

RESOLUTION
2014-10

EAST WINDSOR MUNICIPAL UTILITIES AUTHORITY

MERCER COUNTY

WHEREAS, on March 28, 2014, the East Windsor Municipal Utilities Authority (referred to in this Resolution as “EWMUA”) was performing maintenance on the Jamesway Line sewer main and a root cutter became lodged in the sewer line; and

WHEREAS, the EWMUA made several attempts to dislodge and remove the root cutter from the sewer line, to no avail, because the root cutter had broken through the pipe and was buried in the ground; and

WHEREAS, the root cutter had to be immediately removed from the ground, and the sewer line had to be immediately repaired to protect the public health, safety, and welfare from discharge from the broken sewer line, and the possibility of the sewer main backing up; and

WHEREAS, the Executive Director of the EWMUA, Richard Brand, was present during the aforementioned incident and was satisfied that, due to the nature of the emergency, it was necessary to award an emergency contract in accordance with N.J.S.A. 40A:11-6; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6, the EWMUA immediately contacted Waters and Bugbee, Inc., located at 75 South Gold Drive, Hamilton, New Jersey 08691 (referred to in this Resolution as “Waters”), to perform the emergency repair of the broken sewer line because Waters had previously performed other emergency repair work for the EWMUA; and

WHEREAS, Waters subsequently performed the emergency repair work to fix the sewer line and submitted an invoice for payment to the EWMUA for the services rendered; and

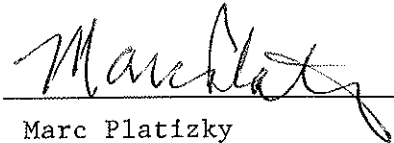
WHEREAS, the EWMUA wishes to confirm and memorialize the award of this emergency contract.

NOW, THEREFORE, BE IT RESOLVED by the East Windsor Municipal Utilities Authority as follows:

1. The EWMUA hereby authorizes and confirms the actions taken by the EWMUA's Executive Director when, to preserve the public health, safety, and welfare, he immediately contacted Waters and had Waters perform the necessary repair work on the sewer line due to the damage that occurred on March 28, 2014; and
2. The EWMUA authorizes an emergency contract with Waters pursuant to N.J.S.A. 40A:11-6 for the repair work performed by Waters.


CERTIFICATION

I, Marc Platizky , Secretary to the East Windsor Municipal Utilities Authority, do hereby certify that this Resolution was adopted by the EWMUA at its regular meeting held on April 17, 2014.



Marc Platizky

Memo

Date: April 10, 2014
To: Richard Brand
From: Clark Wolverton 
Subject: Emergency sewer main repair

On Friday, March 28, 2014 while cleaning the sewer main which runs under the bike path behind Burlington Coat Factory (Jamesway line) a root cutter became stuck in the line. Upon multiple unsuccessful attempts to dislodge and remove the root cutter, it was determined that it had broken through the pipe and buried itself into the ground. Removal of the root cutter was imperative for both environmental reasons (broken sewer line) and public health reasons (potential backup of the main). The only alternative was to have the line excavated to both retrieve the root cutter and to repair the damaged line. Due to both the time constraints and the need for urgency (weekend and potential adverse effects) it was not practical to solicit multiple quotes. Waters and Bugbee, Inc., who had performed work for the Authority and was previously contracted to perform emergency services was immediately contacted. Emergency work was authorized and performed over three and a half days. Waters and Bugbee was able to respond immediately and expedited the work quickly before any adverse consequences arose.

Cc: file

40A:11-6. Emergency contracts. Any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

a. The official in charge of the agency wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent, a supervisor of the purchasing agent, or a designated representative of the governing body, as may be appropriate to the form of government, of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.

b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

c. The Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe rules and procedures to implement the requirements of this section.

d. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

Adopted. L. 1971, c. 198, §6. Amended. L. 1975, c. 353, §5; L. 1976, c. 53, §3; L. 1979, c. 350, §3; L. 1985, c. 60, §3; L. 1985, c. 469, §8; L. 1999, c. 440, §10, effective April 17, 2000.

40A:11-6.1. Award of purchases, contracts or agreements. All contracts enumerated in this section shall be awarded as follows:

a. For all contracts that in the aggregate are less than the bid threshold but 15 percent or more of that amount, and for those contracts that are for subject matter enumerated in subsection (1) of section 5 of P.L. 1971, c. 198 (C.40A:11-5), except paragraph (a) of that subsection concerning professional services and paragraph (b) of that subsection concerning work by employees of the contracting agent shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to a vendor whose response is most advantageous, price and other factors considered. The contracting agent shall retain the record of the quotation solicitation and shall include a copy of the record with the voucher used to pay the vendor.

When in excess of the bid threshold, and after documented effort by the contracting agent to secure competitive quotations, a contract for extraordinary unspecified services may be awarded upon a determination in writing by the contracting agent that the solicitation of competitive quotations is impracticable. Such contract shall be awarded by resolution of the governing body.

If authorized by the governing body by resolution or ordinance, all contracts in the aggregate less than 15 percent of the bid threshold may be awarded by the contracting agent without soliciting competitive quotations.

Whenever two or more responses to a request of a contracting agent offer the lowest responsible bids and are the lowest responsible bids or proposals, the contracting unit

may award the contract to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

Adopted. L. 1975, c. 353, §6. **Amended.** L. 1977, c. 53, §4; L. 1983, c. 418, §1; L. 1999, c. 440, §11, effective April 17, 2000.

40A:11-7. Contracts not to be divided. a. No contract in the aggregate which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, shall be divided, so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.

b. In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of any work which is single in character or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract shall be included in one contract.

Adopted. L. 1971, c. 198, §7. **Amended.** L. 1975, c. 353, §7; L. 1979, c. 350, §4; L. 1985, c. 60, §4; L. 1985, c. 469, §9; L. 1999, c. 440, §12, effective April 17, 2000.

40A:11-7.1. Rules concerning determinations of aggregation. For the purpose of ensuring consistency between the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules concerning determinations of aggregation for the purposes of whether a contract is subject to public bidding as set forth in sections 3, 4 and 7 of P.L.1971, c.198 (C.40A:11-3, 40A:11-4 and 40A:11-7) and N.J.S.18A:18A-3, N.J.S.18A:18A-4, and N.J.S.18A:18A-8.

Adopted. L. 1999, c. 440, §13, effective April 17, 2000.

40A:11-8. Periodic solicitation for proposals of work or materials and supplies required. Every contracting agent shall, at intervals to be fixed by the governing body, solicit by public advertisement the submission of bids for the provision or performance of goods or services which are and which under section 4 of P.L.1971, c.198 (C.40A:11-4) can be contracted to be provided or performed only after public advertisement for bids and bidding therefor and all contracts for the provision or performance of such goods or services shall be awarded only in that manner.

Adopted. L. 1971, c. 198, §8. **Amended.** L. 1999, c. 440, §14, effective April 17, 2000.

C. Purchasing Agents, Departments or Boards.

40A:11-9. Purchasing agent, department or board; establishment; powers.

a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, designate an individual to serve as the contracting unit's purchasing agent. The individual designated as the purchasing agent pursuant to this subsection shall be assigned the authority, responsibility, and accountability for the purchasing activity for the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the contracting unit and to award contracts permitted pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3)