

**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.

### CERTIFICATION

Certified to be a true copy of a Resolution adopted by the Pequannock River Basin Regional Sewerage Authority at a duly convened meeting of the Authority held on August 13, 2020.

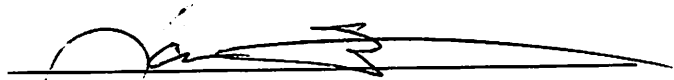
  
James P. Lampmann, Asst. Secretary

# PEQUANNOCK RIVER BASIN REGIONAL SEWERAGE AUTHORITY

## Request for Approval of Change Order No. 3 to Contract No. PRB 19-1 (Re-Bid)

This is to request Board approval of Change Order No. 3 to Contract No. PRB-19-1 (Re-Bid) in the amount of \$263,311.10 and an increase in the contract time by ninety-four (94) days. This Change Order, if approved, when added to the price increase of Change Order No. 1 and Change Order No. 2 results in a total increased price that exceeds the twenty percent (20%) threshold for change orders. This request is allowed pursuant to N.J.A.C. 5:30-11.9 entitled "Procedures For Change Orders Which Exceed 20 Percent Limitation" for the reasons set forth in the letter dated August 12, 2020 from Anthony Gagliostro, P.E. of the firm Mott McDonald (the Authority's project engineer) and the Certification of the Project Manager from Montana Construction, Inc., dated August 10, 2020 (the contractor) which are submitted with this request and are incorporated by reference as if fully stated herein

I certify that I have reviewed the reasoning outlined in Change Order No. 3, together with Montana Construction's certification, dated August 10, 2020 and agree with the recommendation of the project engineer, Mott McDonald, in their letter dated August 12, 2020. Specifically, for the reasons set forth in the above referenced documents, I concur with the factual circumstances which necessitate Change Order No. 3; the explanation as to why those circumstances could not have been foreseen. Additionally, it is in the best interest of the Authority to approve Change Order No. 3 in order to enable completion of the NYS&W RR Project under Contract No. PRB 19-1. Such approval is not an abuse governing change orders, including N.J.A.C. 5:39-11.9, because the factual circumstances indicate that the differing site conditions, when combined with the circumstances and public necessity of the ongoing work, renders the development and bidding specifications for furnishing and installing a 48-inch diameter casing pipe in lieu of the 36-inch diameter casing pipe (which in turn would require deletion of certain work from the existing contract) followed by advertisement, receipt of bids and execution of a new contract an unreasonable interference with the efficient completion of the work.

  
Jamie Avagnano, Authority Administrator  
August 13, 2020