

75617

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

DATE: March 25, 2020

SUBJECT: Rescind Change Order No. 1: **\$2,100,000.00**
Contract No. **09-514**
Biological Nutrient Removal Facilities
New Rochelle Wastewater Treatment Plant, New Rochelle, New York

On June 9, 2011, your Honorable Board awarded Contract No. 09-514 for Biological Nutrient Removal Facilities, New Rochelle Wastewater Treatment Plant, New Rochelle, New York to Yonkers Contracting Company, Inc., 969 Midland Avenue, Yonkers, New York 10704 in the amount of \$94,211,500.00, for the period from June 16, 2011 through May 15, 2016 (“Contract”). This Contract includes all necessary labor, material and equipment required to upgrade the plant for nitrogen removal as required by the Order-On-Consent with the New York State Department of Environmental Conservation. The Contract was subsequently executed. On March 31, 2016, your Honorable Board approved a Resolution to amend the June 9, 2011 Resolution budget box end date from May 15, 2016 to December 31, 2017 due to construction issues.

On August 25, 2015 the contractor commenced an action against the County of Westchester, Engineers Consortium LLP, Savin Engineers, P.C., Stearns & Wheler, LLC, Malcolm Pirnie, Inc., Arcadis U.S., Inc., CDM Smith Inc., Black & Veatch New York, LLP, and KJM Construction Management, Inc. to recover damages arising out of two separate public bid contracts entered into with the County: (i) Contract 08-540, Composite Performance Implementation and Expansion at the New Rochelle Wastewater Treatment Plant, and (ii) the Contract (“Litigation”).

By resolution approved on March 19, 2020 (“March 19th Resolution”) your Honorable Board authorized a Change Order to the Contract in the amount of \$2,100,000.00.

It is requested that your Honorable Board rescind the March 19th Resolution. Based on advice from the Law Department and outside counsel in connection with the Litigation, it is recommended at this time that the County not approve Change Order No. 1.

Therefore, approval of the attached Resolution is recommended.

RESOLUTION

Upon communication from the Commissioner of Public Works and Transportation, be it

RESOLVED, that the resolution approved on March 19, 2020 authorizing the County of Westchester to approve Change Order No. 1 in the amount of \$2,100,000.00 for Contract No. 09-514 be and the same is hereby rescinded; and be it further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.

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object/ Sub Object	Bond Act No.	Dollars
						N/A

Budget Funding Year(s): _____ Start Date: June 16, 2011 End Date: December 31, 2020
 (must match resolution)

Funding Source: Tax Dollars 100% County Contractor Federal I.D. No./
 State Aid _____ Social Security No.: _____
\$N/A Federal Aid _____ Vendor No.: _____
 (must match resolution) Other _____ Encumbrance No.: _____

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/01/2021 - V. GONZALEZ, SECRETARY