

10/27/2023 11:45 AM

Office of the
City Clerk

Tulsa Metropolitan Utility Authority Agenda

NOTICE AND AGENDA
REGULAR MEETING
WEDNESDAY, NOVEMBER 1, 2023
9:00 A.M., CONFERENCE ROOM 10 NORTH
ONE TECHNOLOGY CENTER
175 EAST 2nd STREET
TULSA, OKLAHOMA 74103

Trustees of the Tulsa Metropolitan Utility Authority and presenters are required by law to attend this meeting in person.

Non-presenting staff and members of the public can attend the Tulsa Metropolitan Utility Authority meeting in person or by videoconferencing and teleconferencing via GoToMeeting by joining from a computer, tablet, or smartphone using the following link: <https://meet.goto.com/795863909>

Non-presenting staff and members of the public can also dial in using their phone by dialing: [795-863-909](tel:795-863-909). Participants must then enter the following Access Code: [+1 \(224\) 501-3412](tel:+12245013412)

INTRODUCTION AND NOTICE TO THE PUBLIC – At this meeting, the Trustees will consider, discuss, and may take action on, adopt, amend, reject, or defer action on any item listed on this Agenda.

1. **ROLL CALL**
- *2. **MINUTES OF MEETING** – Minutes of the meeting of **October 25, 2023**, presented for correction or approval.
- *3. **REPORTS**
 - a. **WATER & SEWER DEPARTMENT DIRECTOR REPORT** – Eric Lee - A status report of the Water & Sewer Department regarding rainfall levels, reservoir levels, staffing/vacancies, water main breaks, sanitary sewer overflows, and safety.
 - b. **LEGISLATIVE REPORT** – Dan Patten – A legislative update regarding House Bills, issues, and resolutions happening in the State Capitol.
 - c. **UTILITY BILLING UPDATE** – Binu Abraham – A status update regarding utility billing activity, staffing levels, and account receivable metrics.
- *4. **MISC. ACTION ITEMS**
 - a. **Revision - TMUA General Conditions of Contract – GC-29 – Approve – Matt Vaughan.** On September 1, 2023, the City of Tulsa updated retainage requirements on all public improvement construction contracts. The retainage was previously 5%. New retainage requirements are 5% initially, and upon satisfactory completion of 50% of the anticipated work, retainage will be reduced to 2.5%. This change applies to all current and future TMUA and RMUA contracts. **RECOMMEND APPROVAL**

- b. **Consider, Discuss, and Possibly Take Action to Deny or Approve Modified Contract Terms – Contract Negotiations - Contract No. 135944 Renewal No. 3 – Josh Wise.** Water & Sewer staff have been in contract negotiations with Aquatic Informatics, Inc. (“Seller”) regarding Contract No. 135944 Renewal No. 3. TMUA assigned Contract No. 135944, which was originally with HACH Company when Aquatic Informatics, Inc. acquired HACH Company during the renewal term of Contract No. 135944. Aquatic Informatics, Inc. who is now the provider of the HACH WIMS software is requesting that Renewal No. 3 include non-standard contractual terms to protect the Seller and limit the Seller’s future liability. The Trustees should consider whether to deviate from TMUA’s standard contractual provisions for purposes of entering into Renewal No. 3 with the Seller.

TMUA’s Standard Contractual Provision:

- a. **General Liability/Indemnification by Seller. General Liability/Indemnification.** Seller shall hold City harmless from any loss, damage or claims arising from or related to Seller’s performance of the Agreement. Seller must exercise all reasonable and customary precautions to prevent any harm or loss to all persons and property related to the Agreement. Seller agrees to indemnify and hold the City harmless from all claims, demands, causes of action or suits of whatever nature arising out of the Services, labor, or materials furnished by Seller or Seller’s subcontractors under the Agreement.

Seller’s Requested Contractual Revisions:

- b. **General Liability/Indemnification by Seller.** Seller shall hold the City and the Tulsa Metropolitan Utility Authority (“TMUA”) harmless and defend and indemnify the City and TMUA for all **direct** losses, damages, and/or claims caused by Seller’s negligence, gross negligence, breach of contract, and/or violation of any applicable laws or regulations which arise from or related to Seller’s performance of the Agreement, Seller’s services, Seller’s labor, Seller’s materials, and/or Seller’s subcontractors. Seller must exercise all reasonable and customary precautions to prevent harm or loss to all persons and property during the execution of this Agreement. Seller’s defense and indemnification obligations identified herein shall only be in proportionate to Seller’s own extent of fault. **TO THE EXTENT THIS CLAUSE VIOLATES THE OKLAHOMA CONSTITUTION IT IS VOID.**
- ii. **Limitation of Liability.** EXCEPT FOR (I) SELLER’S INDEMNIFICATION OBLIGATIONS SET FORTH WITHIN THE AGREEMENT; (II) SELLER’S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF LAW; (III) PERSONAL INJURY OR PROPERTY DAMAGE CAUSED BY SELLER, SELLER’S PRODUCT, OR THROUGH THE USE OF SELLER’S PRODUCTS AND/OR SERVICES IN ACCORDANCE WITH THE NORMAL USE, SELLER’S AGGREGATE LIABILITY IN DAMAGES TO THE BUYER SHALL BE THREE (3) TIMES THE AMOUNT PAID BY BUYER TO SELLER **AND SHALL NOT INCLUDE INDIRECT, LIQUIDATED, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND.** TO THE EXTENT THIS CLAUSE VIOLATES THE OKLAHOMA CONSTITUTION IT IS VOID.

***5. FINAL BILL(S)**

Item No.	Contractor	Project No.	Project Name	Amount	Tracking No
a.	T-G Excavating, Inc.	TMUA ES 2022-SOM 5	Sanitary Sewer Point Repairs & Rehab	\$89,812.50	C137195

6. PARTIAL BILL(S)

Item No.	Contractor	Project No.	Project Name	Amount	% Time Comp.	% Work Comp.
a.	Walters Morgan Construction	WPC 23-4	South Slope Capitol Equipment Replacement	\$70,661.00	6%	6%
b.	T-G Excavating Inc.	TMUA ES-2018-02 SOM	Manhole Rehab	\$145,230.30	74%	92%
c.	Lot Maintenance	TMUA ES-2023-SOM4	Cleaning & Video Inspection of Sanitary Sewer System	\$31,443.02	7%	3%
d.	Holloway, Updike & Bellen, Inc.	ES 2022-18	Spunky Creek & Main Stem North Lift Station Upgrade	\$56,099.85	10%	10%
e.	RJN Group, Inc.	ES 2023-02	AAON Area Study	\$3,901.15	41%	12%
f.	RJN Group, Inc.	ES2022-15	Spunky Creek Interceptor, East Branch C1	\$7,500.56	6%	12%
g.	Black & Veatch, Inc.	ES 2022-17	Lower Bird Creek WWTP Expansion	\$41,546.21	7%	5%
h.	RJN Group, Inc.	ES 2013-14	Joe Creek LaFortune Specific Remediation Plan	\$3,883.04	87%	91%
i.	RJN Group, Inc.	ES 2022-09	Spunky Creek Interceptor Main Stem South C 4&5	\$13,158.99	31%	49%
j.	RJN Group, Inc.	ES 2022-13 SOM	Manhole Condition Assessment	\$22,030.97	69%	83%
k.	RJN Group, Inc.	ES 2022-11	Improve Our Tulsa 2 Areawide Sewer Rehab	\$25,892.25	31%	49%
l.	RJN Group, Inc.	ES 2023-04	On-Call SS Evaluation Study FY24	\$81,010.81	12%	29%
m.	Tetra Tech, Inc.	ES 2015-15	Crow Creek 62-S Specific Remediation Plan	\$5,530.73	96%	98%
n.	Tetra Tech, Inc.	ES 2020-09	Upper joe Creek East Branch Specific Remediation Plan	\$3,879.70	98%	98%
o.	Tetra Tech, Inc.	ES 2022-03	Upper Joe Creek East Branch SRP	\$22,460.82	42%	60%
p.	Tetra Tech, Inc.	ES 2022-12 SOM	Manhole Condition Assessment	\$6,475.56	96%	95%
q.	Tetra Tech, Inc.	ES 2023-01	Crow Creek Specific Remediation Plan 5 & 6	\$66,917.39	6%	8%
r.	L&L Construction, Inc.	WPC 23-3	Northslope Capital Equipment Replacement	\$44,600.49	25%	25%

Item No.	Contractor	Project No.	Project Name	Amount	% Time Comp.	% Work Comp.
s.	Freese & Nichols, Inc.	TMUA-W 19-13, C1	Water System Capital Equipment Replacement	\$1,005.99	62%	62%
t.	BKL, Inc.	TMUA-W 16-02, C2	Citywide Waterline Replacement, Rehab, Extension	\$14,221.33	101%	87%
u.	Lot Maintenance, LLC	TMUA ES-2022-SOM4	Cleaning & Video Inspection of Sanitary Sewer System	\$208,975.28	83%	79%
v.	T-G Excavating, Inc.	TMUA ES-2022-SOM5	Sanitary Sewer Point Repairs & Rehab	\$42,244.84	81%	99%
w.	T-G Excavating, Inc.	TMUA ES-2023-SOM3	Sanitary Sewer Point Repairs & Rehab	\$669,029.94	34%	69%
x.	T-G Excavating, Inc.	TMUA ES-2019-SOM1-R4	Emergency Sewer Repairs	\$504,367.08	36%	87%
y.	T-G Excavating, Inc.	TMUA ES-2019-SOM1-R4	Emergency Sewer Repairs	\$71,271.25	44%	93%

7. **COMMITTEE REPORTS (VERBAL)**

- ▶ Engineering Selection/Cameron
- ▶ Finance & Revenue/Sevenoaks
- ▶ Operations/Reynolds

8. **NEW BUSINESS**

[NOTE: “New Business” is restricted to any matter not known about or which could not have been reasonably foreseen prior to the time of posting. *Oklahoma Open Meeting Act, 25 O.S. 2001, § 311(9)*]

9. **EXECUTIVE SESSION** – Pursuant to Title 25 O.S. Section 307(B)(3) – Executive session for the purpose of communications between the Trustees, Legal Counsel, and Water & Sewer Staff regarding land acquisition efforts north of the Lower Bird Creek Wastewater Treatment Plant for the construction of a flow equalization basin (“FEB”).

- a. Legal counsel finding of a statutory basis to enter executive session;
- b. Roll call vote to enter executive session;
- c. Roll call vote to exit executive session;
- d. Open declaration that no vote or action was taken by the Trustees during the executive session.

10. Consider and Decide whether to Proceed with Negotiations to acquire the land north of the Lower Bird Creek Wastewater Treatment Plant for the construction of a flow equalization basin (“FEB”) – Eric Lee.

11. **APPROVAL OF AGENDA**

12. **ADJOURN**

*Denotes backup material attached.

BELOW IS THE LINK TO THE AGENDAS AND THE BACKUP

<https://www.cityoftulsa.org/apps/uploadfiles/tmua/>