

Resolution 17-048

RESOLUTION TO AUTHORIZE THE EXECUTION OF CHANGE ORDER 5 TO CONTRACT NUMBER 38, MONROE STREET PUMPING STATION AND FORCE MAIN AND MORRIS AVENUE GRAVITY SEWER

WHEREAS, the Rockaway Valley Regional Sewerage Authority (hereinafter the “Authority”) entered into Contract 38 for the construction of the Monroe Street Pumping Station and Force Main and Morris Avenue Gravity Sewer with Tomar Construction Services, Inc., 6 Spruce Meadows Drive, Monroe, New Jersey (hereinafter “Tomar”); and

WHEREAS, the Contract Time specified in Contract 38 is 300 calendar days, and a Notice to Proceed was provided to the Contractor on September 3, 2015; thus Contract completion is required by June 28, 2016 in accordance with the original contract documents; and

WHEREAS, to date, various delays have been encountered, some of which would be considered to be compensatory to the Contractor and some of which would not be considered compensatory to the Contractor, and RVRSA has determined that it is appropriate to authorize an initial time extension to account for Contract Time and costs associated with specific items encountered to date pursuant to an analysis of the schedule and the chronology of project events, and negotiations with the Tomar; and

WHEREAS, as more specifically set forth in the attached correspondence dated March 2, 2017, from Mark A. Bean, P.E., CGP LEED AP FIGP, Principal Engineer, (Kleinfelder) to the Authority’s Manager of Engineering, Carrie D. Feuer, P.E., Kleinfelder has recommended that an additional one hundred and thirteen (113) days be added to the Contract completion date with a corresponding payment in the amount of \$67,573.36 as compensation for the time adjustment, for the reasons set forth therein; and

WHEREAS, previous adjustments to the Contract Time totaled 34 days, as implemented under Change Orders #2 (4 days) and #3 (30 days), increasing Contract Time from 300 to 334 days. Change Order #4 and Change Order #5, if approved, will increase the Contract Time by 40 days and 113 days respectively, for a cumulative total adjustment of 187 days, which would establish a revised total Contract Time of 487 days, with a Contract Completion date of January 1, 2017; and

WHEREAS, the changes referred to in the above referenced correspondence are formalized in the Contract Change Order No. 5, dated March 2, 2017, and inclusive of this Change Order, the cost of all Change Orders is a \$56,845.64, which represents 1.30% of the original Contract cost, as follows:

CO #	Description	Cost
1	Additional Roadway and traffic signage, Excavation & Fill Quantity Adjustments, Bypass FM Construction Adjustments, Replacement of Resident Water Services, Pump Discharge Pressure Gauge Seals and Elimination of Access Manhole #1	\$193,334.00
2	Morris Ave. Steep Slope Geotechnical Design	\$3,850.00
3	Harrison Street Grinder Pump Utility Relocation and Partial Reclamation of Bid Item 5	(\$261,878.40)
4	Modifications to the Harrison Street Grinder Pump Station	\$53,966.68
5	Time Adjustment	\$67,573.36
	Total Change Order Cost	\$56,845.64

WHEREAS, the Authority has reviewed the Contract Change Order attached hereto and made a part hereof, and is satisfied that it meets the requirements of N.J.A.C. 5:30-11.3, and

WHEREAS, funds are available therefore from line item EIT-038.

NOW, THEREFORE, BE IT RESOLVED by the Rockaway Valley Regional Sewerage Authority as follows:

1. Subject to execution of Change Order No. 5 by Tomar Construction Corp. and Kleinfelder, and subject to receipt of New Jersey Department of Environmental Protection approval, the Authority hereby approves Change Order No. 5 in the amount of \$67,573.36, and the extension of the contract completion date by one hundred and thirteen (113) days' time for the completion of the work, as set forth in Change Order No. 5, attached hereto and made a part hereof.

2. Upon receipt of New Jersey Department of Environmental Protection approval, the Executive Director is hereby authorized and directed to execute a Contract Change Order substantially in the form as that attached hereto, in the foregoing amount.

3. This Resolution shall take effect as provided by law.

CERTIFICATION

I hereby certify that this Resolution was adopted at a meeting of the Rockaway Valley Regional Sewerage Authority held on March 9, 2017,

On motion of: Thomas Andes

Second by: John Cegelka


And a Roll Call Vote as Follows:

Yeas: (8) Andes, Cegelka, Corbett, Lowell, Recchia, Rossi, Schorno, Lavery

Nays: (0) None

Abstain: (1) Vincitore

Absent: (1) Guadagno


Michael Guadagno
Board Secretary



March 2, 2017

Via Email & Copy Via USPS

Ms. Carrie D. Feuer, P.E.
Manager of Engineering
Rockaway Valley Regional Sewerage Authority
RD #1, 99 Greenbank Road
Boonton, New Jersey 07005-9602

**RE: MONROE STREET PUMPING STATION & FORCE MAIN AND
MORRIS AVENUE GRAVITY SEWER
RVRSA CONTRACT NO. 38; NJEIT LOAN PROJECT S340821-06
CHANGE ORDER RECOMMENDATION – CO #5:
CONTRACT TIME ADJUSTMENTS**

Dear Ms. Feuer:

As RVRSA is aware, this construction project has passed its scheduled completion date of June 28, 2016. While the Contractor is continuing to work diligently to complete the Work and accelerate his schedule wherever possible, it is still prudent for RVRSA to consider some of the time delays that have occurred to date and issue a Change Order to adjust the Contract Time and afford compensation as may be appropriate for known and agreed-upon items. At this juncture, pursuant to our analysis of the schedule and the chronology of project events, and consequent negotiations with the Contractor, Tomar Construction Services, Inc. (Tomar), Kleinfelder (KLF) is recommending that the Authority approve Change Order #5 for a contract time adjustment that both adds 113 days to the Contract Time and provides the Contractor \$67,573.36 as compensation for the time adjustment. Background and other pertinent information related to this Change Order, to share with your Infrastructure Committee and your larger Board of Directors, is presented below.

Background

A Notice to Proceed was provided to the Contractor on September 3, 2015. The Contract Time was 300 calendar days, thus requiring Contract completion by June 28, 2016. To date, various delays have been encountered, some of which would be considered to be compensatory to the Contractor and some of which would not be considered compensatory to the Contractor. At this time, it is recommended that RVRSA pursue an initial time extension to account for Contract Time and costs associated with specific items encountered to date. The Contractor has tendered a listing of the items upon which he has reached agreement with Kleinfelder in regard to an appropriate time extension, as well as the cost for time that should be considered compensable.



Time Adjustments

Kleinfelder has analyzed the construction schedule in conjunction with field notes, correspondence, previously-executed Change Orders, and all manner of project record as it relates to project chronology and offers the following recommendations with regard to the specific items tendered at this time (as correlated to the Contractor's submitted list/item numbers):

1. Additional Signage Requirement: Recommended Time Adjustment: **3 days**
(Originally Requested Adjustment: 10 days)
Change Order #1 – Item #1

At an additional pre-construction meeting mandated by the Town of Boonton on 10/30/15, a requirement for additional traffic and pedestrian signage was imposed for the Work to be performed on Lincoln and Monroe Streets. This signage was not required per the Contract Documents, and Boonton indicated that Work could not begin until the required signage was installed by the Contractor. Part of the delay originally requested ran concurrent with Item 11 below, negating part of the delay originally requested. Cost, but not time, was awarded for this item under previously-approved Change Order #1, Item #1.

2. Additional Excavation & Fill: Recommended Time Adjustment: **22 days**
(Originally Requested Adjustment: 105 days)
Change Order #1 – Item #2

In accordance with previously-approved Change Order #1, Tomar was granted additional unit price quantities associated with the various pipeline-related aspects of the Work. Cost, on a unit-price, not-to-exceed basis, but not time was awarded. At this juncture, only some of the authorized quantities have been realized, and, accordingly, only the time associated with realized quantities can be granted under this Change Order #5. As future quantities are realized (as is likely), time associated with same would become the subject of future adjustment by Change Order. Originally, the Contractor requested a time adjustment that would be associated with realization of the entirety of approved quantities. To date, the quantities realized are thus:

Excavation from 0 – 8 feet	1,000 cy realized of 2,094 cy authorized
Coarse Aggregate	100 cy realized of 393 cy authorized
Dense Graded Aggregate	100 cy realized of 1,020 authorized

Based upon published production rates associated with these items, as reasonably adjusted to account for the nature and difficulty of the actual conditions and Work completed in the field, KLF recommends the time adjustment noted above to address the quantities realized to date.

3. Bypass Force Main Changes: Recommended Time Adjustment: **12 days**
(Originally Requested Adjustment: 15 days)
Change Order #1 – Item #3

In accordance with previously-approved Change Order #1, Tomar was granted the additional costs to construct changes in the bypass force main at the intersection of Washington St. & Monroe St. Work was stopped when the existing, conflicting underground utilities were discovered, and work was resumed after a disruption for design, approval by the Town of Boonton (due to limited clearances between Town and new



RVRSAs infrastructure), and procurement of the materials required. It should be noted that the progression of work, according to the Contractor's schedule at that time, did not afford appreciable re-sequencing. Some other minor work occurred during this disruption period, allowing for only a limited mitigation of the time for disruption.

4. Replacement of Water Services: Recommended Time Adjustment: **3 days**
(Originally Requested Adjustment: 3 days)
Change Order #1 – Item #4

This is the for the time associated with work required by the Town of Boonton to completely replace previously-repaired water services at 75 Grant Ave. and 510 Lincoln St., as authorized under Change Order #1. KLF concurs with the requested adjustment.

5. Eliminate Access MH #1: Recommended Time Adjustment: **-1 day (credit)**
(Originally Requested Adjustment: -1 day)
Change Order #1 – Item #6

A time credit is being offered for the time associated with the installation of Access MH #1 in the new force main within Lincoln St. This unnecessary manhole was deleted from the Contractor's scope under Change Order #1. KLF concurs with the requested adjustment.

6. Morris Ave. Geotechnical Design: Recommended Time Adjustment: **30 days**
(Originally Requested Adjustment: 30 days)
Change Order #2

Under Change Order #2, the Contractor was authorized to proceed with geotechnical professional engineering services to analyze and design a solution to mitigate the discovered very steep slope within which the Morris Avenue gravity sewer is to be installed. The Change Order authorized 30 days of (compensable) adjustment to the Contract Time. Only the cost of the authorized adjustment is borne by this Change Order #5.

7. Harrison St. Utility Relocations: Recommended Time Adjustment: **4 days**
(Originally Requested Adjustment: 4 days)
Change Order #3

Change Order #3 authorized the relocation of the Town of Boonton's water utilities in and around the area in which the new Harrison St. Grinder Pump Station was to be installed. The Change Order authorized 4 days of (compensable) adjustment to the Contract Time. Only the cost of the authorized adjustment is borne by this Change Order #5.

8. Harrison St. Grinder PS Changes: Recommended Time Adjustment: **40 days**
(Originally Requested Adjustment: 40 days)
Change Order #4

Change Order #4, tendered and recommended separately and concurrently with this Change Order #5, seeks authorization for numerous beneficial and necessary modifications to the new Harrison St. Grinder Pump Station. Some of these changes entail provision and installation of a PVC-lined concrete wetwell, provision of a concrete pad and curbing not indicated on the Documents, extensive changes to controls and both local and remote



annunciation of pump operation, and extensive changes to the electrical gear. Change Order #4 recommends authorization of 40 days of (compensable) adjustment to the Contract Time. The cost of the recommended authorized adjustment would be borne by this Change Order #5.

9. Emergency Repairs at Santaland Park: Recommended Time Adjustment: **73 days**
(Originally Requested Adjustment: 98 days)

The Contractor provided prolonged services during the repair of the collapsed Boonton Trunk Line. The Contractor was separately compensated for his work at Santaland Park, however, a corresponding **non-compensatory** adjustment to Contract Time is necessary for Contract 38.

10. Precast Concrete Vendor Issues: Recommended Time Adjustment: **-26 days (credit)**
(Originally Requested Adjustment: -26 days)

During the course of the project, the Contractor's supplier of precast concrete structures encountered difficulties in providing materials in a timely manner. To mitigate further delays to his progress, the Contractor brought in additional suppliers to ensure materials were fabricated and delivered. The Contractor recognizes his culpability for this delay and offers the noted time credit. KLF concurs with the credit adjustment offered. It should be noted that this credit adjustment applies to the Contractor's efforts to mitigate his own delay associated only with his supplier(s) and not to any other potential adjustments that may be associated with the provision of precast concrete structures for the project.

11. Road Opening Permit Delays: Recommended Time Adjustment: **14 days**
(Originally Requested Adjustment: 18 days)

KLF concurs that Contractor was disrupted by this activity. Various additional requirements imposed by the Town of Boonton, inclusive of delaying approval and requiring resubmittal of the permit applications in an effort to force compliance with new ordinances that were due to take effect, caused the Contractor disruption in performing scheduled work (force main installation in Lincoln Street).

12. Boulder Excavation: Recommended Time Adjustment: **8 days**
(Originally Requested Adjustment: 10 days)

A significant quantity of large boulders was encountered during the course of excavation for the nearly ½ mile-long force main up Lincoln Street. It was negotiated with the Contractor to accept a discounted payment for boulder removal via the Contract's unit-price item 9D for Rock Excavation, however, the additional time associated with excavation, cutting (when necessary), staging, loading, transport, and disposal of the large boulders would be the subject of a compensable time adjustment. Based upon field records for this work, KLF recommends the time adjustment noted above.

13. Unmarked Water Line at Lincoln St. & Grant Ave.: Recommended Time Adjustment: **1 day**
(Originally Requested Adjustment: 1 day)

An unmarked water line was discovered at the intersection of Lincoln St. and Grant Ave. Work was disrupted for the noted day as the Contractor worked with the Town of Boonton



to identify the line, confirm if it was in service, and re-align the excavation and pipeline accordingly. No hard costs are associated with this item, however, an adjustment to the Contract Time is appropriate.

14. Mismarked Water Line at 534 Lincoln Street:

Recommended Time Adjustment: **1 day**
(Originally Requested Adjustment: 1 day)

A mismarked water line was discovered at 534 Lincoln Street. Work was disrupted for the noted day as the Contractor worked with the Town of Boonton to identify the line, confirm if it was in service, and re-align the excavation and pipeline accordingly. No hard costs are associated with this item, however, an adjustment to the Contract Time is appropriate.

15. Channel Drain Reconstruction at Harrison & Lincoln Streets:

Recommended Time Adjustment: **2 days**
(Originally Requested Adjustment: 2 days)

The Town of Boonton has old stormwater channel drains that convey stormwater flows under the roadway at intersections. During the installation of the new force main in Lincoln Street, as the Contractor's work traversed the noted intersection, the channel drain under the roadway was found to be in a state of substantial disrepair, and it collapsed during the course of the Work. The Town required reconstruction of the channel, which was performed by the Contractor. The Contractor was compensated for this Work via the applicable unit price items in the Contract, however, a compensable adjustment to the Contract Time is appropriate for the unplanned, additional work that was performed.

16. Unmarked 4" Gas Line at Lincoln & Monroe Streets:

Recommended Time Adjustment: **1 day**
(Originally Requested Adjustment: 1 day)

An unmarked 4" gas line was discovered at the intersection of Lincoln and Monroe Streets. Work was disrupted for the noted day as the Contractor waited for and worked with the Town of Boonton and New Jersey Natural Gas to identify the line, confirm if it was in service, and re-align the excavation and pipeline accordingly. No hard costs are associated with this item, however, an adjustment to the Contract Time is appropriate.

In summary, the following adjustment to Contract Time is recommended:

Cumulative Adjustment to Contract Time:	187 days	(inclusive of 74 days
	(to date)	per CO #2 & #3 [approved]
		& #4 [pending])
Non-Compensable Days:	73 days	(Item #9)
Compensable Days:	114 days	(all other items, including
		credit days per items #5 &
		#10)

Time Adjustment per this Change Order #5: 113 days (187 total days less 74 per prior authorization)



Cost

The Contractor is seeking a simple direct cost remuneration for the compensable days noted to date. He seeks only to reclaim his costs for extending bonds and insurances, for his field management and supervision, and for his temporary facilities on site (e.g. trailer, portable toilet, dumpsters, etc.). Verification of these costs is relatively straight-forward. For the extension of bonds and insurances, the Contractor has provided invoices from his carriers and sureties. While there is a line item for these costs in the approved Schedule of Values, it is noted that extension of these items is less expensive than their initial issue for the project. Accordingly, KLF requested, and the Contractor obliged, to provide actual invoices for all necessary extensions. For field management and supervision, the unit cost provided in the approved Schedule of Values (line 1.2, which assigns cost on a per month basis) is reasonable and appropriate. For temporary facilities, there is similarly a unit cost in the approved Schedule of Values (line 1.4, which also assigns cost on a per month basis). In this regard, however, KLF has negotiated a rate slightly lower than that utilized for the base contract duration (a reduction of \$500/month).

The Contractor has agreed to forego any other claim for damages or delay with regard to the adjustments for the items under this Change Order #5. There are no charges for extended general conditions, for loss of profit and/or productivity, nor for loss of the time use of money, all of which, in addition to other possible charges, are common when compensable days are awarded to a Contractor. This is not an insignificant concession, and it appears to signal a willingness by the Contractor to maintain positive relations and work diligently to complete the project. Appropriate release language will be included per Counsel's recommendations in the final Contract Modification Proposal and Acceptance form (NJDEP/NJEIT Form CCS-002) that formally executes this Change Order.

Based upon the total to date of 114 compensable days of adjustment to the Contract Time, and inclusive of allowable overhead and profit, the total cost of this Change Order is \$69,022.16, which KLF finds to be fair and reasonable. These costs have been determined as follows:

<i>Item/Description</i>	<i>Qty.</i>	<i>Cost Basis</i>	<i>Item Cost</i>
Bonds & Insurance	1	Lump Sum	\$19,894.47
Field Management & Supervision	3.8	\$10,000/month per approved SOV (includes OH&P)	\$38,000.00
Temporary Facilities	3.8	\$1,500/month (reduced from \$2,000/month per approved SOV (includes OH&P)	\$5,700.00
<i>Subtotal</i>			\$63,594.47
Allowable Overhead (item #1 only)	1	10%	\$1,989.45
Allowable Profit (item #1 only)	1	10%	\$1,989.45
Total Cost of Compensable Days			\$67,573.36



Contract Time

Previous adjustments to the Contract Time totaled 34 days, as implemented under Change Orders #2 (4 days) and #3 (30 days), increasing Contract Time from 300 to 334 days. Change Order #4, should it be approved, will further increase Contract Time by 40 days to 374 days. In accordance with KLF's recommended adjustment to Contract Time, an **additional 113 days** would be added by this Change Order #5, effecting a *cumulative total adjustment of 187 days*. The Contract Time, pursuant to this Change Order #5 would provide for a revised total time of **487 days**.

The original date of Contract Completion was June 28, 2016. The combination of Change Orders #2 and #3 affected adjustment to August 2, 2016. Change Order #4, should it be approved, will adjust the date of Contract Completion to September 11, 2016. The adjustment contemplated by this Change Order #5 would change the date of Contract Completion from September 11, 2016, to **January 1, 2017**.

It should be noted that while this Change Order does represent an adjustment to Contract Time, it is not a final adjustment. There are still other events that have occurred during the progress of the project to date that are being analyzed for their effect on the overall schedule and whether or not disruption associated with those events, whether compensable or not, warrants further adjustment to the Contract Time. There is also significant work yet to be completed on this project. While every effort will be made to expedite, accelerate, and prosecute the Work efficiently, there is always the possibility of future disruption.

Funds Availability

As you are aware, the Project is funded through a loan by the New Jersey Environmental Infrastructure Trust. As such, your total loan amount includes a contingency in the amount of 5% of the total Contract cost. Your original Contract cost for this project is \$4,359,223.00. Based on this amount, your total loan amount included a contingency in the amount of \$217,961.15. To date, three (3) Change Orders have been approved, in the total credit amount of *(\$64,694.40)*. A fourth Change Order has been tendered simultaneously with this Change Order, and, assuming proposed Change Order #4 is approved, the total of the four (4) Change Orders precedent to this would be a credit amount of *(\$10,727.72)*. Accordingly, \$228,688.87 of contingency funds remain, which is sufficient to fund this Additional Work.

Inclusive of this Change Order, the cost of all Change Orders is a **\$56,845.64**, which represents **1.30%** of the original Contract cost. Based upon the progress of the project to date, remaining work to be completed, and the potential for future Change Order work to present itself, it is anticipated that sufficient contingency funds (**\$161,115.51**) will remain even after approval/execution of this Change Order.

The Work anticipated by this Change Order fit the purpose and description of Work typically allowable and acceptable by NJDEP under the contingency and projects funded through the NJEIT.



It is our understanding that this Change Order is due for more formal discussion at your upcoming Infrastructure Committee meeting on February 28. Kleinfelder will make itself available to facilitate discussion and assist you and the Commissioners at that time should you request such assistance. The costs provided by Tomar have also been attached for your use and reference.

It is our recommendation that the Authority draft and execute a resolution formally authorizing this Change Order and adjusting the Contract Amount from its current amount of \$4,348,495.28 to a new amount of **\$4,416,068.64**. Kleinfelder will then forward all requisite paperwork, inclusive of NJDEP's "Contract Modification Proposal and Acceptance" form, for processing by NJDEP/NJEIT.

It is our pleasure to be of continued service to the Authority in the administration of this important construction contract. Should you have any questions or require any further information, please do not hesitate to contact me directly via telephone at (609) 454-4570 or via email to mbean@kleinfelder.com.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Bean".

Mark A. Bean, P.E., CGP, LEED AP, FIGP
Principal Engineer

Enclosures

c: J. Mondsini – Executive Director, RVRSA
S. Allen - RVRSA
T. Bradley, w/o enclosure
2045U, w/enclosure

CONTRACT MODIFICATION PROPOSAL AND ACCEPTANCE

1. ISSUING OFFICE Rockaway Valley Regional Sewerage Authority	2. PROJECT NO. S340821-06	3. CONTRACT NO. 38	4. MODIFICATION NO. Number 5
5. TO (CONTRACTOR) Tomar Construction Services, Inc. 18 Connerty Court, Suite B East Brunswick, NJ 08816		6. PROJECT LOCATION AND DESCRIPTION RVRSA Contract 38: Monroe St. Pumping Station and Force Main & Morris Ave. Gravity Sewer Boonton, NJ	
7. A proposal is required for making the hereinafter described change in accordance with specification and drawing revisions cited herein or listed in attachment hereto. Submit your proposal in space indicated on page 2, attach detailed breakdown of prime and sub-contract costs (See the clause of this contract entitled, "Changes". DO NOT start work under this proposed change until you receive a copy signed by the Contracting Officer or a directive to proceed).			
<u>03/09/2017</u> Date	<u>JoAnn Mondsini, Executive Director</u> Type Name and Title	_____ Signature	
8. DESCRIPTION OF CHANGE: Pursuant to the clause of this contract covering changes, the contractor shall furnish all labor and material, and all work necessary to accomplish the following described work:			
1. Adjustment to Contract Time, inclusive of cost associated with all days considered to be compensable to date.			
As a result of the above, the contract price is revised as follows:			
<u>ITEM NO.</u> 1	<u>ITEM DESCRIPTION</u> Initial Extension of Contract Time	<u>UNIT PRICE</u> \$67,573.36	<u>ESTIMATED QUANTITY</u> Lump Sum
		<u>TOTAL COST</u> \$67,573.36	
Contractor agrees that the time extension and cost of this Contract Modification (Change Order) shall be full and complete compensation to the Contractor for the Work described herein and, as such, Contractor, its officers, employees, successors and assigns, hereby releases the Owner, its Board Members, officers, employees and consultants of any and all claims, including, but not limited to, disruption, delay, loss of productivity, idle time for persons and equipment, home office overhead, extended or disrupted performance, additional mobilizations, re-mobilizations, indirect or impact claims, loss of profit, together with any other damages, that relate in any way to the Work described in this Contract Modification (Change Order).			
TOTAL COST OF THIS MODIFICATION: \$ <u>67,573.36</u>			
The contract time is hereby: increase <input checked="" type="checkbox"/> decrease <input type="checkbox"/> or remains the same <input type="checkbox"/> by <u>113</u> calendar days as a result of this modification.			
The foregoing modification is hereby accepted:			
_____ CONTRACTOR BY: <u>Vijay Thomas</u> DATE: <u>March 9, 2017</u>	_____ OWNER BY: <u>JoAnn Mondsini, Exec. Director</u> DATE: <u>March 9, 2017</u>	(NJPE SEAL) _____ BY: <u>Mark A. Bean, P.E.</u> DATE: <u>March 9, 2017</u>	_____ ENGINEER
APPROVAL:			
_____ STATE OF NEW JERSEY		_____ DATE	

CONTRACT MODIFICATION PROPOSAL AND ACCEPTANCE

9. ISSUING OFFICE Rockaway Valley Regional Sewerage Authority	10. PROJECT NO. S340821-06	11. CONTRACT NO. 38	12. MODIFICATION NO. Number 5
13. CONTRACTOR'S PROPOSAL – CHANGE IN CONTRACT PRICE (Detailed breakdown, attach additional sheets as necessary)			
(Proposed) Please See Attached – Affixed to Change Order Recommendation by Mark A. Bean of Kleinfelder dated March 2, 2017.			
NET INCREASE \$ <u>67,573.36</u>	NET DECREASE \$ _____	CALENDER DAYS INCREASE <u>113</u> DAYS	
DATE: March 9, 2017	TYPE NAME AND TITLE: Vijay Thomas, Project Manager	SIGNATURE:	

CONTRACT MODIFICATION PROPOSAL AND ACCEPTANCE

14. ISSUING OFFICE & PROJECT NO. Rockaway Valley Regional Sewerage Authority S340821-06	15. CONTRACT NO. <p style="text-align: center;">38</p>	16. MODIFICATION NO. <p style="text-align: center;">Number 5</p>
17. ORIGINAL CONTRACT BID PRICE \$ <u>4,359,223.00</u> TOTAL OF PREVIOUS CHANGE ORDERS \$ <u>-10,727.72</u> TOTAL CONTRACT COST INCLUDING CHANGE ORDERS ... \$ <u>4,416,068.64</u>		
18. NECESSITY FOR CHANGE AND REASON FOR OMISSION FROM PLANS AND SPECIFICATIONS: <p style="text-align: center;">Please see attached Change Order Recommendation by Mark A. Bean of Kleinfelder dated March 2, 2017.</p>		
19. OTHER IMPACTS RESULTANT OF THIS CHANGE: <p style="text-align: center;">None.</p>		
20. RESUME OF NEGOTIATIONS OR RECOMMENDATIONS (Loanee's Representative) : <p style="text-align: center;">Please see attached Change Order Recommendation by Mark A. Bean of Kleinfelder dated March 2, 2017.</p>		
DATE: March 9, 2017	TYPE NAME AND TITLE OF LOANEE'S REPRESENTATIVE: Mark A. Bean, P.E., CGP, LEED AP, FIGP Principal Engineer Kleinfelder	SIGNATURE:



CONSTRUCTION SERVICES, INC.

Redefining engineering construction

February 23, 2017

Via Email

Kleinfelder
321 Wall Street
Princeton, NJ 08540

ATTN: Mr. Mark Bean, P.E.

**RE: Rockaway Valley Regional Sewerage Authority
Contract No. 38: Monroe St PS & Force Main and Morris Ave Gravity Sewer
Additional Time Request**

Dear Mr. Bean,

The completion date for the above-captioned project has been exceeded and, as of this writing, the work is currently 45% complete. There are several verifiable delays that have accrued throughout the project life that warrant a contract time extension. A breakdown of each of the known delays to date has been provided. Unforeseen conditions and design changes are the main factors that have led to this increase in the project duration.

Tomar Construction Services, Inc. ("TCS") had found the majority of the delays to be non-attributable and beyond our control. The following facts substantiate this claim:

1. County and Township Permit approvals took longer than estimated.
2. Unforeseen conditions in the roadwork at Monroe St., Lincoln St., and Washington St. caused an increase in task durations that exceeded estimates.
3. TCS provided all critical equipment submittals by October 2015. By February 2016, 95% of the required submittals were provided. However, due to unforeseen conditions or required design changes, these were held up from release.
4. Harrison Street Pump Station required a redesign that was only finalized in November of 2016. This redesign required that wholesale modifications to electrical, mechanical, and civil construction be made to the contract documents. Accordingly, work was unable to move forward until that time.
5. Lincoln Street Vortex work cannot begin until the Harrison Street Pump Station is operational. Thus, this work was unable to be scheduled previously.
6. Morris Avenue, Gravity Line work, has been delayed due to geotechnical concerns and coordination issues with NJ Transit. Though TCS has the material on-site and has obtained the necessary NJ Transit permits and training per the contract documents, work in this area is unable to progress as issues regarding geotechnical supports for the gravity line and



manholes need resolution. Additionally, property line delineation is required to assess whether or not NJ Transit property will be affected.

7. Monroe Street Pump Station ran into delays because the original precast structure supplier canceled the order. TCS worked diligently to provide another supplier within a month. TCS is culpable for this delay. However, the Monroe Street Station was further delayed due to electrical changes that affected the release of the control building, generator, odor control system, and electrical equipment.
8. Emergency Work at West Main Street halted progress on this Contract. Though this time is non-compensatory, it is a verifiable delay that requires a time extension.

Each deliverable was delayed by mitigating circumstances that were beyond TCS' control. And the use of more multiple crews could not have alleviated some of these delays as there were some sequential tasks between locations as expressed above that required sequential completion before the start of the succeeding task. From the list above; it is clear that the Monroe Street Pumping Station, Harrison Street Pumping Station, Lincoln Street Vortex, and Morris Avenue Gravity Line have run into independent delays that would not allow for compression of the schedule to facilitate an equitable reduction in the time extension. Furthermore, be advised TCS has expended additional resources to complete any viable tasks to limit any further delays without regard for or prioritizing our profitability (or loss thereof) associated with fragmented tasks.

Currently, the calculated additional time based on the delays should be at least 16.5 months. However, at this time, TCS is requesting only a 187 day time extension based on the specific items attached. At a later date, we will aggregate the additional time delays. TCS reserves the right to seek additional compensatory delays and costs.

Attached to this letter is a breakdown of the additional costs related to the time extension and a breakdown of the additional time. Please review and process the same expeditiously.

Thank you.

Regards,

Vijay Thomas
Project Manager

C.

Thomas Mottackal, Tomar
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TOMAR CONSTRUCTION
 18 CONNERTY COURT
 EAST BRUNSWICK, NJ 08816
 TEL: (732) 238-0700
 FAX: (732) 238-0701

We are pleased to submit the following estimate for the additional work
 Project: Rockaway Valley Regional Sewerage Authority, Contract 38 Monroe St Pumping Station, Force Main, and Morris Ave Gravity Sewer
CONTRACT TIME EXTENSION - Rev 1

Ref.	Description	Material			Labor		Equip./Subcontract			Total Cost		
		Unit	Qty	Rate	Cost	Labor Hours (LH)	Total L.H	Total Cost	QTY or Month		Rate	Cost
1	Bonds and Insurances											
1.1	Performance and EM bonds								1	9909.00	9909.00	
1.2	Builders Risk								1	7339	7339.00	
1.3	Street Opening permit								1	2646.00	2646.00	
1.4	Rail-Rd. Protective Insurance								1	1207.80	1207.80	
2	Management and Supervision											
2.1	Per SOV Item 1.2								3.8	10000.00	38000.00	
3	Temporary Facilities											
3.1	Per SOV Item 1.4								3.8	1500.00	5700.00	
	Cost of Additional Work				\$0.00						\$0.00	
	10% Overhead Contractor's Fee per Contract 38 Article XXXI-a (For ITEM 1 ONLY)										\$2,115.18	
	10% Profit Contractor's Fee per Contract 38 Article XXXI-a (For ITEM 1 ONLY)										\$2,110.18	
	Total Proposal Cost										\$69,022.16	

Calculation of cost revised per KLF's letter of recommendation

KLF Annotation: The time reflects the compensable days negotiated between KLF and Tomar in accordance with KLF's letter of recommendation.

Abbreviation: Ea = each, CY = cubic yards, LS = lump sum, SF = square feet, SY = square yard, T= tons, Da= Day

TBD - To Be Determined, SC = Substantial Completion

Estimated Increase in Contract Time (Breakdown)

Description of Activities	Start Date	Stop Date
Change Order	6/28/2016	11/6/2017
Additional/Increase in contract duration beyond SC date	311	187

ORIGINALLY REQUESTED DURATIONS SHOWN -
NEGOTIATED/AGREED DURATIONS ARE AS NOTED IN ADJACENT BOXES

MONROE ST. P5 MORRIS AVE. GRAVITY SEWER.
REV #01

TIME EXTENSION REQUEST FOR RVRSA CONTRACT # 38

ITEM	DESCRIPTION	DAYS DELAYED	
		Requested	Agreed
1	ADDITIONAL SIGNAGE REQUIREMENT Per the meeting held on 10/30/15, Town of Boonton's requirement for additional traffic signage was ordered, procured and installed prior to start of road opening on Lincoln st. that caused a delay of 10 days.	3	10
2A	BID ITEM 9A: EXCAVATION FROM 0 TO 8 FEET Additional Earthwork quantities per CO # 1 caused a cumulative delay of 45 days for the work to perform on 12" FM on Lincoln St and 24" FM on Monroe St.	22	45
2B	BID ITEM 9B: EXCAVATION FROM 8 TO 12 FEET Additional Earthwork quantities per CO # 1 caused a cumulative delay of 15 days for the work to perform on 12" FM on Lincoln St and 24" FM on Monroe St.		15
2C	BID ITEM 11: COARSE AGGREGATE Additional Coarse aggregate per CO # 1 caused a cumulative delay of 15 days for the work to perform on 12" FM on Lincoln St and 24" FM on Monroe St.		15
2D	BID ITEM 12A: DGA Additional DGA quantities per CO # 1 caused a cumulative delay of 30 days for the work to perform on 12" FM on Lincoln St and 24" FM on Monroe St.		30
3	UNKNOWN/UNDISCLOSED EXISTING WATER AND SEWER PIPES AT X OF WASHINGTON ST & MONROE ST. Presence of these unknown pipes resulted in using 24" & 18" DIP & fittings in lieu of proposed 24" PVC pipe for a total length of 80 LF. Determination, approvals, procurement and laying of DIP & fittings under critical existing piping conditions caused a delay of 15 days.	12	15
4	NEW WATER SERVICE FOR BOONTON TWP. AT HOUSE # 75, GRANT AVE. & 510 LINCOLN ST. FROM MAIN TO CURB STOP Additional work as required by Town of Boonton caused a delay of 3 days.	3	3
5	CREDIT FOR MANHOLE #1 Time gained by removing manhole #1 requirement.	-1	-1
6	MORRIS AVENUE - GEOTECH SERVICES Employ the services of a Geotechnical Engineer to design support for the installation for the manholes and piping on Morris Avenue.	4	4

ORIGINALLY REQUESTED DURATIONS SHOWN -
NEGOTIATED/AGREED DURATIONS ARE AS NOTED IN ADJACENT BOXES

MONROE ST. PS MORRIS AVE. GRAVITY SEWER.
REV #01

TIME EXTENSION REQUEST FOR RVRSA CONTRACT # 38

7	MODIFICATIONS TO HARRISON STREET SERVICES	30	30
	Remove and relocate fire hydrant, two residential water services, and install insertion valve. Includes road cutting, excavation, backfill, and repair to road.		
8	REDESIGN OF HARRISON STREET GRINDER STATION	40	40
	The Contract Design of the Harrison Street Pump Station required weeks of discussions, meetings, and collaboration to figure out an approved design. That design time is not included here. This is the additional time to actual install the new design with the additional curbs, revised layout, and other modifications.		
9	EMERGENCY REPAIR WORK - 124 WEST MAIN STREET	73	98
	After a sinkhole appeared at the Santa Land area, the contract work was postponed to deal with the emergency work - July 24, 2016 to October 29, 2016.		
10	DELAYS CAUSED BY PRECAST VENDORS	-26	-26
	Tomar ran into difficulties with the precast structure vendor who became frustrated with the project design issues. Thus, it took additional time to bring another vendor to provide the structures. The specific delay can be traced from 4/14/16 to 5/10/16.		
11	ROAD OPENING PERMIT DELAYS:	14	18
	Requirement for additional supplemental meeting to issue permits: Applied for Lincoln St & Monroe St. Rd Opening permit on 10/15/15 and subsequently on 10/23/15 for the second time. Town of Boonton Meeting was held on 10/30/15 and approval received on 11/3/15. A total time delay of 18 days		
12	REMOVE/ CUT BOULDERS	8	10
	Presence of unknown Boulders while excavating along Lincoln St. caused a cumulative delay of 10 days.		
13	UNMARKED WATER LINE AT X SECTION OF LINCOLN & GRANT ST.	1	1
	Encountered unmarked water pipe on Lincoln St. that Caused a delay of 1 day.		
14	CHANNEL DRAIN AT HARRISON X LINCOLN	2	2
	Encountered Channel drain on Lincoln St. that Caused a delay of 2 days.		
15	MISMARKED WATER LINE AT 534 LINCOLN ST.	1	1
	Encountered mismarked water pipe on Lincoln St. that Caused a delay of 1 day.		
16	UNMARKED 4" GAS PIPE DATED 11/11/15	1	1
	Encountered unmarked gas pipe on Lincoln St. that Caused a delay of 1 day.		
	TOTAL DELAY IN DAYS	187	311

35248

USI Insurance Services LLC

P.O. Box 62939 * Virginia Beach, VA 23466

-----INVOICE-----

Tomar Construction, LLC
18 Connerty Court
East Brunswick, NJ 08816

Invoice Date 09/27/16
Invoice No. 1978072
Bill-To Code TOMARCON3
Client Code TOMARCON3
Inv Order No. 705*4258922
Payment Due
Amount Remitted: \$

Named Insured: Tomar Construction, LLC

Please return this portion with your payment.

Make checks payable to: USI Insurance Services LLC

Effective Date	Policy Period	Coverage Description	Transaction Amount
10/27/16	10/27/16 to 10/27/17	Berkley Surety Group Policy No. 0186655 *Renewal - License and Permit Bond Township of Boonton Street Opening Permit- Monroe St and Lincoln St. \$264,600 Bond Continuation Certificate Invoice Number: 1978072 Amount Due:	2,646.00 2,646.00

Fulton***0144 Check#: 56705


Date: 10/07/2016

Amount: 2,646.00

Vendor: 4961 USI Insurance Services LLC

Invoice#
1978072

Job/Description
72 Monroe St PS & Morris

Balance
2,646.00


Retain

Discount

This Check
2,646.00

5,66.12

USI Insurance Services LLC
P.O. Box 62939 * Virginia Beach, VA 23466

-----INVOICE-----

Tomar Construction, LLC
18 Connerty Courty
East Brunswick, NJ 08816-5804

Invoice Date 02/01/17
Invoice No. 2072896
Bill-To Code TOMARCON4
Client Code TOMARCON4
Inv Order No. 705*4360852
Payment Due
Amount Remitted: \$

Named Insured: Tomar Construction, LLC

Please return this portion with your payment.

Make checks payable to: USI Insurance Services LLC

Effective Date	Policy Period	Coverage Description	Transaction Amount
01/31/17	01/31/17 to 01/31/18	Hudson Insurance Company Policy No. RRP6805904289 *Renewal - Railroad Protective Liab Surcharge - Railroad Protective Liab Railroad Protective - Morris Ave Invoice Number: 2072896 Amount Due:	1,200.00 7.80 1,207.80

Fulton***0144 Check#: 57369

Date: 02/07/2017

Amount: 1,207.80

Vendor: 4961 USI Insurance Services LLC

Invoice#
2072896

Job/Description
72 Monroe St PS & Morris

Balance
1,207.80

Retain

Discount

This Check
1,207.80

54965.

USI Insurance Services LLC
P.O. Box 62939 * Virginia Beach, VA 23466

-----INVOICE-----

Tomar Construction, LLC
18 Connerty Courty
East Brunswick, NJ 08816-5804

Invoice Date 08/23/16
Invoice No. 1953201
Bill-To Code TOMARCON4
Client Code TOMARCON4
Inv Order No. 705*4231511
Payment Due
Amount Remitted: \$

Named Insured: Tomar Construction, LLC

Please return this portion with your payment.

Make checks payable to: USI Insurance Services LLC

Effective Date	Policy Period	Coverage Description	Transaction Amount
09/03/16	09/03/16 to 09/03/17	Hartford Fire Insurance Company Policy No. 13MSBH8799K1 *Renewal - Builders Risk	7,339.47
		Tomar Construction Services - RVSC - 1 Year Extension	
		Invoice Number: 1953201 Amount Due:	7,339.47

Fulton***0144 Check#: 56532

Date: 09/07/2016

Amount: 7,339.47

Vendor: 4961 USI Insurance Services LLC

Invoice#
1953201

Job/Description
72 Monroe St PS & Morris

Balance
7,339.47

Retain

Discount

This Check
7,339.47