



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

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**File #:** 19-0560, **Version:** 1

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**Dept/ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Change Order/Amend Contract

**Purpose:** To complete unforeseen field conditions for construction of Riverfront Park Expansion-Phase C, increase contract amount, and extend contract completion date.

**Entity Name:** Tomco Construction, Inc.

**Entity Address:** 22 Howard Boulevard, Suite 204, Mt. Arlington, New Jersey 07856

**Contract Amount:** Not to exceed \$8,293,382.24

**Funding Source:** 2016 Budget/Department of Economic and Housing Development

**Contract Period:** Contract completion date extended from November 16, 2018 to June 19, 2020

**Contract Basis:** (X) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) N/A

**Additional Information:**

Original Resolution 7R2-a (s/as) was adopted on September 25, 2018 for a contract amount not to exceed \$8,154,999.00.

Change Order #1 will increase the contract amount by \$138,383.24, for a total contract amount not to exceed \$8,293,382.24 and extend the contract completion date June 19, 2020.

**WHEREAS**, Resolution 7R2-a (S/A.S.), adopted September 25, 2018, authorized the Director of the Department of Economic and Housing Development, 920 Broad Street, Newark New Jersey 07102, to enter into and execute the Contract for constructing Riverfront Park Expansion - Phase C with Tomco Construction, Inc. (the "Contract"), 22 Howard Boulevard, Suite 204, Mt. Arlington, New Jersey 07856, for the total bid amount of \$8,154,999.00; and

**WHEREAS**, due to unforeseen conditions at the time of the design, the following change order is requested: Change Order No. 1 - (a) Request by Army Corp of Engineers to install a 6" underdrain pipe system, (b) Request by adjacent property owner ("Matrix") for stone spread across staging area, and (c) an additional request by Matrix for additional stone across staging area; and

**WHEREAS**, Change Order No. 1 equals the amount of \$138,383.24 as indicated on Exhibit A attached hereto; and

**WHEREAS**, the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, after consultation with the City of Newark's Construction Manager, Lehrer Cumming, and the Department of Engineering, certifies that the substance and the procedure to approve the Change Order is in accordance with N.J.A.C. 5:30-11 and do not constitute a material expansion in the size, nature or scope of the Project and the extra work cannot and could not be reasonably effectuated by a separately bid contract, without unduly disrupting the basic work; and

**WHEREAS**, the City of Newark's Construction Manager, Lehrer Cumming, reviewed the

requested Change Order and recommends that it be issued since it was unforeseen and was discovered after the contract was awarded and during the construction of Riverfront Park Expansion - Phase C; and

**WHEREAS**, the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, desires to amend the Contract to increase the contract amount from an amount not to exceed of \$8,154,999.00 to \$8,293,382.24 (an increase of \$138,383.24 to the total amount of the contract); and

**WHEREAS**, the Interim Deputy Mayor/Director of The Department of Economic and Housing Development, wishes to extend the contractual period, specifically the due dates for "Substantial Completion" and "Final Completion set forth in Section 2.1 of the Contract, to allow ample time for the successful completion of the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee, the Interim Deputy Mayor/ Director of the Department of Economic and Housing Development, are hereby authorized on behalf of the City of Newark to execute Change Order/Contract Amendment #1, in the form attached hereto, to amend the Contract to increase the contract amount from an amount not to exceed \$8,154,999.00 to \$8,293,382.24 (an increase of \$138,383.24 to the total amount of the contract) and to extend the contractual period.
2. A fully executed copy of Change Order/Contract Amendment #1 shall be filed in the Office of the City Clerk by the Director of the Department of Engineering and/or his designee.
3. Section 2.1(b)(ii) of the Contract shall be amended to extend the "contract completion from November 16, 2018 to: "(ii) Substantial Completion: June 19, 2020."
4. Section 2.1(c) of the Contract shall be amended as follows: "(c) Final Completion: It is agreed that all work performed pursuant to this Agreement and all contractual obligations of the Contractor shall be finally completed on or before July 19, 2020. All requirements for final completion are set forth in this Agreement."
5. The Municipal Council hereby ratifies Change Order/Contract Amendment #1 from September 25, 2018 to the date of adoption of this authorizing resolution.
6. All other terms and conditions of the Contract shall remain in force and effect until the contract is completed.
7. Attached hereto is a Certification of Funds from the Finance Director of the City of Newark, which states (1) that there are sufficient funds in the amount of \$138,383.24 for the purpose set forth herein above and (2) that the line appropriation which shall be charged is as follows:

<u>Business Unit</u>	<u>Dept.</u>	<u>Div./Proj.</u>	<u>Activity</u>	<u>Account</u>	<u>Budget Ref.</u>
NW045	16G	16C00	A	94710	B2016

8. A fully executed copy of this Change Order/Contract Amendment #1 and the Certification of Funds shall be filed in the Office of the City Clerk by the Interim Deputy Mayor/Director of the Department of Economic and Housing Development.
9. There shall be no advance payments against this contract pursuant to N.J.S.A. 40A:5-16.
10. There shall be no further amendments or changes to this contract without the approval of the Municipal Council of the City of Newark.
11. The public bidding process under which this contract was awarded pursuant to the Local Public Contracts Law, N.J.S.A. 40A: 11-1, et seq.; which complied with the requirements of the New Jersey Local Unit Pay-to-Play, N.J.S.A. 19:44A-20.5 et seq.; and the processing of the Change Order is in compliance with N.J.A.C. 5:30-1.

### **STATEMENT**

This resolution ratifies and authorizes the Mayor and/or his designee, the Interim Deputy Mayor/ Director of the Department of Economic and Housing Development, to execute a Change Order/Contract Amendment #1 to amend the Contract to increase the contract amount from an amount not to exceed of \$8,154,999.00 to \$8,293,382.24 (an increase of \$138,383.24 to the total amount of the contract) and to extend the contract completion date from November 16, 2018 to June 19, 2020.