

**COUNCIL OF THE DISTRICT OF COLUMBIA**

MEMORANDUM

---

**To:** Chairman Phil Mendelson  
**From:** Councilmember Janeese Lewis George  
**Date:** March 30, 2023  
**Subject:** Emergency Contract Approval Measures

---



At our next legislative meeting, I intend to move the following emergency measures to retroactively approve a design contract between the Department of General Services and the firm serving as architect and engineer to design renovations of the former Spingarn High School, which will be used for job training programs offered through the DC Infrastructure Academy (“DCIA”).

- Contract No. DCAM-22-AE-0007 Modification Nos. 2 and 3 with BELL Architects, P.C. Approval and Payment Authorization Emergency Declaration Resolution of 2023; and
- Contract No. DCAM-22-AE-0007 Modification Nos. 2 and 3 with BELL Architects, P.C. Approval and Payment Authorization Emergency Act of 2023.

Drafts of the measures are attached, though I understand that the Executive has already filed the measures in the Office of the Secretary. I request that you place the measures on the agenda of our regular legislative meeting scheduled for April 4, 2023.

The emergency measures are necessary because the design costs will exceed \$1 million and the Executive has not previously submitted this design contract for Council approval. The original contract was executed March 2, 2022, with a stated value of \$542,713, although the parties understood at the time that the stated value reflected only a fraction of the work to be performed. On August 26, 2022, Modification No. 2 increased the contract value to \$997,222, again obscuring the expected full cost of the contract. Upon Council approval of the emergency measures including Modification No. 3, the contract value will increase to \$4,466,928, and no further increases in the contract value will be contemplated.

The stated value of the original contract was less than \$1 million because (according to section A.3 of the solicitation) DGS directed bidders to propose the cost of *initial* design services only, despite the solicitation and the contract clearly defining the scope of work as encompassing “all the design services necessary to implement the Project and to produce the required deliverables.” The DGS solicitation stated that after initial design services were complete, DGS and the successful bidder would negotiate the additional fee for “Full Design Services,” including schematic designs to be based on the selected concept design and further sets of designs for permitting and construction. It appears that Modification No. 3 is the product of such a negotiation.

Although it is unusual to select a bidder without knowing the price, in this case District law prioritizes other selection criteria. Section 604 of the Procurement Practice Reform Act of 2010,

effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-356.04), requires architecture and engineering services to be awarded to the most highly qualified firm, provided that the cost is fair and reasonable. While one can doubt the reasonableness of agreeing to an unknown price to be determined in future negotiations, the information now available to Council shows that the design costs will amount to roughly 11% of the total project cost. This is not unreasonable.

But the Council cannot give the benefit of the doubt to the Executive with respect to the timing of its submission of this contract for Council review. This contract has been submitted now because DGS has spent almost \$1 million. If Council does not approve this contract by April 7, then there will be delays in paying the architect's invoices and, in all likelihood, completing the project.

Any delay in completing the project would have the effect of interrupting DCIA's job training programs. The District is contractually obligated through a lease agreement to vacate DCIA's current home at the former Wilkinson School by September 29, 2024. DGS has already extended the deadline to complete DCIA's future location at Spingarn to September 30, 2024. By failing to submit this contract for Council approval months ago, DGS has escalated the stakes of approving this contract immediately. This escalation is unnecessary and reckless.

Regardless, I am moving the emergency measures because I am satisfied that the contract deserves our approval. I urge your support for these measures, and I appreciate your continued support of committee oversight.

The next page reproduces information that has been provided by DGS regarding the contracts and the approval measures. The Council Contract Summary also is being circulated with this memo. Should you or your staff have questions, please contact Will Singer on my staff.

cc: All Councilmembers  
Office of the Secretary  
Office of Policy and Legislative Affairs  
Department of General Services

## **Information Provided by the Department of General Services**

These measures approve Modification No. 2 and Proposed Modification No. 3 to Contract No. DCAM-22-AE-0007 with BELL Architects, P.C. a certified Small Business Enterprise to provide Architectural and Engineering Services for the project to modernize a portion of the Joel Elias Spingarn High School to serve as the new home of the DC Infrastructure Academy (“DCIA”).

The Contractor shall provide a full range of architectural and engineering services necessary to finalize the schematic design phase. Subsequent phases include site conditions assessments, developing a program, concept design, design development, developing a set of construction documents in accordance with the scope, and post construction services.

Modification No. 2 Increased the Contract's Not to Exceed amount from \$542,713.00 by \$454,509.00 to \$997,222.00. The proposed Modification No. 3, if approved, will increase the Contract's Not to Exceed amount by \$3,469,706.00. Since the aggregate amount of the Contract, Modification No. 2 and proposed Modification No. 3 exceed \$1 million, Council approval is required.

Council approval is needed on or before April 7, 2023, in order to timely authorize the continuation of the necessary services.