

31954

**TO:** Board of Acquisition and Contract

**FROM:** Jay T. Pisco, P.E.  
Commissioner of Public Works and Transportation

**DATE:** January 23, 2013

**SUBJECT:** Change Order No. 2  
Contract No. **09-513**  
Nitrogen Removal Improvements  
Mamaroneck Wastewater Treatment Plant  
Mamaroneck, New York  
**Contractor:** Carlin Contracting Co., Inc.  
**Amount of Change Order No. 2: \$4,660,000.00**

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On December 10, 2009, your Honorable Board awarded Contract No. 09-513 for Nitrogen Removal Improvements, Mamaroneck Wastewater Treatment Plant, Mamaroneck, New York to Carlin Contracting Co., Inc., 454 Boston Post Road, Waterford, Connecticut 06385 in the amount of \$26,688,586.00. This contract includes the installation of an Integrated Fixed-Film Activated Sludge (IFAS) process to remove nitrogen from the wastewater per a consent order with New York State Department of Environmental Conservation (NYSDEC).

Change Order No. 1 in the amount of \$2,780,000.00 to address field conditions that could not have been determined at the time of design was approved by your Honorable Board on November 8, 2012.

In addition to the unforeseen field conditions in Change Order No. 1, subsequent to award of this contract, during construction, there were three (3) unintended releases of plastic IFAS media disks (in January and March 2011) from the aeration tanks into Long Island Sound. These events were reported to NYSDEC. This led to a modification to the NYSDEC consent order which includes extra time for construction and compliance, and a civil penalty of \$37,500.00, \$15,000.00 of which is payable upon execution of the modification. The remaining \$22,500.00 will be suspended if the County adheres to the terms and conditions of the modification. Additionally, the County is required to set aside \$250,000.00 to fund implementation of a beach clean-up related to the media disk releases.

In addition to the above fines and requirements in the modification to the consent order, the County has incurred and continues to incur additional expenses to complete this project. To date, beach clean-up in Westchester and Long Island is estimated at \$65,047.93 and construction cost is anticipated to increase by \$4,660,000.00 due to this issue, as outlined further below.

Work under this Change Order will include the cost of media recovery in the plant, reinstallation of the media into the aeration tanks and modifications to the aeration tanks. A portion of this work necessarily has taken place to prevent future media release. Also, to prevent future media escapes during construction, continuous pumping of wastewater into the tanks is required until work in aeration tanks 1-4 is completed. Additionally, to prevent future media escapes after construction, this Change Order includes installation of one-way valves in the first zone of the six aeration tanks. Only Change Order work authorized by the County or construction administrator in writing shall be performed by the contractor and will be paid for by the County. Payment to the contractor will be determined in strict accordance with the provisions of Article 30 - "Extra Work: Increased Compensation/Decreased Work: Credit of the Owner" of the General Clauses in the contract.

It should be noted that in order to protect its rights, the County has given formal notice to I. Kruger, Inc.; Engineers Consortium, LLP; and Carlin Contracting Co., Inc. regarding potential claims for damages and/or assessments for penalties, arising out of events that occurred as a result of their performance. In order to protect the County's rights, the Law Department has issued a Request for Expressions of Interest in order to retain a consultant to assist it in assessing any claims it may have.

The objective of this Change Order is to make field changes to accomplish the Biological Nutrient Removal requirements of the NYSDEC consent order. This Change Order is in the public's best interest because it will promote the health and safety of the general public by insuring lower levels of nitrogen introduced into the Long Island Sound and meet NYSDEC's latest, more stringent requirements, thus addressing the County Executive's priority area: Health and the Environment (HE). There are no energy or safety and security components associated with this Change Order.

The department will track scheduling and accomplishments by the contractor and perform on-site inspections to ensure the successful completion of this project.

This additional work is incidental to the original work and does not materially alter the main purpose of the contract as to constitute a new undertaking. The work is of the same nature as the initial work, is to be performed in the same general vicinity, is necessary to efficiently complete the project and was unanticipated until work under the contract began. The term of the contract is January 1, 2010 to September 30, 2013. An extension is requested to December 31, 2014.

It is requested that your Honorable Board take action on the following:

Approval of Change Order No. 2

**Total Amount of Change Order No. 2.....\$4,660,000.00**

This Change Order has been reviewed by the Law Department and a proposed form of Resolution is attached hereto for your approval.

Approval is recommended.

LR/

# RESOLUTION

**RE: CONTRACT NO. 09-513**  
**CONTRACT AMOUNT: \$26,688,586.00**  
**CHANGE ORDER NO. 1: \$ 2,780,000.00**  
**CHANGE ORDER NO. 2: \$ 4,660,000.00**  
**NET INCREASE: \$ 7,440,000.00**  
**REVISED CONTRACT AMOUNT: \$34,128,586.00**

## CHANGE ORDER NO. 2

Upon communication from the Commissioner of Public Works and Transportation,

**WHEREAS**, Jay T. Pisco, P.E., Commissioner, Public Works and Transportation, requests approval of Change Order No. 2 on Contract No. 09-513, between the County of Westchester and Carlin Contracting Co., Inc., 454 Boston Post Road, Waterford, Connecticut 06385 for Nitrogen Removal Improvements, Mamaroneck Wastewater Treatment Plant, Mamaroneck, New York; and

**WHEREAS**, it is requested that Contract No. 09-513 be amended to provide for unforeseen conditions and IFAS modifications; and

**WHEREAS**, this matter has been discussed by the Board; now, therefore, be it

**RESOLVED**, that said Change Order No. 2 on Contract No. 09-513 be and the same is hereby approved in the amount of \$4,660,000.00; and be it further

**RESOLVED**, that the completion date of Contract No. 09-513 shall be extended to December 31, 2014; and be it further

**RESOLVED**, that all other terms and conditions of Contract No. 09-513 shall remain in full force and effect; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

**Total Amount of Change Order No. 2 ..... \$4,660,000.00**

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars
	322	60	SLI0100C	6210-99		\$4,660,000.00

**Budget Funding Year(s)** 2013      **Start Date:** January 1, 2010      **End Date:** December 31, 2014  
(must match resolution)

<b>Funding Source:</b>	<b>Tax Dollars</b> <u>100% County</u> <b>State Aid</b> _____ <b>Federal Aid</b> _____ <b>Other</b> _____	<b>Contractor Federal I.D. No./ Social Security No.:</b> _____ <b>Vendor No.:</b> _____ <b>Encumbrance No.:</b> _____
<u>\$4,660,000.00</u> <small>(must match resolution)</small>		