

TOWNSHIP OF MONTCLAIR

RESOLUTION AUTHORIZING CHANGE ORDER FOR GATES AVENUE IMPROVEMENTS

September 6, 2016

WHEREAS, by resolution adopted April 19, 2016, the Township of Montclair, pursuant to advertisement duly made, awarded a contract to Lancha Construction for Gates Avenue Section 2, for an amount not to exceed \$252,397.31; and

WHEREAS, by memorandum dated August 1, 2016, the Township Engineer explained the circumstances that led to the expansion of the scope of the work and recommended that the contract be amended to reflect an increase in the amount of work and materials incurred to complete the contract under the expanded scope of work; and

WHEREAS, the proposed change order exceeds 20% of the original contract and is subject to the requirements and procedures established in Local Finance Board Regulation 5:30-11.1 et seq., particularly 5:30-11.9 (the "Regulations"); and

WHEREAS, if the Gates Avenue section 3 work for which Lancha Construction has billed \$92,247.00 had been performed by a state-approved contractor exempt from the bidding requirements of the Local Public Contracts Law, the cost would have been \$114,193.

WHEREAS, in the opinion of the Township Attorney, the proposed change order does not comply with the Regulations and the additional work should not have been authorized; however, the Township Attorney recommends that in view of the specific factual circumstances that occurred in this instance, the Council proceed to authorize a change order covering the work already performed by the contractor, subject to full public disclosure of those circumstances to the Local Finance Board and the Township's auditors; and

WHEREAS, the Township Manager, in view of the Township Attorney's opinion and recommendation, and considering that the proposed change order results in a saving to the Township, has indicated his concurrence with the Township Engineer's recommendation; and

WHEREAS, based on the foregoing, the Township Council finds that the Regulations have not been followed but, relying on the Township Attorney's recommendation and the Manager's concurrence, and taking into account that in this case the error resulted in no additional cost to the Township and actually benefitted the public by saving over \$20,000, find that the fairest and most appropriate way to mitigate the noncompliance with the Regulations, and best serve the public interest, is to approve the proposed change order to the subject contract (Change Order #1) in the amount of \$92,247.00, subject to full disclosure of the facts concerning the authorization to perform addition work and the proposed change order, and the prompt implementation of corrective measures; and

WHEREAS, the Council requires that the Manager provide within 30 days a report detailing the corrective measures that have been implemented to avoid future violation of the Regulations; and

WHEREAS, funds for this purpose have been provided for in the 2016 Capital budget identified by Account Number C-04-16-001-000-102 in the accounting records of the Township; now therefore

BE IT RESOLVED, by the Council of the Township of Montclair, in the County of Essex, that the Township of Montclair enter into an agreement with Lancha Construction for Change Order #1 in the amount of \$92,247.00 to be charged to the account above or as otherwise determined to be correct by the Chief Financial Officer’s pending certification of funds; and

BE IT FURTHER RESOLVED, that the Council acknowledges that this change order does not comply with the Local Finance Board regulations and the Local Public Contract Law, and is approving the change order and requiring disclosure and corrective measures in order to mitigate, to the extent possible, the consequences of such non-compliance.

RECORD OF COUNCIL VOTE											
	YES	NO	ABS	N.V.	AB		YES	NO	ABS	N.V.	AB
Councilor Baskerville						Councilor Schlager					
Deputy Mayor Hurlock						Councilor Spiller					
Councilor McMahan						Mayor Jackson					
Councilor Russo											
X - Indicate Vote ABS - Abstain N.V. - Not Voting AB - Absent											

I HEREBY CERTIFY the foregoing to be a true copy of a resolution adopted by the Council of the Township of Montclair, in the County of Essex, at its meeting held on

 Linda S. Wanat
 Clerk of the Township of Montclair, N.J.

