

**AGENDA OF A REGULAR MEETING OF THE
CHAIRPERSON AND TRUSTEES OF THE
ARDMORE PUBLIC WORKS AUTHORITY,
TO BE HELD ON 05/01/2023 AT 7:00 PM
IN THE COMMISSION CHAMBERS
FOLLOWING
REGULAR CITY COMMISSION MEETING**

NOTICE: "Official action can only be taken on items which appear on the agenda. The Trustees may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any item. When more information is needed to act on an item, the Trustees may refer the matter to the Manager or the Municipal Counselor. The Trustees may also refer items to standing committees of the City Commission or to a board or commission for additional study. Under certain circumstances, items are deferred to a specific later date or stricken from the agenda entirely."

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVE AGENDA - ORDER OF BUSINESS
AND CONTENTS**
4. **APPROVE MINUTES**
 - 4.A. **Ardmore Public Works Authority Regular Minutes**
of the Regular Meeting Held on April 3, 2023

Documents:

[APWA MINUTES 04-03-23.PDF](#)

5. **CONSENT AGENDA**

All items listed are considered to be routine by the Authority and will be enacted by one motion. There will be no separate discussion of these items unless a Trustee or a citizen so requests, in which event the item will be removed from the consent status and considered in its normal sequence on the agenda and approval or

rejection of any amendments proposed and considered by the Trustees at the meeting.

5.A. **Consent A**

Consideration and Possible Action to Ratify an Approval by the Ardmore City Commission of the Water Supply Terms Sheet Agreement by and between the City of Ardmore/Ardmore Public Works Authority and Woodside Energy, USA Inc. for Woodside's Proposed Development of an Alternative Fuel Facility

(Submitted by Kevin Boatright, Manager)

Documents:

[CONSENT A.PDF](#)

6. **NEW BUSINESS**

(As defined by the Oklahoma Open Meeting Act 25 OK Statutes § 311 (A) (9) as “matters not known about or which could not have reasonably been foreseen prior to the time of posting the agenda”).

7. **ADJOURN**

**MINUTES OF A REGULAR MEETING OF THE TRUSTEES OF THE
ARDMORE PUBLIC WORKS AUTHORITY HELD ON
APRIL 3, 2023 AT 7:00 PM IN THE COMMISSION CHAMBERS**

Present: Doug Pfau Chairman

Nancy Sjulín Trustee

John Credle, Jr. Trustee

David Plesher Trustee

Kevin Boatright Manager

Lori Linney Secretary

Absent: Sheryl Ellis Vice-Chairwoman

This meeting was held in compliance with the Oklahoma Open Meeting Act (OSS 25)

1. CALL TO ORDER BY THE CHAIRPERSON

Chairperson Pfau called the meeting to order.

2. ROLL CALL

The Secretary called roll. All were present except Vice-Chairwoman Ellis.

3. APPROVE AGENDA – ORDER OF BUSINESS AND CONTENTS

Motion was made by Trustee Sjulín and seconded by Trustee Credle to approve the agenda as written.

Ayes: Sjulín, Credle, Plesher, Pfau

Nays: None

Absent: Ellis

4. APPROVE MINUTES

A. of the Ardmore Public Works Authority Regular Meeting held on March 20, 2023

Motion was made by Trustee Credle and seconded by Trustee Plesher to approve the minutes of March 20, 2023 as written.

Ayes: Sjulín, Credle, Plesher, Pfau

Nays: None

Absent: Ellis

5. CONSENT

A. Consideration and Possible Action to Consent to Ratify an Approval by the Ardmore City Commission to Accept a Trade-In Offer Received from United Engines for Residential Sanitation 2018 Peterbilt Side Loader (Unit Number 52) in the Amount of \$90,000.00 which is to be Applied Towards a Replacement Sanitation Truck

Staff requests the approval of the trade in offer from United Engines for Unit Number 52 in the amount of \$90,000.00 which is to be applied towards a replacement sanitation truck.

B. Consideration and Possible Action to Consent to Ratify an Approval by the Ardmore City Commission to Accept the Low Base Bid and Reject the Add Alternates Received from BRB Contractors, Incorporated for the Construction of the New Wastewater Treatment Plant to be located at the Ardmore Industrial Airpark in the Total Amount of \$8,232,000.00 and Approval or Rejection of Any Amendments Proposed by the City Commission at the Meeting

Three (3) bids were opened on March 2, 2023, for the construction of the new Wastewater Treatment Plant to be located at the Ardmore Industrial Airpark. Staff requests approval of the low Base Bid received from BRB Contractors, Incorporated in the amount of \$8,232,000.00 and reject the Add Alternates. This purchase will be funded from Revenue Bonds and the Wastewater Enterprise Fund.

Motion was made by Trustee Sjulín and seconded by Trustee Plesher to approve Consent Agenda Items 5.A. - 5.B.

Ayes: Sjulín, Credle, Plesher, Pfau
Nays: None
Absent: Ellis

6. NEW BUSINESS

None

7. ADJOURN

Motion was made by Trustee Sjulín and seconded by Trustee Credle to adjourn from this meeting.

Ayes: Sjulín, Credle, Plesher, Pfau
Nays: None
Absent: Ellis

CITY OF ARDMORE
Office of the City Manager

Council Letter No. 5718
Meeting Date: May 1, 2023

Ardmore Public Works Authority
City of Ardmore, Oklahoma

RE: Consideration and Possible Action for the Approval of the Water Supply Terms Sheet Agreement By and Between the City of Ardmore/Ardmore Public Works Authority and Woodside Energy USA Inc. for Woodside's Proposed Development of Alternative Fuel Facility

Dear Trustees:

Attached is a water supply terms sheet agreement for your consideration between the City of Ardmore and Woodside Energy USA Inc. The attached agreement is not a legally binding agreement. However, this document is a necessary step that simply lays out the general conditions that each party has negotiated in good faith and will held to with a final water supply agreement when the final investment decision is made by Woodside Energy USA Inc. This document is similar to what we would normally call a memorandum of understanding.

Staff respectfully requests that the City Commission approve the Water Supply Terms Sheet Agreement by and between the City of Ardmore/Ardmore Public Works Authority and Woodside Energy USA Inc. for Woodside's proposed development of alternative fuel facility.

Respectfully Submitted,



Kevin Boatright
Manager

No.	WOODSIDE - CITY OF ARDMORE WATER SUPPLY AGREEMENT KEY TERMS ("KEY TERMS")	
1.	Parties	Woodside Energy (USA) Inc. (" Buyer ") The City of Ardmore / Ardmore Public Works Authority (collectively, the " Seller ") (Buyer and Seller being referred to individually as a " Party " and collectively as the " Parties ")
2.	Sale, Purchase, and Receipt of Water	Seller will deliver and sell to Buyer, and Buyer will accept and purchase, recycled wastewater from the Seller's wastewater treatment facility at 3600 Sutton Road, Ardmore (" Recycled Water "), at a delivery point (the " Delivery Point ") at the southern boundary of Buyer's H2OK product hub (the " Facility "), as depicted on <u>Exhibit A</u> to this term sheet, with the final location to be confirmed during detailed engineering and design study Seller will accept at the receipt point located at the Facility, as depicted on <u>Exhibit A</u> (the " Receipt Point "), transport, and recycle up to 0.3 million gallons of wastewater produced by the Facility per day (the " Wastewater ").
3.	Nature of Agreement	Any obligation with respect to the sale, purchase, and receipt of Recycled Water and Wastewater shall only arise upon execution of a legally binding Water Supply Agreement (the " Agreement "). The Key Terms remain valid until the earlier of 31 December 2023 or such later date as the Parties may agree, or until the date the Key Terms are superseded by an agreement which replaces it (" Expiry Date "). Buyer and Seller will negotiate the Agreement in good faith, before the Expiry Date on the basis of the terms and conditions outlined in Key Terms.
4.	Compensation	Compensation will be payable from the In-Service Date, subject to the terms set forth in Exhibit B.
5.	Minimum Volume	<u>In-Service Date</u> The " In-Service Date " will be the date on which Buyer notifies Seller that Buyer intends to commence receiving Recycled Water at the Delivery Point; <i>provided</i> that in no event will the In-Service Date occur before 1 January 2026. Buyer will provide quarterly updates as to the anticipated In-Service Date. <u>Phases</u> The period from the In-Service Date until the first to occur of (x) the end of the Term or (y) the Expansion Date (as defined below) is herein referred to as " Phase 1. " The period, if any, from the Expansion Date until the end of the Term is herein referred to as " Phase 2. " <u>Phase 1</u> From and after the In-Service Date, Seller will deliver and make available to Buyer at least 1.6 million gallons of Recycled Water per day (the " MDQ ") on a ratable basis throughout each applicable day.

		<p><u>Phase 2</u></p> <p>Upon written request of Buyer, Buyer and Seller to meet at a later date to discuss in good faith an increase of delivery from Seller of Recycled Water and receipt by Seller of Wastewater on the terms outlined in this term sheet as the basis. The "Expansion Date" shall be the effective date, as agreed by Buyer and Seller, of any increase of such delivery and receipt by Seller.</p>
6.	Quality Specifications	<p>Recycled Water will meet the minimum standards of the Oklahoma Department of Environmental Quality (ODEQ).</p> <p>Wastewater will meet the specifications set forth in Buyer's Wastewater Discharge permit.</p>
7.	Infrastructure	<p>Seller will be responsible for and will construct, own, operate, maintain, and repair, at Seller's sole cost, risk and expense, (i) all facilities upstream of the Delivery Point necessary for the delivery of Recycled Water to the Delivery Point and (ii) all facilities downstream of the Receipt Point necessary for the receipt, transportation, and treatment of Wastewater (the "Seller's Facilities") in accordance with the terms of the Agreement.</p> <p>Buyer agrees to pay (or reimburse within 30 days upon payment by Seller) all costs of engineering and design studies mutually agreed to by Seller and Buyer related to the construction of infrastructure necessary to transport the Recycled Water to the Delivery Point (defined as the "Fronted Amount" in Exhibit "B"); provided however, the Buyer shall have the option to be reimbursed all or a portion of the Fronted Amount and such costs included as part of the Capital Cost Component set forth in Exhibit "B".</p> <p>Buyer will be responsible for and will construct, own, operate, maintain, and repair, at Buyer's sole cost, risk and expense, (i) all facilities downstream of the Delivery Point necessary for the receipt of Recycled Water at the Delivery Point in accordance with the terms of the Agreement and (ii) all facilities upstream of the Receipt Point necessary for the delivery of Wastewater to the Receipt Point.</p> <p>The Parties will coordinate any scheduled construction, interface and tie-in activities, and maintenance activities in order to minimize delays to construction of the Facility, and any downtime at the Facility post start-up.</p>
8.	Measurement	<p>Buyer may install, own, operate, and maintain check meters measuring Recycled Water received by Buyer on the Buyer's side of the Delivery Point. Seller will have the obligation, at Seller's sole cost, risk, and expense, to install, own, operate, and maintain measurement meters at the Seller's side of the Delivery Point, located proximately to the Buyer's Facility, <i>provided that</i> such measurement meters do not interfere with the operation of the Buyer's Facility and check meters.</p> <p>Buyer may install, own, operate, and maintain check meters measuring Wastewater produced by Buyer on the Buyer's side of the Receipt Point <i>provided that</i> such check meters do not interfere with the operation of Seller's meters. Seller will have the obligation, at Seller's sole cost, risk, and expense, to install, own, operate, and maintain measurement meters at the Seller's side of the Receipt Point located proximately to the Buyer's Facility.</p>
9.	Term	<p>The Agreement will commence and be effective upon signing for an initial term of 20 years from the In-Service Date ("Term"), and year to year thereafter until such time as the Agreement is terminated by notice from any Party to the other Party on 180 days' notice.</p>

		The Agreement will contain customary conditions precedent to performance, including that Buyer will have reached a final investment decision for the Facility, that will permit termination by Buyer if such conditions are not satisfied.
10.	Priority	All Recycled Water will be delivered to Buyer, and all Wastewater will be received from Buyer, on a dedicated, priority-service basis. In the event Seller is unable to meet the requirements of all recipients of Recycled Water delivery and Wastewater treatment services, Buyer will be the last such recipient curtailed.
11.	Title/Custody Transfer	<p>Seller will provide customary title warranties regarding the delivered Recycled Water.</p> <p>Seller will have custody, control, and title of all Recycled Water prior to the Delivery Point and Buyer will have custody, control, and title of all Recycled Water from and after the Delivery Point. Buyer will have custody, control, and title of all Wastewater prior to the Receipt Point and Seller will have custody, control, and title of all Wastewater from and after the Receipt Point.</p>
12.	Payment Terms	<p>Seller will invoice Buyer monthly for the actual volume of Recycled Water delivered to the Delivery Point and received by Buyer during the applicable month and Wastewater delivered to the Receipt Point and received by the Seller. Buyer will pay the invoice on the payment terms stated in the Seller's Water Billing Office guidelines.</p> <p>Late payments will accrue interest at the rate set forth in the Seller's Water Billing Office guidelines.</p>
13.	Indemnity; Damages	<p><u>Indemnity</u></p> <p>Buyer will release, indemnify, defend, and hold harmless Seller and its group from and against all claims and losses arising out of or relating to (i) the operations of Buyer or its affiliates under the Agreement and (ii) the handling of the Recycled Water from and after the Delivery Point and the handling of Wastewater prior to the Receipt Point.</p> <p>Seller will, to the extent permitted by the law, release, indemnify, defend, and hold harmless Buyer and its group from and against all claims and losses arising out of or relating to (i) the operations of the Seller under the Agreement, (ii) the handling of the Recycled Water prior to the Delivery Point and the handling of Wastewater from and after the Receipt Point, and (iii) the delivery of Recycled Water that does not meet the Water Quality Specifications.</p> <p><u>In-Service Date Delay</u></p> <p>In the event Seller fails to deliver and make available for purchase Recycled Water that meets the Water Quality Specifications equal to the then-applicable MDQ at the In-Service Date, the Buyer will be relieved from paying any component of the Compensation until the MDQ has been provided. Any provisions for liquidated damages, including any applicable cap thereon, for an In-Service Date Delay will be subject to agreement by the Buyer and Seller in the Agreement.</p> <p><u>Post In-Service Date Shortfalls</u></p> <p>Buyer shall only be obligated to pay the Operational Component of the Compensation for volumes of Recycled Water that are delivered in accordance with the terms of the Agreement, including Water Quality Specifications;</p>

		<p>provided, Buyer will be required to pay the monthly Capital Cost Component of the Compensation. Any provisions for liquidated damages, including any applicable cap thereon, for a Post In-Service Date Shortfall will be subject to agreement by the Buyer and Seller in the Agreement.</p> <p><u>Purchase Shortfalls</u></p> <p>Buyer will, in accordance with the Seller's Water Billing Office guidelines, pay to Seller an amount equal to (x) the volume of Recycled Water actually purchased by Buyer during such calendar month <i>multiplied by</i> (y) the Operational Component set forth in Section 3 (Compensation) for Recycled Water, plus (z) the Capital Cost Component.</p> <p><u>Wastewater</u></p> <p>Buyer agrees to manage Wastewater in compliance with the Wastewater Discharge Permit issued by the Seller.</p> <p><u>Seller Facility Information</u></p> <p>Seller agrees to provide the Buyer with maintenance records, historical interruption frequencies and equipment sparing philosophy for the relevant wastewater treatment facility.</p>
14.	Force Majeure; Casualty	The Agreement will contain a customary force majeure provision. In the event Seller's Facilities are damaged or destroyed, Seller will, as promptly as practical, restore such Seller's Facilities to operational conditions sufficient to perform Seller's obligations under the Agreement.
15.	Confidentiality	The Agreement will contain a customary confidentiality provision related to the Agreement and information provided thereunder to the extent permitted by law; provided however, Buyer acknowledges that Seller is legally obligated to comply with the provisions of the Oklahoma Open Records Act, 51 O.S. §24A.1 <i>et seq.</i>
16.	Insurance	<p>Buyer will maintain comprehensive liability insurance covering property damage, personal injury and sudden/unforeseen environmental pollution for its facilities for a limit of not less than US\$20 million per occurrence. Seller will maintain customary insurance for its facilities and infrastructure related to this Agreement.</p> <p>At the request of Buyer, Seller to maintain (at a cost that shall be included in the Operational Component of the Compensation) insurance to protect the Buyer against operational interruptions at the Seller's Facilities that prevent the Seller from being able to meet the Minimum Volumes and Quality Specification requirements under the Agreement provided however, any such insurance will be subject to the Buyer's review and consent prior such policy being implemented.</p>
17.	Governing Law; Dispute Resolution	<p>The Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Oklahoma, without regard to choice of law principles. Any disputes between the Parties will be subject to mandatory mediation prior to litigation. Venue for any litigation will be Carter County Oklahoma or the United States District Court for the Eastern District of Oklahoma.</p> <p>The Parties agree that the provisions set forth in this Section 15 will govern and control with respect to any disputes arising between the Parties pursuant to the</p>

		letter agreement to which these terms are attached.
18.	Assignment	<p>Buyer may, providing notice to the Seller as to the assignment, (i) assign the Key Terms or the Agreement without consent of the Seller to an affiliate of the Buyer or (ii) a purchaser of all or substantially all of the assets used in connection with performing the Agreement, upon showing the proposed assignee's technical and financial capability to fulfill the requirements of Buyer under the Agreement, as determined by Seller in its reasonable discretion.</p> <p>Buyer will have the right to grant a security interest in the Agreement to a lender or other debt provider (or trustee or agent on behalf of such lender).</p>
19.	Expenses	Each Party will bear its own expenses in accordance with negotiation of the Agreement.
20.	Miscellaneous	The Agreement will contain other customary miscellaneous provisions for contracts of this type.

Signed for and on behalf of the Buyer:

Signed for and on behalf of the Seller:

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT B

Compensation for the provision of Recycled Water will be comprised of the following components:

1. **Capital Cost Component:** which will be a fixed amount payable over 10 years and will be determined by calculating the actual reasonable documented out-of-pocket expenses paid by the Seller to install infrastructure to deliver Recycled Water to Buyer's facility ("Total Project Cost"), less any amount contributed by the Buyer ("Fronted Amount") that has not been reimbursed by the Seller to the Buyer prior to the In-Service Date, plus any actual financing and interest costs (including capitalized interest) incurred by the Seller or its duly authorized public trust. Fronted Amount shall include engineering and design studies that are mutually agreed and paid for by the Buyer for the benefit of the Seller prior to the In-Service Date. This amount will be set forth in a Schedule to be attached to the Agreement, which Schedule shall provide for payment in equal monthly installments. Buyer shall be absolutely obligated to pay the Capital Cost Component regardless of whether Buyer purchases Recycled Water under the agreement. The Capital Cost Component may be adjusted periodically as needed by Seller in order to recover its actual necessary supplemental capital expenditures (including line maintenance and upkeep) throughout the term of this agreement, not otherwise included in the Operational Component.

2. **Operational Component:** During the term of the Agreement, Seller shall bill Buyer at the rates set forth below, which rates have been determined based upon a cost-of-service and rate design study and will be established by Seller ordinances. On July 1 each year, said rates shall automatically increase by the same percentage as any increase in the Consumer Price Index for All Urban Customers (CPI-U) for the South region, as published by the United States Bureau of Labor Statistics or successor agency. The rates may also be adjusted periodically as needed by Seller in order to recover its actual cost-of-service throughout the term of this Agreement (including any extensions and renewals) to the extent such costs are not otherwise accounted for in the existing Operational Component.

<u>Usage</u>	<u>Charges</u>	<u>Per</u>	
Gallon			
0	20,000,000	gal	\$0.002000
20,000,000	35,000,000	gal	\$0.001700
35,000,000	50,000,000	gal	\$0.001425
50,000,000	65,000,000	gal	\$0.001300
Over	65,000,000	gal	\$0.001300

3. **Future Cost of Debt Component:** In the event that the Seller requires funding for major future projects, Buyer agrees, subject to customary audit rights, to keep the Seller whole by compensating Seller for the incremental cost of actual debt issued (being the lowest cost available debt) vs. the lowest costs of funds which would have otherwise been available to the Seller in the absence of the Buyer contract, which may include financing through the Oklahoma Water Resources Board Clean Water State Revolving Fund. Differential cost on an annual basis shall be determined at the time of issuance of each debt obligation. The parties would have the right to mutually agree to convert the contract into a form that is consistent with federal tax regulations that would permit issuance of tax-exempt debt to fund the project(s).

4. Buyer will provide a parent corporate guarantee (PCG) to ensure that the Capital Cost Component will be repaid to the Seller in the event of default by Buyer under the agreement. The form of the PCG will be provided as an exhibit in the fully formed water supply agreement.

Compensation for the provision of Potable Drinking Water and for the receipt of Wastewater shall be based on standard rates and charges as established by the Seller from time to time.