

Resolution 21-054

**SELECTING HONORABLE VICTOR ASHRAFI AS MEDIATOR; AUTHORIZING  
EXECUTION OF MEDIATION ENGAGEMENT LETTER AND PAYMENT OF  
MEDIATOR RETAINER DEPOSIT FOR THE MEDIATION OF DISPUTES AS TO  
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 the 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**, by letter dated March 3, 2021, the Contractor requested non-binding mediation of disputes with RVRSA in accordance with Article XLVIII of the Contract and the Local Public Contracts Law, N.J.S.A. 40A:11-50; and

**WHEREAS**, the RVRSA desires to select the Honorable Victor Ashrafi, a retired Judge of the Superior Court of New Jersey, Appellate Division, who is presently "Of Counsel" with the firm of Riker, Danzig, Scherer, Hyland, Perretti, L.L.P., to be the mediator; authorize counsel to execute the Mediation Engagement Letter in substantially the form attached hereto; and authorize payment in the amount of \$3,000.00 as a retainer deposit to the firm of Riker, Danzig, Scherer, Hyland, Perretti, L.L.P.; and

**WHEREAS**, funds for this purpose are available in line EIT-035 of the RVRSA budget.

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

1. The Honorable Victor Ashrafi is selected as mediator in the above matter and counsel is authorized to execute the Mediation Engagement Letter, dated March 19,

2021, in substantially the form attached hereto.

2. Payment in the amount of \$3,000.00 as a retainer deposit to Riker Danzig Scherer Hyland Perretti, L.L.P. is authorized to be immediately released for the mediation, which represents RVRSA's portion of the mediator's costs at the hourly rate set forth in the Mediation Engagement Letter, said costs are shared equally as between RVRSA and the Contractor.
3. The Executive Director, staff and consultants of RVRSA are hereby authorized to take all other actions necessary or desirable to prepare and participate in the mediation and effectuate the terms and conditions of this Resolution.
4. 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 April 8, 2021.

on motion of: Commissioner Andes

second by: Commissioner Cegelka


ROLL CALL VOTE:

YEAS: (9) Andes, Cegelka, Farrell, Guadagno, Howarth, Isselin, Recchia, Schorno, Zuppa

NAYS: (0)

ABSTAIN: (0)

ABSENT: (1) Corbett

  
Michael Guadagno  
Board Secretary