ii) the Owner's use in providing meter reading services to its customer/utilities utilizing Company's Technology System.
- c. The customer/utilities to which the Owner may provide such services are limited to those that shall be identified as the Attachment A of this SOW1. It is the obligation of the Owner to update such list no less frequently than annually.

#### 2. Alteration. The Owner's use of the Software is limited in that the Owner is prohibited from altering, attempting to reverse engineer, attempting to decompile, or creating or attempting to create a derivative work from the Software.

#### 3. Copies

- a. The Owner's use of the Software is limited in that it may not copy the Software except for:
  - i. Use in the computer equipment of Company or Owner in which the Software is loaded and such additional equipment

- as Company and Owner may from time to time designate in writing;
- ii. Back up purposes; and
  - iii. Archival purposes.
- b. All such copies shall include any copyright notices appearing in the Software.
  - c. The Owner shall have the right to copy and modify the Software training and instruction materials to coordinate these materials with the Owner's own internal training and working procedures. Company and Company's suppliers shall have no liability or obligation to the Owner with respect to any modified training and instruction materials, and any additional costs incurred by Company or Company's supplier in the integration of maintenance changes caused by such modifications shall be reimbursed to Company by the Owner.
- 4. Compliance with Laws. The Owner's use of the Software is limited in that it must use the Software and the training and instruction materials in accordance with all applicable laws and regulations of the United States and the Federative Republic of Brazil.
  - 5. Used on Designated Equipment. The Owner's use of the Software is restricted to use on the Designated Equipment, defined as the computer equipment of Company or Owner in which the Software is loaded and such additional equipment as Company and Owner may from time to time designate in writing. Should the Owner desire to transfer the operation of the Software to a computer other than the Designated Equipment, the Owner shall notify Company and Company's supplier upon such transfer. Such computer must meet the required specifications of the Designated Equipment. Under no circumstance may the Software be used for production purposes on other than the Designated Equipment.
  - 6. Temporary Use. Without notice to Company or Company's supplier, the Owner may temporarily transfer the operation of the Software to a backup computer if the Designated Equipment is inoperative due to malfunction, or during the performance of preventative maintenance, engineering changes or changes in features or model until the Designated Equipment is restored to operative status and processing of the data already entered into the back up computer is completed.

IN NO EVENT WILL COMPANY OR ITS SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR DATA, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE EVEN IF COMPANY OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event shall Company's or its suppliers' liability to Owner, whether in contract, tort (including negligence), or otherwise, exceed the price Owner paid.

This License is effective until this SOW1 is terminated as set forth in Section 9 of the Master Service Agreement. Additionally, Company may terminate this License immediately upon notice to Owner. This License will terminate immediately without notice from Company if Owner fails to comply with any provision of this SOW1, to include nonpayment or violation of the terms of use in effect from time-to-time during the term of this SOW1. Upon termination of this License, Owner must return or destroy all copies of Software.

This License shall be governed by and construed in accordance with the laws of the State of Georgia. If any portion hereof is found to be void or unenforceable, the remaining provisions of this License shall remain in full force and effect. This License constitutes the entire License between the parties with respect to the use of the Software.

5. **Fee and Payment Terms.** The Meter Maintenance Program is estimated to be deployed within six months of execution of this SOW1. The fees related to the investment shall be **\$92,170.00**.

a. The annual maintenance fees ("Maintenance Fees") shall be in addition to the Investment Fees and shall be payable each Contract Year during the Term of this SOW1. The Maintenance Fee for Contract **Year 1** shall be **\$25,000.00**; however, at each anniversary date, the annual Maintenance Fee shall be adjusted to reflect the current cost of service. The adjustment of the annual Maintenance Fee shall be limited to a maximum of 5% per annum. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this SOW1.

b. **Adjustment to Investment and Maintenance Fee:** The Investment fee and Maintenance Fee shall be adjusted to reflect any additional cost of services incurred under 3.a. and 3.b. above. This fee adjustment shall be in the form of an amendment to this SOW1.

c. The Investment Fee and Maintenance Fee for **Contract Year 1**, plus all applicable taxes, shall be due and payable (12) months from the signing of this SOW1. **Each subsequent Investment Fee and Maintenance Fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year thereafter.** Furthermore, if the Owner elects to terminate this SOW1 prior to remitting the Investment Fee, then the balance for work completed in the initial investment phase plus any outstanding Maintenance Fee(s) through the termination date shall be due and payable within thirty (30) days of the termination.

6. **Limited Warranty on Equipment.** ALL NEW EQUIPMENT (EXCLUDING REMOTE SHUTOFF VALVES) SUPPLIED BY THE COMPANY UNDER THIS AGREEMENT IS WARRANTED TO BE FREE FROM MATERIAL DEFECTS AND WORKMANSHIP UNDER NORMAL USE AND SERVICE. THE COMPANY'S OBLIGATION UNDER THIS WARRANTY IS LIMITED TO REPAIRING OR REPLACING, AT THE COMPANY'S OPTION, ANY PART FOUND TO THE COMPANY'S REASONABLE SATISFACTION TO BE SO DEFECTIVE. THIS LIMITED WARRANTY DOES NOT COVER DAMAGE TO ANY OF THE EQUIPMENT PROVIDED UNDER THIS AGREEMENT RESULTING FROM MISUSE, ACCIDENT, NEGLIGENCE, ABUSE, ALTERATION, AND VANDALISM OR FROM IMPROPER OPERATION OR MAINTENANCE, IMPROPER ALIGNMENT, MODIFICATION, OR ADJUSTMENT.

THIS WARRANTY DOES NOT COVER DAMAGE RESULTING FROM MISUSE, ACCIDENT, NEGLIGENCE, ABUSE, ALTERATION, AND VANDALISM OR FROM IMPROPER OPERATION, MAINTENANCE, IMPROPER ALIGNMENT, MODIFICATION, OR ADJUSTMENT. IF OWNER OR OTHERS REPAIR, REPLACE, OR ADJUST EQUIPMENT OR PARTS WITHOUT THE COMPANY'S PRIOR WRITTEN APPROVAL,

THE COMPANY IS RELIEVED OF ANY FURTHER OBLIGATION TO THE OWNER UNDER THIS SECTION WITH RESPECT TO SUCH EQUIPMENT OR PARTS.

THIS WARRANTY DOES NOT COVER LABOR FOR ON-SITE REPAIR, REMOVAL, INSTALLATION, RE-INSTALLATION, OR REPLACEMENT OF EQUIPMENT, WHICH INCLUDES, BUT IS NOT LIMITED TO: WATER METERS, AMI MODULES, AND/OR REMOTE SHUTOFF VALVES. IF OWNER OR A THIRD PARTY REPAIRS, REPLACES, OR ADJUSTS ANY EQUIPMENT WITHOUT THE COMPANY'S PRIOR WRITTEN APPROVAL, THE COMPANY IS RELIEVED OF ANY FURTHER OBLIGATION TO THE OWNER UNDER THIS SECTION WITH RESPECT TO SUCH EQUIPMENT.

THE COMPANY'S LIABILITY FOR BREACH OF THESE WARRANTIES (OR FOR BREACH OF ANY OTHER WARRANTIES FOUND BY A COURT OF COMPETENT JURISDICTION TO HAVE BEEN GIVEN BY THE COMPANY) SHALL BE LIMITED TO: (A) ACCEPTING RETURN OF SUCH EQUIPMENT AND (B) REFUNDING ANY AMOUNT PAID THEREON BY THE OWNER (LESS DEPRECIATION AT THE RATE OF 15% PER YEAR IF THE OWNER HAS USED EQUIPMENT FOR MORE THAN THIRTY [30] DAYS), AND CANCELING ANY BALANCE STILL OWING ON THE EQUIPMENT AND (C) IN THE CASE OF SERVICE, AT THE COMPANY'S OPTION, REDOING THE SERVICE, OR REFUNDING THE PURCHASE ORDER AMOUNT OF THE SERVICE OR PORTION THEREOF UPON WHICH SUCH LIABILITY IS BASED. THESE WARRANTIES ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, AND THE COMPANY SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN LIEU OF ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF THE COMPANY WHETHER A CLAIM IS BASED UPON NEGLIGENCE, BREACH OF WARRANTY, OR ANY OTHER THEORY OR CAUSE OF ACTION. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND. FOR PURPOSES OF THIS SECTION, THE EQUIPMENT WARRANTED SHALL NOT INCLUDE EQUIPMENT, PARTS, AND WORK NOT MANUFACTURED OR PERFORMED BY THE COMPANY. WITH RESPECT TO SUCH EQUIPMENT, PARTS, OR WORK, THE COMPANY'S ONLY OBLIGATION SHALL BE TO ASSIGN TO THE OWNER THE WARRANTIES PROVIDED TO THE COMPANY BY THE MANUFACTURER OR SUPPLIER, IF ANY, PROVIDING SUCH EQUIPMENT, PARTS OR WORK. NO EQUIPMENT FURNISHED BY THE COMPANY SHALL BE DEEMED TO BE DEFECTIVE BY REASON OF NORMAL WEAR AND TEAR, OWNER'S FAILURE TO PROPERLY STORE, INSTALL, OPERATE, OR MAINTAIN THE EQUIPMENT IN ACCORDANCE WITH GOOD INDUSTRY PRACTICES OR SPECIFIC RECOMMENDATIONS OF THE COMPANY, OR OWNER'S FAILURE TO PROVIDE COMPLETE AND ACCURATE INFORMATION TO THE COMPANY CONCERNING THE OPERATIONAL APPLICATION OF THE EQUIPMENT.

The Parties hereby execute this SOW1 by their duly authorized representatives as of the date(s) set forth herein below.

OWNER

**Village of Commercial Point**

By: 

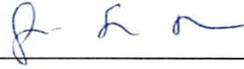
Name: D. Ross Grego

Title: Village Administrator

Date: November 6, 2019

COMPANY

**Utility Service Co., Inc.**

By: 

Name: J. Shane Albritton

Title: Vice President, Legal

Date: October 4, 2019