

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, this Authority is authorized, pursuant to N.J.S.A. 10:4-12 to exclude the public from that portion of this meeting for purposes of discussing specific matters as permitted by N.J.S.A. 10:4-12; and,

WHEREAS, this Authority intends to discuss certain matters which are deemed confidential pursuant to N.J.S.A. 10:4-12, in Executive Session:

WHEREAS, at this time the Authority cannot determine the time when the discussion to be held in Executive Session will be made public but will disclose the minutes of the Executive Session when the need for confidentiality no longer exists.

NOW, THEREFORE, be it resolved by the Sussex County Municipal Utilities Authority that this meeting shall be adjourned to an Executive Session (closed session) and the public will be excluded in order that the Authority may discuss the items listed below, and upon reconvening this public meeting the Chairman will announce, if possible, the time when and the circumstances under which the discussion conducted in Executive Session will be disclosed to the public. This resolution is authorized and allowed by and pursuant to N.J.S.A. 10:4-13.

- (1) Any matter which, by express provision of federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of subsection a. of this section.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (2) Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (4) Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (5) Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (6) Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

- (7) Any pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein in which the public body is, or may become a party.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

Vernon Township/Vernon Twp. MUA Matters

(8) Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

(9) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

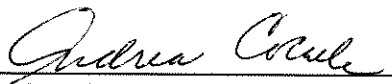
Personnel Matters

(10) Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.

The general nature of the subject to be discussed per N.J.S.A. 10:4-13(a):

NOW, THEREFORE, be it further resolved by the Sussex County Municipal Utilities Authority that pursuant to N.J.S.A. 10:4-13(b) the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public is when the need for confidentiality no longer exists.

Certified as a true copy of the
Resolution adopted by the Authority
at their Regular Authority Meeting held
on Tuesday, October 3, 2023.


Andrea Cocula, Secretary

RESOLUTION RE: AUTHORIZING EXECUTION OF A BUDGET AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ARM GROUP TO PROVIDE ADDITIONAL CONSTRUCTION OVERSITE AND INSPECTION SERVICES RELATIVE TO THE LIFE EXTENSION/INFRASTRUCTURE RELOCATION MILESTONE NO. 1 FOR PROJECT #551

WHEREAS, the Authority previously authorized ARM Group for Construction Administration and Onsite Inspection Services on November 4, 2020 for \$1,497,518.15, Construction Administration Budget Amendment on August 2, 2023 for \$153,803.03, and Engineering Design relative to final capping on August 2, 2023 for \$40,000.00 for a total of \$1,691,321.18; and

WHEREAS, the Authority also received a proposal for additional construction oversight and inspection services related to Milestone No. 1 Completion on August 4, 2021 for services to be provided between August 2021 and March 2022 for a total cost of \$155,049.40; and

WHEREAS, the Authority also received a proposal for additional construction oversight and inspection services related to Milestone No. 1 Completion on March 7, 2022 for services to be provided between March 2022 and July 2022 for a total cost of \$104,121.60; and

WHEREAS, Authority staff, as directed by the Authority's Construction Review Committee Chairman, issued work change directives for said proposals on August 5, 2021 and March 22, 2022 respectively; and

WHEREAS, the SCMUA Treasurer has certified sufficient funds are available for Budget Amendment approval; and

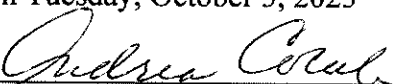
WHEREAS, the Budget Amendment final approval is contingent on New Jersey Infrastructure Bank (NJIB) review and approval.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the SCMUA that the Executive Director or Chief Engineer is hereby authorized and directed to approve the above referenced budget amendment to Contract No. 551 contingent upon NJIB approval, which reflects the work outlined above and attached, for a total increase in Contract Price of \$259,171.00 changing the Contract Price from \$1,691,321.18 to \$1,950,492.18.

AND BE IT FURTHER RESOLVED that this SCMUA resolution and copies of the aforementioned Budget Amendment for Contract No. 551 shall be provided to the NJIB for final authorization.

AND BE IT FURTHER RESOLVED that this resolution shall be effective in accordance with applicable law.

Certified as a true copy of the Resolution
adopted by the Authority at their Regular Authority Meeting
held on Tuesday, October 3, 2023


Andrea Cocula, Secretary

RESOLUTION: AUTHORIZING THE EXECUTION OF A WRITTEN AMENDATORY CONTRACT WITH TOMCO, INC. FOR CHANGE ORDERS IN EXCESS OF 20% OF THE ORIGINAL CONTRACT

WHEREAS, the Sussex County Municipal Utilities Authority (the “AUTHORITY”), having administrative offices at 34 South Route 94, Lafayette, New Jersey 07848, is desirous of authorizing a written amendatory contract be entered into with Tomco, Inc. of Mount Arlington, New Jersey (“TOMCO”) to cover change orders required to complete the Stage 2 Landfill Expansion Project; and

WHEREAS, the AUTHORITY entered into a contract with TOMCO to complete Stage 2 Landfill Expansion Project, including the Construction of Landfill Disposal Cells (i.e., Phase 4 and Phase 6B), Stormwater Management Improvements, Leachate Management Improvements, Landfill Gas Management Improvements, Electrical System Improvements, Infrastructure Relocation (i.e., recycling center, convenience center, contractor drop-off area, and composing area), roadway improvements, septic system replacement, and water supply improvements; and

WHEREAS, during the construction of the project, additional costs were mainly attributed to unforeseen site conditions, changes in line-item quantities, additional labor costs, increase in costs for materials, supply chain issues related to COVID-19, and additional scope omitted from the Contract Documents but required to successfully complete the construction; and

WHEREAS, on February 15, 2023, the original resolution was approved by the SCMUA for the greater than 20% exceedance of the Original Contract with eligible NJIB change orders; and

WHEREAS, on September 27, 2023, ARM Group, Inc., the PROJECT design engineer, provided a certification requesting additional change orders in excess of twenty percent (20%) of the original New Jersey Infrastructure Bank (NJIB) eligible costs within TOMCO, Inc. scope of work, which is attached hereto and incorporated herein; and

WHEREAS, the Executive Director has filed a request for the change order with the SCMUA Board of Commissioners that included a statement indicating that ARM Group’s requested changes are allowed under the Local Finance Board regulations, including N.J.A.C. 5:30-11.9; and

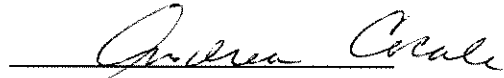
WHEREAS, the AUTHORITY believes that the proposed changes are necessary for the successful and timely completion of the PROJECT.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY that the Executive Director is hereby authorized to enter into a written amendatory contract with TOMCO, Inc. for the proposed changes as described in the September 27, 2023 engineers certification.

BE IT FURTHER RESOLVED that a certified copy of this resolution be sent to:

1. Paul Hauch, NJDEP
2. Jacquelyn Suarez, Director of Division of Local Government Services
3. Ben Allen, ARM Group
4. Paul Cuva, Authority Auditor
5. John A. Napolitano, Authority General Counsel

Certified as a true copy of the Resolution.
adopted by the Authority at their Regular
Meeting held on Tuesday, October 3, 2023.



Andrea Cocula, Secretary

**RESOLUTION RE: AUTHORIZATION TO EXECUTE CHANGE ORDER NO. 205 TO
SCMUA CONTRACT NO. 551 – STAGE 2 LANDFILL
EXPANSION, TOMCO CONSTRUCTION INC.**

WHEREAS, the Sussex County Municipal Utilities (SCMUA) and Tomco Construction Inc. (Tomco) entered into Contract 551 in the amount of \$25,477,636.59 for the construction of the Stage 2 Landfill Expansion; and

WHEREAS, Change Order Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19, 19A, 20, 21, 22, 24, 25, 26.1, 26.1A, 26.2, 28, 29, 31, 31B, 32, 33, 35, 36, 40, 41B, 44, 45, 47, 48, 49A, 49B, 50B, 51, 53, 54A, 54B, 57, 58A, 59, 62, 63, 64, 67, 68, 69, 70, 73, 74, 76, 78, 79, 80, 82, 83, 84, 85, 89, 90, 92, 93, 94, 95, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, 108, 110, 110B, 111, 114, 117, 118, 120, 121, 122, 123, 124, 125, 126, 127, 131, 132, 133, 135, 136, 137, 138, 139, 140, 141, 141A, 141B, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155, 156, 159, 161, 163, 164, 166A, 166B, 167, 168, 169, 172, 174, 176, 177, 181, 183, 184, 185, 187, 188, 189, 190, 195, 197, 199, 200, and 202 have been approved which increased the original awarded amount to \$30,202,368.39; and

WHEREAS, Change Order Number 205 has been prepared by Tomco for the additional required mobilizations for generator load bank testing for the administration generator for an amount of \$6,666.98; and

WHEREAS, Said proposed Contract Change Order increases includes increased labor time, material cost and subcontractor costs; and

WHEREAS, SCMUA Staff, ARM Group, and SCMUA's Construction Review Committee have reviewed said Change Order and found it to be necessary and the price to be reasonable; and

WHEREAS, the SCMUA Treasurer has certified sufficient funds are available for change order approvals; and

WHEREAS, SCMUA resolutions dated February 15, 2023 and October 3, 2023 authorized execution of a written amendatory contract with Tomco, Inc. for Change Orders in excess of 20% of the original contract; and

WHEREAS, the Authority believes that the proposed changes are necessary for the satisfactory completion of the project; and

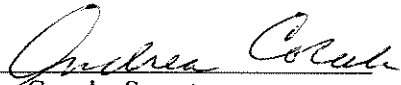
WHEREAS, the Contract Change Order final approval is contingent on New Jersey Infrastructure Bank (NJIB) review and approval.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the SCMUA that the Executive Director is hereby authorized and directed to approve the above referenced change orders to Contract No. 551 contingent upon NJIB approval, which reflects the work outlined above and contained within said Change Orders, for a total increase in Contract Price of \$6,666.98 thereby changing the Contract Price from \$30,202,368.39 to \$30,209,035.37.

AND BE IT FURTHER RESOLVED that this SCMUA resolution and copies of the aforementioned Change Orders for Contract No. 551 shall be provided to the NJIB for final authorization.

AND BE IT FURTHER RESOLVED that this resolution shall be effective in accordance with applicable law.

Certified as a true copy of the Resolution
Adopted by the Authority at its
Regular Meeting held on
Tuesday, October 3, 2023



Andrea Cocula, Secretary

1801 Common Common Contract No. 551 - Landfill EXPANSION Construction Change Orders Resolution 2023-10-3