

## **SPECIAL MEETING MINUTES**

### **PEQUANNOCK RIVER BASIN REGIONAL SEWERAGE AUTHORITY**

**August 13, 2020**

Minutes of the special meeting of the **Pequannock River Basin Regional Sewerage Authority** held on August 13, 2020 via Teleconference. Chairman Verdonik called the meeting to order at approximately 5:00 p.m.

#### **ROLL CALL**

On roll call:

**PRESENT** : Chairman Verdonik, Commissioners Gall, Howard, Lampmann and Voorman

**ABSENT** : Commissioner Metcalfe

**ALSO PRESENT** : Jamie Avagnano, Authority Administrator; Brad Carney, Esq., Maraziti, Falcon LLP; and Daniel D. Kelly, P.E., Kelly Engineering

#### **OPEN PUBLIC MEETING STATEMENT**

Chairman Verdonik introduced the "Open Public Meeting Statement" indicating that adequate notice of the Authority's special meeting had been publicized in accordance with law by posting notice on the bulletin board at the Butler Municipal Building by providing notice to the municipal clerks of Bloomingdale, Butler, Kinnelon, and Riverdale, and by providing notice to the official newspapers of the Authority.

##### **1. Contract PRB-19-1: Change Order No. 3**

Administrator Avagnano introduced the purpose of the meeting to consider approval of Change Order No. 3 on Contract PRB 19-1. She explained the necessity of the change order increasing the diameter of the casing pipe from 36-inch diameter to 48-inch diameter and utilizing a hand-mining technique for the tunnel in lieu of the auger/pilot tube method originally specified. She further explained that the revisions proposed by Montana Construction were critical to complete the project due to large boulders found while excavating the jacking pit which resulted in the changed site condition rendering the proposed 36-inch auger jack and bore operation infeasible. She also pointed out that is necessary for engineering submittals and due to the use of hand-mining, a time extension of 94 days was included in the change order, moving the completion date to November 20, 2020. Mr. Kelly commented that the first few weeks of the time extension is to obtain railroad approval for the 48-inch tunnel.

Vice Chairman Voorman questioned whether or not the hand-mining would be continuous underneath the railroad. Mr. Kelly responded that, yes, per NYS&W Railway's requirements, once the tunnel begins under the railroad it must continue 24/7.

Commissioner Howard asked if boulders were found in the tunnel. Commissioner Lampmann responded noting that the boulders were unearthed in the jacking pit where the tunnel starts. Therefore encountering boulders would be probable as the tunnel is advanced.

Commissioner Howard inquired if it was possible to start with the 36-inch tunnel using auger bore system and then switch to the 48-inch and hand tunneling operation if boulders were encountered later on. Mr. Kelly stated that it was not feasible to switch methods mid-tunnel and that if boulders of that size were encountered in the 36-inch tunnel that the project may need to be abandoned. Mr. Kelly further explained that without the use of a pilot tube in the 36-inch tunnel operation, maintaining proper grade, which is critical for the gravity main installation, would be difficult. Mr. Kelly explained a conference was convened on Monday with the geotechnical engineer, Oweis, and the project engineer, MM. Oweis confirmed that that given the size of the boulders that the method proposed by Montana under Change Order No. 3 was the most feasible way of completing the project and maintaining grade.

Commissioner Howard also brought up the Authority's legal exposure since the project was now being altered from a 36-inch to a 48-inch tunnel. Mr. Carney explained that with approval of Change Order No. 3 that would bring the cumulative change orders to 24% over the bid price. He mentioned that counsel has reviewed the support documents on the site conditions including the associated certifications made by Montana Construction and Mott MacDonald confirming that differing site conditions exist including that canceling the contract for rebid would not be beneficial nor feasible. He confirmed that the Local Public Contracts Law has been followed and that publication as well as an appendix to the Authority's budget and audit would be issued regarding the 20% price exceedance.

With no other comments, Chairman Verdonik presented Resolution No. R-20-8-1 for Change Order No. 3.

Vice Chairman Voorman moved Resolution R-20-8-1 as follows:

Resolution No. R-20-8-1

**RESOLUTION TO AUTHORIZE CHANGE ORDER NO. 3 TO MAIN STREET AND  
PARK PLACE SANITARY SEWER REPLACEMENT PROJECT  
CONTRACT NO. PRB-19-1 (RE-BID)**

**WHEREAS**, the Pequannock River Basin Regional Sewerage Authority (the "Authority") awarded the Main Street and Park Place Sanitary Sewer Replacement Project Contract No. PRB-19-1 (Re-Bid) to Montana Construction Corp., Inc. ("Montana") on October 16, 2019 as the lowest responsible bidder, pursuant to Resolution No. R-19-10-4, in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. in the bid amount of \$1,422,025.00; and

**WHEREAS**, on April 15, 2020, the Authority authorized Change Order No. 1 with Montana increasing the contract amount by \$15,522.30 pursuant to Resolution No. R-20-4-2 for the reasons set forth therein in accordance with N.J.A.C. 5:30-11; and

**WHEREAS**, on May 6, 2020, the Authority authorized Change Order No. 2 with Montana increasing the contract amount by \$71,972.38 pursuant to Resolution No. R-20-5-1 for the reasons set forth therein in accordance with N.J.A.C. 5:30-11; and

**WHEREAS**, the Authority is in receipt of a Request filed by Jamie Avagnano, Administrator, recommending approval of Change Order No. 3 with Montana for a ninety-four (94) day time extension and an increase in the contract amount by \$263,331.10 for furnishing and installing a 48-inch diameter casing pipe under the railway by jacking and hand-mining in lieu of installing a 36-inch diameter casing pipe by means of jacking and auger boring; and

**WHEREAS**, the cumulative price increase of Change Order Nos. 1, 2 and 3 exceeds twenty percent (20%) of the original bid price and therefore, in accordance with N.J.A.C. 5:30-11.9, the Request filed by the Authority's Administrator includes a written certification from Montana's Project Manager, Eric Porter that includes: (1) the factual circumstances which necessitate issuance of the change order; (2) a statement why these circumstances could not have been foreseen; and (3) a statement indicating why issuance of the change order would be in the best interest of the Authority and is not an abuse of the rules; and

**WHEREAS**, the Request filed by the Authority's Administrator includes and is in accordance with a separate letter from the Authority's project engineer, Mott McDonald, stating in detail the factual circumstances which justify issuance of Change Order No. 3. in accordance with N.J.A.C. 5:30-11.9.

**NOW, THEREFORE, BE IT RESOLVED** by the Pequannock River Basin Regional Sewerage Authority in the Counties of Morris and Passaic in the State of New Jersey on this 13th day of August 2020 as follows:

1. The Authority hereby approves Change Order No. 3 to the contract with Montana Construction Corp., Inc. as described in the Request for Change Order No.3 of even date and accompanying statement from the Authority's project engineer Mott McDonald and certification from the Project Manager for Montana Construction Corp., Inc. in the total increased amount of \$263,331.10 and increase in contract time by ninety-four (94) days.
2. The Chairman or in his absence the Vice Chairman is authorized and directed to execute Change Order No. 3, the form of which has been reviewed and approved by the Authority's legal counsel as a sufficient form of amendatory contract, for the aforementioned increase in contract amount and contract time.
3. The Authority's Treasurer certifies the availability of funds in the amount of \$263,311.10 for Change Order No. 3 from the Construction Fund.
4. The Authority shall cause to be printed, once, in an official newspaper, a brief notice indicating the additional amount to be expended, the original contract price, the nature of the original and additional work and why it is necessary to expend the additional funds.
5. A copy of the aforementioned advertisement and this Resolution shall be kept on file with the Authority and shall be available for inspection by the public.
6. The Authority's Administrator shall report to the Director of the Department of

Community Affairs on an appendix to the Authority's annual budget all change orders from the previous fiscal year which exceed the twenty-percent (20%) limitation on a form provided by the Director of the Department of Community Affairs and a summary of the report shall be included as supplemental material in the annual audit of the Authority.

7. The Authority's staff and consultants are hereby authorized to take all other actions necessary or desirable to effectuate the terms and conditions of this Resolution.
8. This Resolution shall take effect as provided by law.

That motion was seconded by Commissioner Howard which passed unanimously on the following roll call vote:

<b>AYES</b>	:	Chairman Verdonik, Commissioners Gall, Howard, Lampmann and Voorman
<b>NAYS</b>	:	None
<b>ABSENT</b>	:	Commissioner Metcalfe
<b>ABSTAIN</b>	:	None

#### **OPEN MEETING FOR PUBLIC COMMENT**

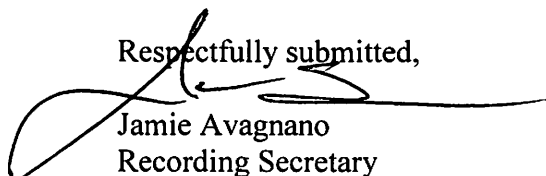
There being no members of the public present, Chairman Verdonik dispensed with the public participation portion of the meeting.

#### **ADJOURNMENT**

At approximately 5:13 pm, Commissioner Lampmann moved for adjournment. That motion was seconded by Commissioner Voorman and was approved unanimously on voice vote.

At approximately 5:13 pm, the special meeting was adjourned.

Respectfully submitted,



Jamie Avagnano  
Recording Secretary