

**TOWNSHIP OF VERONA  
COUNTY OF ESSEX, STATE OF NEW JERSEY**

**RESOLUTION No. 2021-102**

A motion was made by Councilman Tamburro; seconded by Councilwoman Holland that the following resolution be adopted:

**APPROVING CONTRACT CHANGE NO. 1  
CONTRACT NO. 19-13A – ADA COMMUNITY CENTER IMPROVEMENTS  
IN ACCORDANCE WITH N.J.A.C. 5:30-11.9**

**WHEREAS**, Stanziale Construction and the Township of Verona have heretofore entered into an Agreement, more particularly known as Contract No. 19-13A – “ADA Community Center Improvements” for the furnishing of labor, equipment and materials in the amount of \$73,868.30, in accordance with the requirements of the Local Public Contract Law, *N.J.S.A. 40A:11-1, et seq.*; and

**WHEREAS**, the Township has received Contract Change No. 1 for the within contract in an amount of plus \$24,644.00; and

**WHEREAS**, during construction of the access ramp to the playground area a water valve not previously uncovered during the planning and engineering phase caused a need to relocate the ramp approximately 4 feet which in turn required an additional retaining wall which was not expected; and

**WHEREAS**, it is the opinion of the Engineering Manager that it was not reasonably possible to rebid and execute a new contract since construction had already begun cancelling the project and rebidding would have caused substantial inconvenience to the public and substantial increases in cost and damages for canceling the original contract; and

**WHEREAS**, the Township Manager/Qualified Purchasing Agent recommends that that a Contract Change Order be issue for the within contract and his recommendation is attached to this resolution and referenced as Exhibit A; and

**WHEREAS**, in accordance with *N.J.A.C. 5:30-11.9(b)* the Engineering Manager has provided justification for the necessity for Change Order No. 1 as outlined in the attached certification referenced as Exhibit B; and

**WHEREAS**, the Township Manager/Qualified Purchasing Agent opines that Contract Change No. 1 does not expand the scope of the within contract and are in the best interest of the Township; and

**WHEREAS**, the Chief Financial Officer has certified to the availability of funds for this contract, a copy of said Certification is annexed to this Resolution as Exhibit C.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Verona, in the County of Essex, New Jersey that Contract Change No. 1 in the amount of plus \$24,644.00 be approved for a final contract amount of \$98,512.30 be approved; and

**BE IT FURTHER RESOLVED** that the Township Manager, the Township Clerk and any other officer as may be deemed appropriate are hereby authorized to execute Contract Change No. 1 and the Township Attorney shall approve a written amendatory contract to be entered into covering the change(s) to be made; and

**BE IT FURTHER RESOLVED** that the Council hereby directs the Township Clerk to cause to be printed once, in an official newspaper, a brief notice indicating the additional amount to be expended, the original contract price, the nature of the original and additional work and why it was necessary to expend the additional funds. A copy of the advertisement shall also be kept on file with the Township Clerk and be available for inspection by the public; and

**BE IT FURTHER RESOLVED** that the Township Clerk shall report to the Director on an appendix to the Township’s 2022 annual budget this change order and all change orders from the

previous fiscal year which exceeded the 20 percent limitation. This report shall be made on a form provided by the Director. A summary of the report shall be included as supplemental material in the annual audit of the contracting unit.

**ROLL CALL:**

**AYES:** Holland, Tamburro, McEvoy, McGrath, Roman

**NAYS:**

**THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF VERONA AT THE REGULAR MEETING HELD ON JULY 19, 2021.**

  
JENNIFER KIERNAN  
MUNICIPAL CLERK



**EXHIBIT A**

**EXHIBIT A**  
**TOWNSHIP OF VERONA**  
**COUNTY OF ESSEX, NEW JERSEY**



**MAYOR**  
**ALEX ROMAN**  
**DEPUTY MAYOR**  
**CHRISTINE McGRATH**  
**COUNCILMEMBERS**  
**JACK McEVOY**  
**CYNTHIA L. M. HOLLAND**  
**CHRISTOPHER H. TAMBURRO**

**TOWNSHIP MANAGER**  
**MATTHEW CAVALLO**  
**TOWNSHIP CLERK**  
**JENNIFER KIERNAN**  
**TOWNSHIP ATTORNEY**  
**BRIAN J. ALOIA, ESQ.**

**VERONA COMMUNITY CENTER**  
880 BLOOMFIELD AVENUE  
VERONA, NEW JERSEY 07044

**MUNICIPAL BUILDING**  
600 BLOOMFIELD AVENUE  
VERONA, NEW JERSEY 07044  
(973) 239-3220  
[WWW.VERONANJ.ORG](http://WWW.VERONANJ.ORG)

**DEPARTMENT OF PUBLIC WORKS**  
10 COMMERCE COURT  
VERONA, NEW JERSEY 07044

**Interoffice Memorandum**

**To:** Township Council

**CC:** Jennifer Kiernan, Township Clerk  
Brian Aloia, Township Attorney

**From:** Matthew Cavallo, Township Manager/Qualified Purchasing Agent

**Date:** July 19, 2021

**Re:** Request to approve Contract Change Order No. 1 for Contract No. 19-13A – ADA Community Center Improvements

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Members of the Township Council:

I am requesting that you please consider and subsequently approve Contract Change Order No. 1 for Contract No. 19-13A – ADA Community Center Improvements.

As you aware, Contract 19-13A – ADA Community Center Improvements was publicly bid pursuant to Local Public Contracts Law (*N.J.S.A. 40A:11-1 et seq.*) and was awarded by the Township Council via Resolution No. 2021-61 on April 19, 2021 in the amount of \$73,868.30 (\$67,153.00 plus \$6,715.30 Construction Contingency). A preconstruction meeting was held on May 6, 2021 and construction at the Community Center followed immediately that same day.

On or about the 19th of May 2021, Michael DeCarlo, Engineering Manager and Chuck Molinaro, Superintendent of Public Works were advised by the Contractor that unforeseen site conditions (an additional located water valve and extensive grade changes) that were being experienced during Construction. Specifically, the ramp required modification from what was originally planned. This adjustment led to the originally proposed retaining wall which was planned to be 25 feet in length to be insufficient to meet the grade as the ramp turned 180 degrees back up the slope. The slope of the existing grade from the bottom of the wall at the playground to the proposed ramp was now too steep as well.

The June 30 Grant deadline requested by Essex County was only 4 weeks away and verbal authorization to perform the work was provided by both Mr. Molinaro and Mr. DeCarlo. Unfortunately the employees were not aware of the requirements of *N.J.A.C. 5:30-11.5(a)(4)* and approval was provided without first receiving a formal change order from the Contractor and approval from the Township Council.

## EXHIBIT A

Contract Change Order No. 1 for Contract No. 19-13A

July 19, 2021

On the 10th of June 2021, I was forwarded a copy of the first pay estimate submittal from Mr. DeCarlo to keep me abreast of what was being submitted. Upon review, that same day I sent an email to all parties involved with the project stating that I was rejecting the payment application. I saw what appeared to be numerous errors and the biggest being that there was an unauthorized change order for \$30,644.00 (the retaining wall) was not approved. The work had already been completed.

Mr. DeCarlo and Beckmeyer Engineering were advised to thoroughly review the payment application and advise me what happened. On the 29<sup>th</sup> of June 2021, I was forwarded a change order request in a form approved by Beckmeyer Engineering for the change order in the amount of net plus \$24,644.00 (\$30,644 minus \$6,000 for the original wall that was deleted), an increase of 33%.

Further detail as to the need for the change order and factual background how we got to where we are today are included in the attached Certification from Mr. DeCarlo.

Since that time, I have reviewed with both Mr. DeCarlo and Mr. Molinaro that the issuance of a verbal change order was improper based on the established change order policy in the Accounting and Purchasing Manual issued in 2017 by myself. Once the additional work was found necessary the project should have been halted and a change order should have been considered by the Council before the work was complete.

Even though the procedures outlined in the policy and in the rules promulgated by the Division of Local Government specifically *N.J.A.C. 5:30-11.5(a)(4)* [excerpted below] were not followed, it is my opinion that the proposed change order should be approved by the Township because 1) the scope of the original contract to construct a handicapped accessible access ramp from Linn Drive to access the Community Center Playground was not exceeded; 2) the work was completed in a satisfactory manner even though the approval process was improper; and 3) if the change order is not approved the Contractor cannot be paid. I note that the Contractor has indicated that he will file a claim against the Township under the NJ Prompt Payment Law based upon the directions provided in the field to proceed with the revised additional work.

Finally, I want to bring you attention to what I believe that might be additional work/costs incurred on this Contract based upon claims from the Contractor that may need to be presented to the Council in the form of another change order on this project. The only reason the additional work/costs are not included in this resolution is because I only became aware of this additional work over the weekend and Mr. DeCarlo is reviewing the quantities to verify work was completed.

Unfortunately, Township staff failed to follow the regulations in this particular case. However, I do not believe it was a purposeful violation of the regulations, just inexperience with the change order requirements of the Local Public Contracts Law. I have already begun taking action in the form of educating all Township staff to ensure this does not repeat itself.



MATTHEW CAVALLO

Township Manager

### N.J.A.C. 5:30-11.5 General procedures for change orders

(a) The governing body approval process for change orders shall be as follows:

4. The resolution described in (a)3 above shall be passed before execution of the change order. No work shall be performed or purchases made on the involved phase of the contract until the resolution is passed.

**EXHIBIT B**

## EXHIBIT B

### TOWNSHIP OF VERONA COUNTY OF ESSEX, NEW JERSEY



MAYOR  
ALEX ROMAN  
DEPUTY MAYOR  
CHRISTINE McGRATH  
COUNCIL MEMBERS  
JACK McEVOY  
CYNTHIA L. M. HOLLAND  
CHRISTOPHER H. TAMBURRO

TOWNSHIP MANAGER  
MATTHEW CAVALLO  
TOWNSHIP CLERK  
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### Interoffice Memorandum

**To:** Matthew Cavallo, Township Manager  
Members of the Township Council

**CC:** Jennifer Kiernan, Township Clerk  
Brian Aloia, Township Attorney

**From:** Michael DeCarlo, Engineering Manager

**Date:** July 19, 2021

**Re:** Certification in support Contract Change Order No. 1 for Contract No. 19-13A - ADA Community Center Improvements

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Pursuant to the requirements of N.J.A.C. 5:30-11.9(b), I, Michael DeCarlo, hereby certifies as follows:

1. I am the Engineering Manager for the Township of Verona (the "Township"), a position I have maintained since August 2017.
2. Included within the scope of my duties as Engineering Manager is to perform routine field and office engineering work involved in the design, maintenance, and construction of public grounds.
3. Contract 19-13A - ADA Community Center Improvements was publicly bid pursuant to Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and was awarded by the Township Council via Resolution No. 2021-61 on April 19, 2021 in the amount of \$73,868.30.

## EXHIBIT B

4. A preconstruction meeting was held on May 6, 2021 and construction at the Community Center followed immediately that same day.
5. On or about the 19th of May 2021, I received a phone call from Chuck Molinaro (Superintendent of Public Works) requesting me to come to the job site to discuss a matter of importance. Upon arrival it was discussed that due site conditions (water valve and extensive grade) that the walk needed to be adjusted on site. This adjustment led to the original wall (25 feet in length) not being sufficient to meet the grade as the ramp turned 180 degrees back up the slope. The slope of the existing grade from the bottom of the wall at the playground to the proposed ramp was now too steep as well.
6. It was suggested that the wall be changed from the originally designed reinforced concrete wall with concrete footing to a simpler modular block wall that matched the wall at the playground. The June 30 Grant deadline requested by Essex County was only 4 weeks away and verbal authorization to perform the work was provided by both Mr. Molinaro and I. Unfortunately we did not know of the requirements of *N.J.A.C. 5:30-11.5(a)(4)* and approval was provided without first receiving a formal change order from the Contractor and approval from the Township Council.
7. This approval was improperly provided without first receiving a formal change order from the Contractor and approval from the Township Council.
8. On the 10<sup>th</sup> of June 2021, Stanziale sent their first pay estimate to Beckmeyer Engineering ("BE") and copied me on the submittal as well. BE had questions in regards to the wall and additional quantities which were stated on the pay estimate which did not match the quantities that BE had verified in the field. BE



## EXHIBIT B

was the resident engineer on the job and had construction period services during the construction process. BE was responsible for all inspection and for first approval of all pay estimates.

9. On the 10<sup>th</sup> of June 2021, I had forwarded a copy of the first pay estimate submittal to both Mr. Cavallo and his Administrative Assistant Mrs. Gould to keep them abreast of what was being submitted. That same day Mr. Cavallo sent a strongly worded email to all parties involved with the project stating that he was rejecting the payment application. It was explained that there were numerous errors and the biggest being that there was an unauthorized change order for \$30,644.00 (Wall).
10. BE visited the site on the 17<sup>th</sup> of June 2021 to again measure all the quantities and once again they did not match what was requested on the contractor original pay estimate.
11. On the 18<sup>th</sup> of June 2021, my office issued an email to the contractor which required them to remove the unresolved quantities, and to issue a formal written change order request.
12. On the 23<sup>rd</sup> of June 2021, Stanziale Construction revised and resubmitted their pay estimate to BE, they removed the unresolved quantities and they also submitted a formal change order request. This request was reviewed by both BE and the Township, there were some changes which were required to be made. The final change order and the final first pay estimate was received by the Township on the 29<sup>th</sup> of June 2021. At this time, the final change order was forwarded to the Township Manager for approval by the Township Council.

## EXHIBIT B

I hereby certify that the foregoing statements made by me are true. I am aware if any of the foregoing statements made by me are willfully false, I am subject to punishment.

MICHAEL DeCARLO  
Engineering Manager, Township of Verona



Dated: July 19 2021

**EXHIBIT C**

**TO:** Township Council of the Township of Verona

**FROM:** Matthew M. Laracy, CPA, CMFO, Chief Financial Officer

**RE:** Certification of Availability of Funds

**DATE:** July 15, 2021

This is to certify to the Township Council that funds for the above referenced contract are available.

**Contractor:** Stanziale Construction  
2 Springdale Avenue  
East Orange, New Jersey 07017

**Contract:** CONTRACT NO. 19-13A - ADA COMMUNITY CENTER IMPROVEMENTS  
CONTRACT CHANGE NO. 1

Budget Account No.	Amount	Account Description
C-53-46-036-001	\$98,512.30	Ord # 2021-04

/s/ Matthew Laracy  
MATTHEW M. LARACY, CPA, CMFO  
CHIEF FINANCIAL OFFICER