

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



INVITATION FOR BID DCAM-18-CS-0005

ST. ELIZABETHS EAST CAMPUS STAGE 1 PHASE 1 INFRASTRUCTURE
IMPROVEMENTS – TEMPORARY SURFACE PARKING LOTS

AMENDMENT NO. 5

Amendment Number 5 is hereby issued and posted on the Department's web site at dgs.dc.gov March 26, 2018. Except as otherwise noted, all other terms and conditions of the Invitation for Bid remain unchanged.

1. **Section B.7.4, Corrective Action Plan**

Delete: In its entirety

2. **Section B.1**

Insert:

B.13.14 Quality Control.

B.13.14.1 General Obligation. The Design-Builder shall be responsible for all activities necessary to manage, control, and document work to ensure compliance with Contract Documents. The Design-Builder's responsibility includes ensuring adequate quality control services are provided by the Design-Builder's employees and its subcontractors at all levels. The work activities shall include safety, submittal management, document reviews, reporting, and all other functions related to quality construction.

B.13.14.2 Quality Control Plan. Within forty five (45) days after the design development documents are approved, the Design-Builder shall develop a quality control plan for the Project (the "Quality Control Plan"). A draft of the Quality Control Plan shall be submitted to the Department and shall be subject to the Department's review and approval. The Quality Control Plan shall be tailored to the specific products/type of construction activities contemplated by the GMP Basis Documents, and in general, shall include a table of contents, quality control team organization, duties/responsibilities of quality control personnel, submittal procedures,

inspection procedures, deficiency correction procedures, documentation process, and a list of any other specific actions or procedures that will be required for key elements of the Work.

B.13.14.3

Implementation. During the Construction Phase, the Design-Builder shall perform regular quality control inspections and create reports based on such inspections pursuant to the Quality Control Plan. The quality control reports shall be provided to the Department electronically on a monthly basis. The Design-Builder shall incorporate a quality control section in the progress meetings to discuss outstanding deficiencies, testing/inspections, and upcoming Work. The monthly report shall include a detailed summary of the steps that are being employed to provide quality construction and workmanship. The monthly report should specifically address issues raised during the month and outline the steps that are being used to address such issues.

B.13.15

Corrective Action Plan.

Subject to the terms of this Section, the Department shall have the right to direct the Design-Builder to revise the provisions of the Quality Control Plan if, in the reasonable judgment of the Department, the craftsmanship of the Work being installed fails to comply with generally applicable industry standards, requirements set forth in the Specifications that are reasonably related to the quality of craftsmanship quality, or any provisions set forth in this Agreement (each a "Quality Control Event"). In the event that the Department or its Program Manager determine that a Quality Control Event has occurred, the Department shall provide the Design-Builder with written notice of the occurrence of such Quality Control Event and the Design-Builder shall be required to provide the Department with a corrective action plan that is reasonably designed to address the concerns raised in such notice within three (3) days after receipt of such notice (each instance, a "Corrective Action Plan"). If the Department and the Design-Builder are unable to agree on the terms of the Corrective Action Plan within five (5) days after the issuance of the notice (i.e. within forty eight (48) hours after the receipt of the proposed corrective action plan), the Department shall have the right to direct such corrective action measures as the Department, in its reasonable judgment, deems necessary. Such directive may include adjustments to the procedural provisions set forth in the Quality Control Plan and/or may impose additional requirements on the manner in which Work is being performed. Provided the Department complies with the notice provisions of this Section, the cost of any such corrective action directed under this Section shall not justify an adjustment to the Lump Sum Price or the Substantial Completion Date.

3. Section C.2, LSDBE Utilization

Delete: In its entirety

Insert:

C.2 LSDBE Utilization.

C.2.1 If the Design-Builder subcontracts any Work, 50% of the subcontracted effort must be subcontracted to small business enterprises (SBEs). For subcontracted work, pass through entities will not count toward this goal. In order to count toward the subcontracting requirement, the SBE must perform at least thirty five percent (35%) of the work that is being counted toward the goal with its own forces. The Local, Small and Disadvantaged Business Enterprise (“LSDBE”) certification shall be, in each case, as of the effective date of the applicable subcontract. Supply agreements with material suppliers shall be counted toward meeting this goal. The Design-Builder has developed a Subcontracting Plan that is attached hereto as **Attachment F**. The Design-Builder shall comply with the terms of the SBE Subcontracting Plan in making purchases and administering its subcontracts and supply agreements.

C.2.2 Mandatory Subcontracting Plan and Requirements.

C.2.2.1 Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing in accordance with D.C. Official Code § 2-218.51, for all contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (“SBE”s).

C.2.2.2 If there are insufficient SBEs to completely fulfill the requirement of paragraph C.2.2.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (“CBE”s); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.

C.2.2.3 A prime contractor that is certified by DSLBD as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections C.2.2.1 and C.2.2.2.

C.2.2.4 Except as provided in C.2.2.5 and C.2.2.6, a prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

C.2.2.5 A prime contractor that is a certified joint venture and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

C.2.2.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.

C.2.2.7 A prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.

C.2.2.8 Subcontracting Plan.

The Design-Builder shall perform at least 35% of the contracting effort with its own forces, and if such Design-Builder subcontracts any work, 35% of the subcontracted effort must be subcontracted to CBEs in accordance with the provisions of section C.2.2 of this clause. For subcontracted work, pass through entities will not count toward this goal. In order to count toward the subcontracting requirement, the SBE must perform at least thirty five percent (35%) of the work that is being counted toward the goal with its own forces. The LSDBE certification shall be, in each case, as of the effective date of the subcontract. Supply agreements with material suppliers shall be counted toward meeting this goal. The Design-Builder has developed a Subcontracting Plan that is attached hereto as **Attachment F**. The Design-Builder shall comply with the terms of the Subcontracting Plan in making purchases and administering its Subcontracts and Supply Agreements.

The Subcontracting Plan shall be submitted as part of the proposal and may only be amended after award with the prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan after award shall inure to the benefit of the District.

Each subcontracting plan shall include the following:

1. The name and address of each subcontractor;
2. A current certification number of the small or certified business enterprise;
3. The scope of work to be performed by each subcontractor; and
4. The price that the prime contractor will pay each subcontractor.

C.2.2.9 Copies of Subcontracts.

Within twenty-one (21) days of the date of award, the Design-Builder shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the Contracting Officer (CO), City Administrator (CA), District of Columbia Auditor and the Director of DSLBD.

C.2.2.10 Subcontracting Plan Compliance Reporting.

C.2.2.10.1 If the Design-Builder has a subcontracting plan required by law for this contract, the Contractor shall submit a quarterly report to the CO, CA, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

- (A) The price that the prime contractor will pay each subcontractor under the subcontract;
- (B) A description of the goods procured or the services subcontracted for;
- (C) The amount paid by the prime contractor under the subcontract; and
- (D) A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.

C.2.2.10.2 If the fully executed subcontract is not provided with the quarterly report, the prime contractor will not receive credit toward its subcontracting requirements for that subcontract.

C.2.2.11 Annual Meetings.

Upon at least 30-days written notice provided by DSLBD, the Design-Builder shall meet annually with the CO, CA, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

C.2.2.12 DSLBD Notices.

The Design-Builder shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

C.2.2.13 Enforcement and Penalties for Breach of Subcontracting Plan.

C.2.2.13.1 A contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

C.2.2.13.2 A contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.

C.2.2.14 If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in **clause 8 of the SCP, Default**.

C.2.2.15 Neither the Design-Builder nor a Subcontractor may remove a Subcontractor or tier-Subcontractor if such Subcontractor or tier-Subcontractor is certified as an LSDBE company unless the Department approves of such removal, in writing. The Department may condition its approval upon the Design-Builder developing a plan that is, in the Department's sole and absolute judgment, adequate to maintain the level of LSDBE participation on the Project.

C.3 Equal Employment Opportunity and Hiring of District Residents

C.3.1 The Design-Builder shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs. In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as **Attachment H**. A contract award cannot be made to any contractor that has not satisfied the equal employment requirements.

C.3.2 The Design-Builder shall ensure that at least fifty-one percent (51%) of the Design-Builder's team and every subconsultant's and subcontractor's employees hired after the effective date of the Agreement, or after such subconsultant or subcontractor enters into a contract with the Design-Builder, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade. In addition, the Design-Builder shall use commercially reasonable best efforts to comply with the workforce percentage goals

established by the recently adopted amendments to the First Source Employment Agreement Act of 1984 (D.C. Code §§ 2-219.01 *et seq.*) and any implementing regulations, including, but not limited to the following requirements:

- (i) At least 20% of journey worker hours by trade shall be performed by District residents;
- (ii) At least 60% of apprentice hours by trade shall be performed by District residents;
- (iii) At least 51% of the skilled laborer hours by trade shall be performed by District residents; and
- (iv) At least 70% of common laborer hours shall be performed by District residents.

C.3.3 Thirty five percent (35%) of all apprentice hours worked on the Project shall be worked by District residents.

C.4 Economic Inclusion Reporting Requirements

C.4.1 Upon execution of the Agreement, the Design-Builder and all its member firms, if any, and each of its Subcontractors shall submit to the Department a list of current employees and apprentices that will be assigned to the Agreement, the date they were hired and whether or not they live in the District of Columbia.

C.4.2 The Design-Builder and its constituent entities shall comply with subchapter X of Chapter II Title 2, and subchapter II of Chapter 11 of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Design-Builder and all member firms and Subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services (“DOES”) prior to beginning Work at the Project site.

C.4.3 The Design-Builder shall maintain detailed records relating to the general hiring of District of Columbia and community residents.

C.4.4 The Design-Builder shall be responsible for: (i) including the provisions of Section C.2.2.8 in all subcontracts; (ii) collecting the information required in Section C.2.2.10 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in the reports required to be submitted by the Design-Builder pursuant to Section C.2.2.10.

C.5 Compliance with the Apprenticeship Act. The Design-Builder agrees to comply with the requirements of the Apprenticeship Act of 1946, D.C. Code §§ 32-1431, *et seq.*, as amended.

4. Section K
Insert:


K.43 The Quick Payment Clause

K.43.1 Interest Penalties to Contractors

K.43.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

K.43.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.


Franklin Austin
Contracting Officer

3/26/2018
Date

End of Amendment No. 5