

County of Passaic

Board of County Commissioners



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Date: Feb 13, 2024 - 5:30 PM

Agenda: RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO AB CONTRACTING, LLC,
FOR BATHROOM RENOVATIONS AT THE PREAKNESS VALLEY GOLF COURSE IN THE
TOWNSHIP OF WAYNE, PER BID C-23-018, PURSUANT TO N.J.A.C. 5:30-11.3 ET SEQ.

THIS RESOLUTION WAS REQUESTED BY:
ENGINEERING

REVIEWED BY:

Matthew P. Jordan, Esq.

APPROVED AS TO FORM AND LEGALITY:

Nadege D. Allwaters, Esq.

Official Resolution#	
Meeting Date	2/13/2024
Introduced Date	2/7/2024
Adopted Date	
Agenda Item	33.
CAF#	C-04-55-166-002-903
Purchase Req. #	
Result	

Public Works

COMMITTEE NAME

RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO AB CONTRACTING, LLC, FOR BATHROOM RENOVATIONS AT THE PREAKNESS VALLEY GOLF COURSE IN THE TOWNSHIP OF WAYNE, PER BID C-23-018, PURSUANT TO N.J.A.C. 5:30-11.3 ET SEQ.

WHEREAS, the County of Passaic (hereafter “County”) is a government body incorporated pursuant to N.J.S.A. 40:18-1, et seq. and vested with all rights contained therein; and

WHEREAS, pursuant to N.J.S.A. 40:20-1, the Board of County Commissioners of the County of Passaic (hereafter “Board”) is vested with decision making powers on behalf of the County; and

WHEREAS, pursuant to N.J.S.A. 40A:11-4, et seq., every contract awarded by the County, for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold shall be awarded only by resolution of the Board to the lowest responsible bidder after public advertising for bids and bidding thereof; and

WHEREAS, on August 28, 2023, the Purchasing Agent issued Bid No. C-23-018, Preakness Valley Golf Course Clubhouse Renovations (hereafter “C-23-018”) seeking sealed proposals from qualified bidders renovate the clubhouse bathrooms at Preakness Valley Golf Course in the Township of Wayne (hereafter “Project”); and

WHEREAS, on September 26, 2023, the Board passed Resolution No. R-23-0912, authorizing an award of contract to AB Contracting, LLC, the lowest responsible bidder under C-23-018, in an amount not to exceed two hundred forty-four thousand dollars (\$244,000.00); and

WHEREAS, pursuant to N.J.A.C. 5:30-11.3, et seq., the Board can authorize change orders pursuant to the conditions as set forth therein for work performed, services rendered, materials, supplies or equipment delivered or provided shall be authorized, permitted, or accepted except by the procedures established therein; and

WHEREAS, on December 28, 2023, the Board passed Resolution No. R-23-1243, authorizing Change Order No. 1 for the Project in the increased amount of thirty-five thousand three hundred eighty-one dollars and thirty-four cents (\$35,381.34) due to necessary changes following a review by the Township of Wayne to comply with current code, with a new contract award, as a result of the increase, in an amount not to exceed two hundred seventy-nine thousand three hundred eighty-one dollars and thirty-five cents (\$279,381.35); and

WHEREAS, the Passaic County Engineer is now recommending that Change Order No. 2 be authorized to AB Contracting, LLC, for a net addition to the contract for the Project in the amount of thirty-seven thousand seventy-one dollars and two cents (\$37,071.02), to address unforeseen conditions related to improper floor support to be corrected with flitch beam installation, to install steam baseboard heat due to the inability to install electric baseboard heat, and to address the construction of wall around the existing HVAC unit due to unforeseen conditions discovered after demolition, which will result in an increase of the original contract to three hundred sixteen thousand four hundred fifty-two dollars and thirty-seven cents (\$316,452.37); and

WHEREAS, this proposed Change Order No. 2 will result in the net sum of change orders for this project to be in excess of the 20% limit for change orders which is permitted pursuant to N.J.A.C 5:30-11. 3 et seq.; and

WHEREAS, pursuant to N.J.A.C. 5:30-11.9 change orders in excess of 20% are permitted as long as the following is present:

- 1) a written certification by the contractor containing the following:
 - i) an explanation of the factual circumstances which necessitate issuance of the change order;
 - ii) a statement indicating why these circumstances could not have been foreseen;
 - iii) a statement indicating why issuance of the change order would be in the best interests of the County and would not constitute an abuse of these rules;
 - iv) if the nature of the change order is technical, the certification shall include a

certified statement from contractor's appropriate expert, explaining in detail the factual circumstances which necessitate the issuance of the change order;

- 2) a request from the chief executive officer, in this case the County Administrator, or his designee, to the governing body requesting the change order and explaining why this change order may be allowed pursuant to this provision; and

WHEREAS, County Engineer submitted a letter to the Board dated February 7, 2024, and a letter to the County Administrator also dated February 7, 2024, requesting the adoption of Change Order No. 2, copies of which are attached hereto and made a part hereof; and

WHEREAS, the Passaic County Administrator has filed a letter with the Board dated February 7, 2024 requesting that the Board review this matter and consider adopting this Change Order a copy of which is attached hereto and made a part hereof; and

WHEREAS, this proposed change order will bring the contract above the 20% threshold generally not permitted but is being considered because it would be impractical to award a new contract for this additional work; and

WHEREAS, funds are available in Account No. C-04-55-166-002-903 or any other account that may be deemed appropriate by the Chief Financial Officer or his designee, and the availability of funds has been contingently certified by the Chief Financial Officer subject to sufficient funds being appropriated by the Board in the 2022 and/or subsequent years' County budget(s), which is attached to and made part of this Resolution; and

WHEREAS, this matter was discussed at the February 7, 2024 meeting of the Public Works Committee and is being recommended to the Board for approval.

NOW, THEREFORE, LET IT BE RESOLVED, pursuant to N.J.A.C. 5:30-11.3, et seq., the Board of County Commissioners of the County of Passaic approves Change Order No. 2 in the amount of thirty-seven thousand seventy-one dollars and two cents (\$37,071.02) to AB Contracting, LLC, for the Preakness Valley Golf Course Clubhouse Renovations Project, as recommended by the County Engineer.

LET IT BE FURTHER RESOLVED, that in accordance with N.J.A.C. 5:30-11.9, the Board of County Commissioners of the County of Passaic authorizes a written amendatory contract covering the changes to the project described herein.

LET IT BE FURTHER RESOLVED, the Clerk of the Board shall print, in the official newspaper, a brief notice stating the additional amount to be expended, the original contract price, the nature of the original and additional work authorized by the within resolution and why it is necessary to expend the additional funds and maintain a copy of the resolution on file and available for public inspection in the Office of the Clerk of the Board.

LET IT BE FURTHER RESOLVED, that the said Clerk to the Board shall report this action to the Division of Local Government Affairs of the Department of Community Affairs of the State of New Jersey in its annual audit.

LET IT BE FURTHER RESOLVED, that the Clerk of the Board, County Counsel, County Engineer, and Director of Board of County Commissioners are authorized to execute any necessary forms and documents to carry out the purpose of this Resolution.