

**RESOLUTION AWARDING UNAUTHORIZED CONNECTION REHABILITATION
CONTRACT NO. PRB-20-1 TO
AROLD CONSTRUCTION COMPANY, INC.**

WHEREAS, the Pequannock River Basin Regional Sewerage Authority (“Authority”) solicited for the receipt of sealed competitive bids for the Unauthorized Connection Rehabilitation Contract No. PRB-20-1 in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, two bids were received on August 11, 2020 as follows:

National Water Main Cleaning Co. 1806 Newark Turnpike Kearny, New Jersey 07032	\$112,094.00
Arold Construction Co., Inc. 51 Powder Mill Bridge Road Kingston, New York 12401	\$127,500.00

WHEREAS, the bidding documents were reviewed by the Authority’s staff and consultants, including the firm Maraziti, Falcon LLP and the firm of Remington & Vernick Engineers; and

WHEREAS, the bid response from National Water Main Cleaning Co. identified as its bypass pumping subcontractor, United Rentals (North America) Inc., and indicated that this subcontractor was not registered for public works with the New Jersey Department of Labor and Workforce Development, but rather such registration was “in process”; and

WHEREAS, The Public Works Contractor Registration Act, N.J.S.A. 34:11-56.48 et seq., states, in relevant part at N.J.S.A. 34:11-56.51: “No contractor shall list a subcontractor in a bid

proposal for the contract unless the subcontractor is registered pursuant to [N.J.S.A. 34:11-56.48 et seq.] at the time the bid is made”; and

WHEREAS, pursuant to regulations promulgated pursuant to The Public Works Contractor Registration Act, the definition of a subcontractor is not limited to the trades set forth by the Local Public Contracts Law at N.J.S.A. 40A:11-16, but rather are defined by N.J.A.C. 12:62-1.2 as “any subcontractor or lower tier subcontractor of a contractor, including independent owner operators or independent contractors” and therefore the identified subcontractor, United Rentals (North America) Inc., was required to be registered for public works with the New Jersey Department of Labor and Workforce Development at the time of bid receipt; and

WHEREAS, after the opening of the bids, United Rentals (North America) Inc., the subcontractor identified by National Water Main Cleaning Co., submitted a Public Works Contractor Registration application with the New Jersey Department of Labor and Workforce Development on August 18, 2020 and a copy of this registration was provided to the Authority; and

WHEREAS, The Public Works Contractor Registration Act provides at N.J.S.A. 34:11-56.55 that “[e]ach contractor shall, after the bid is made and prior to the awarding of the contract, submit to the public entity, including, but not limited to, any authority, board or commission, the certificates of registration for all subcontractors listed in the bid proposal. Applications for registration shall not be accepted as a substitute for a certificate of registration for the purposes of this section”; and

WHEREAS, the identification of a subcontractor that is not registered with the Department of Labor and Workforce Development in a bid for public work is in contravention of N.J.S.A.

34:11-56.1 which requires all subcontractors to be registered at the time of bid receipt for public works and therefore the bid submission of National Water Main Cleaning Co. contains a material defect that cannot be waived by the Authority and must be rejected; and

WHEREAS, the bid of Arold Construction Co., Inc. has been reviewed by the Authority's counsel and does not contain any material defects; and

WHEREAS, the Authority's consulting engineer, Remington & Vernick Engineers, has recommended that the contract be awarded to Arold Construction Co., Inc. as the lowest responsible bidder pursuant to its letter dated August 18, 2020; and

WHEREAS, the bidding documents include plans for the improvement to public property; and

WHEREAS, N.J.S.A. 59:4-6 provides that neither the public entity nor a public employee is liable for an injury caused by the plan or design of public property or any improvement thereto where the plan or design was approved in advance of construction or improvement by the Authority or a public employee exercising discretionary authority to give such approval on its behalf where such plan or design was prepared in conformity with the standards previously approved by the Authority; and

WHEREAS, in addition to awarding the Unauthorized Connection Rehabilitation Contract No. PRB-20-1, to Arold Construction Co., Inc. as the lowest responsible bidder, the Authority desires to record its approval of said plans and design for the Unauthorized Connection Rehabilitation Contract No. PRB-20-1.

NOW, THEREFORE, BE IT RESOLVED by the Pequannock River Basin Regional Sewerage Authority in the Counties of Morris and Passaic and State of New Jersey, on this 19th day of August, 2020, as follows:

1. The bid submission of National Water Main Cleaning Co. is rejected due to the fact that its identified bypass pumping subcontractor, United Rentals (North America) Inc., was not registered for public works with the New Jersey Department of Labor and Workforce Development at the time of bid submission in accordance with N.J.S.A. 34:11-56.51, a material defect that cannot be waived by the Authority and which renders the bid of National Water Main Cleaning Co. as unresponsive to the Authority's bid solicitation.
2. All immaterial defects contained in the bid submission of Arold Construction Co., Inc., if any, are waived and the Authority awards the Unauthorized Connection Rehabilitation Contract No. PRB-20-1, to Arold Construction Co., Inc., having a business address of 51 Powder Mill Bridge Road, Kingston, New York 12401, in the bid amount of \$127,500.00 as the lowest responsible bidder in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
3. The Contract awarded herein to Arold Construction Co., Inc. shall commence after the execution of the contract, the submission of the performance guarantees and all required insurance certificates required by the contract, together with all other documentation required by the contract and after the issuance of a Notice to Proceed issued on behalf of the Authority.
4. The entire design, specifications and plans to be utilized for the Unauthorized Connection Rehabilitation Contract No. PRB-20-1, are hereby approved for the

- purpose of the immunity to be afforded to the Authority in accordance with N.J.S.A. 59:4-6.
5. The consulting engineer and Authority Administrator, together with the Authority's professional consultants are hereby authorized to take such actions as are necessary or desirable to effectuate the terms and conditions of this Resolution and to take measures to ensure that all appropriate documents, as required by the Unauthorized Connection Rehabilitation Contract No. PRB-20-1, are provided by the contractor prior to the issuance of the Notice to Proceed.
 6. The Authority Treasurer certifies the availability of funds in the bid amount of \$127,500.00 to finance the Unauthorized Connection Rehabilitation Contract No. PRB-20-1 from the Revenue Fund.
 7. This Resolution shall take effect as provided by law.

CERTIFICATION

Certified to be a true copy of a Resolution enacted at a duly convened public meeting of the Pequannock River Basin Regional Sewerage Authority held on this 19th day of August, 2020.


James P. Lampmann, Asst. Secretary