

Resolution 21-046

**CONDITIONALLY APPROVING RELEASE OF FUNDS FOR PAYMENT
APPLICATION NO. 5 AND AMENDING RESOLUTION NOS. 21-015 AND 21-036
FOR CONTRACT NO. 35 REBID II – RVRSA ROCKAWAY RIVER REGIONAL
INTERCEPTOR BOONTON SECTION REPLACEMENT PROJECT**

WHEREAS, on January 9, 2020, the Rockaway Valley Regional Sewerage Authority (“RVRSA”) awarded Contract No. 35 Rebid 2 – “Rockaway River Regional Interceptor Boonton Section Replacement Project” to Kulpeksa Land Improvement Corporation, having a business address of 248 Franklin Avenue, Rockaway, New Jersey 07866 (“Kulpeksa” or the “Contractor”) as the lowest responsible bidder in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., having submitted a bid in the amount of \$1,222,350.00, subject to authorization to award by NJDEP, pursuant to Resolution 20-007 (the “Contract”); and

WHEREAS, NJDEP subsequently issued the authorization to award the Contract to Kulpeksa; and

WHEREAS, the Contract included bypass piping of flow, utilizing the extension of the existing siphon and utilizing existing bypass system located in the Monroe Street Pump Station, for the installation of a siphon outlet chamber, a manhole and 140-feet of piping across Washington Avenue; and

WHEREAS, on August 13, 2020, RVRSA authorized the execution of Change Order No. 1 in the amount of \$109,871.79 and a 45-day non-compensable time extension to Kulpeksa for a different method of bypassing flow and associated appurtenances, together with the installation of a manhole in Canal Park as further detailed in a memorandum from RVRSA’s consulting engineer, Mott McDonald, dated August 10, 2020; and

WHEREAS, on January 14, 2021, RVRSA terminated the Contract for convenience

pursuant to Resolution No. 21-015, with the exception of the remaining work referenced as Schedule A to said Resolution, which was required to be completed by the Contractor no later than February 1, 2021; and

WHEREAS, on February 11, 2021, RVRSA terminated the Contract for Cause for the reasons set forth in Resolution No. 21-036; and

WHEREAS, RVRSA's consulting engineer, Mott McDonald, has prepared Payment Application No. 5 in the amount of \$2,450.00; and

WHEREAS, the lien claims from Pumping Services, Inc. in the amount of \$224,566.87 remains pending; and

WHEREAS, RVRSA has since received proof of payment from the Contractor to HOBAS in the amount of \$83,760.24 for release of the lien claim from HOBAS; and

WHEREAS, Article XXXVI of the Contract states: "If at any time before final payment any person or persons claiming to have performed any labor or furnished any materials, toward the performance or completion of this Contract, shall file prior notice of claim, the Owner shall retain, until the discharge thereof from the monies under its control, so much of such monies as shall be sufficient to satisfy and discharge the amount claimed to be due in such notice, together with the estimated cost of any action or actions to be incurred by the Owner in connection with the filing of such notice. After such retainage, the balance of money which may be due to the Contractor shall not be paid by the Owner until the Contractor has delivered to the Owner an Affidavit to be signed personally by the Contractor, or by a General Partner if Contractor is a Partnership, or by the President or Secretary if Contractor is a Corporation, attesting to the payment of all others who supplied labor, materials or equipment for the Contract and for which a lien claim

could be filed, with receipts in full to cover the potential claims of such other suppliers of labor, materials or equipment, such receipt to be attached to such Affidavit.”; and

WHEREAS, the Contractor has several outstanding certified payroll, workforce reports and SED submission requirements as set forth in a letter from RVRSA to the Contractor, dated February 25, 2021.

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

1. In the event that RVRSA receives: (1) Pumping Services Inc.’s Affidavit, Final Waiver of Municipal Mechanic’s Lien and Release for Contract No. 35 Rebid II in the amount of \$224,566.87 in a form that is satisfactory to RVRSA’s counsel and proof of payment to Pumping Services, Inc. in the amount necessary for the issuance of the aforementioned release by Pumping Services, Inc.; and (2) satisfaction of the outstanding certified payroll, workforce reports and SED submission requirements described in RVRSA’s letter to the Contractor dated February 25, 2021, then in that event, the Contractor shall be paid \$16,282.23 for Payment Application No. 3, \$101,727.68 for Payment Application No. 4, and \$2,450.00 for Payment Application No. 5 less the cost to RVRSA necessary for the completion of all remaining work including, but not limited to the furnishing and delivery of the Siphon Outlet Chamber to RVRSA.
2. Paragraph 4 of Resolution No. 21-015 and Paragraph 3 of Resolution No. 21-036 are amended and replaced with Paragraph 1 of this Resolution.
3. The Contractor, the surety (Cincinnati Insurance Company) and NJDEP shall be

provided with a copy of this Resolution.

4. The Executive Director, staff and consultants of RVRSA are hereby authorized to take all other actions necessary or desirable to effectuate the terms and conditions of this Resolution.
5. This Resolution shall take effect immediately

C E R T I F I C A T I O N

I do hereby certify that this Resolution was adopted at a regular meeting of the Rockaway Valley Regional Sewerage Authority held on March 11, 2021.

On motion of Commissioner Schorno

Seconded by Commissioner Corbett


And a Roll Call Vote as Follows:

Yeas: (8) Cegelka, Corbett, Farrell, Howarth, Isselin, Recchia, Schorno, Zuppa

Nays: (0)

Abstain: (0)

Absent: (2) Andes, Guadagno



Michael Guadagno
Board Secretary