


COUNCIL OF THE DISTRICT OF COLUMBIA

MEMORANDUM

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**To:** Chairman Phil Mendelson  
**From:** Councilmember Janeese Lewis George   
**Date:** July 6, 2023  
**Subject:** Request to Agendize Measures for July 11, 2023 Legislative Meeting

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At our next legislative meeting, I intend to move the following measures:

Emergency and Temporary Legislation

- Walter Reed Development Assistance Emergency Declaration Resolution of 2023
- Walter Reed Development Assistance Emergency Amendment Act of 2023
- Walter Reed Development Assistance Temporary Amendment Act of 2023

Emergency Contract Approval Measures at the Request of the Executive

- Contract No. DCAM-21-NC-RFQ-0001E PPA-23-01 with NEO, LLC Approval and Payment Authorization Emergency Declaration Resolution of 2023
- Contract No. DCAM-21-NC-RFQ-0001E PPA-23-01 with NEO, LLC Approval and Payment Authorization Approval Resolution of 2023
- Modification Nos. 3, 5 and 8, and Proposed Modification No. 10 with Consys, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2023
- Modification Nos. 3, 5 and 8, and Proposed Modification No. 10 with Consys, Inc. Approval and Payment Authorization Emergency Act of 2023

A draft of each measure is attached, though I understand that the Executive has already filed the contract approval measures in the Office of the Secretary. I request that you place the measures on the agenda of our regular legislative meeting scheduled for July 11, 2023.

The measures are summarized below.

**Walter Reed Development Assistance**

This emergency and temporary legislation would provide financial assistance to the Walter Reed Developer (a joint venture of Hines, Urban Atlantic, and Triden Development Group), which has experienced significant deviations from its original development budget.

In 2016, the District acquired the former site of the Walter Reed Army Medical Center from the U.S. Army for a below-market price of \$20 million (paid over 2 years), pursuant to an Economic Development Conveyance Agreement. Pursuant to a separate Land Disposition Agreement, the

District then immediately conveyed the site to the Developer in exchange for \$25 million in Initial Consideration Payments, to be paid in installments over 7 years, and other financial and non-financial obligations from the Developer.

So far, the Developer has paid 5 installments in the amount of \$15 million, and the two remaining installments (in the amount of \$5 million each) are due in October 2023 and 2024, respectively. Currently, the Initial Consideration Payments are received as Local revenue deposited to the General Fund; however, the anticipated receipt of Initial Consideration Payments is *not* included in the OCFO's certified revenue estimates.

Under this legislation, financial assistance would take the form of a grant in the amount of the remaining Initial Consideration Payments to be made by the Developer. To provide this assistance, the remaining Initial Consideration Payments would be redirected to an existing nonlapsing special-purpose fund called the Walter Reed Reinvestment Fund.

Pursuant to D.C. Official Code § 2-1227.05(c)(1), money in the Reinvestment Fund may be spent solely for certain specified job creation and economic development purposes related to the Walter Reed site, including paying for road construction, transportation management facilities, storm and sanitary sewer construction, and utility construction. This purpose restriction would also apply to the grant to the Developer.

The grant will provide the Developer with an assurance as to financial assistance from the District. In turn, this assurance will better position the Developer to obtain additional private financing (likely a loan from a bank) to fully fund the revised development budget.

If the development budget is not fully funded, then the District risks losing important elements promised for this development. In particular, extensive improvements to road and water/sewer infrastructure are necessary to construct Main Drive, NW, as an east-west route for pedestrians, bicyclists, and motorists. It is envisioned that Main Drive will provide convenient access to Georgia Avenue from the Abrams Hall Senior Apartments that have been constructed on the development site, and for families traveling to DC International School. Completion of Main Drive will also mitigate the development's traffic impacts on neighbors in Brightwood and Shepherd Park.

Under the circumstances, I think it is appropriate to provide this assistance to the Developer, and I urge your support for this legislation.

### **Approval of a multivear power purchase agreement with Neo, LLC**

This measure is necessary to approve a 20-year power purchase agreement with Neo, LLC, a certified business enterprise (CBE). Neo will install, operate, and maintain solar photovoltaic power systems on rooftops and canopies at three District-owned facilities: Benjamin Banneker High School, John Lewis Elementary School, and Takoma Aquatic Center.

Neo will be required to sell all of the power systems' output to the District for delivery at the facilities. In turn, the District will be required to accept all of the output at a purchase price of \$0.00 (zero dollars and zero cents) per kilowatt hour (kWh). Neo will be responsible for connecting

the power systems to the facilities' electrical systems and for installing net energy meters to measure the amount of output delivered.

The output is expected to reduce, but not eliminate, the District's need to purchase electricity from a retail utility to power the facilities. At times, however, the power systems will produce more output than the facilities will consume. The power purchase agreement obligates the District to enter into a separate net metering arrangement with Pepco, providing for surplus output to flow to the utility grid.

As compensation, Neo will receive all environmental credits, financial incentives, and tax benefits related to the power systems and their output. Although the District will not pay for the output, it could incur some costs, including costs of temporarily removing and storing the solar panels during roof replacement projects.

### **Approval of modifications to a construction contract with Consys, Inc.**

The District has engaged Consys, Inc., a CBE, to construct a new OSSE bus terminal on W Street, NE. The original contract was deemed approved without Council action on July 12, 2021 (CA24-214). The initial contract value was \$16,809,610.

So far, DGS and Consys have executed nine contract modifications. Three of the nine modifications have increased the contract value by \$974,092, while the remaining six modifications did not alter the financial terms of the contract. The anticipated completion date has been postponed by approximately 1 year.

DGS now requests Council approval of the earlier nine modifications and a new proposed modification with an aggregate value exceeding \$1 million. Modification No. 10 will increase the contract value by an additional \$2,797,414, bringing the total revised contract value to \$20,581,116.

The increased costs and delays primarily result from the discovery of an unexpected degree of serious environmental hazards on the project site. Accordingly, the contract scope has been modified to include extensive environmental testing and remediation, including removal of contaminated soils and underground storage tanks.

The remainder of this memo reproduces information that has been provided by DGS regarding the contracts and the approval measures. Should you or your staff have questions, please contact Will Singer on my staff at (202) 724-8035.

cc: All Councilmembers  
Office of the Secretary  
Office of Policy and Legislative Affairs  
Department of General Services  
Office of the Deputy Mayor for Planning and Economic Development

Information Provided by the Department of General Services

- **Contract No. DCAM-21-NC-RFQ-0001E PPA-23-01 with NEO, LLC Emergency Declaration Resolution of 2023**
- **Contract No. DCAM-21-NC-RFQ-0001E PPA-23-01 with NEO, LLC Emergency Approval Resolution of 2023**

These measures approve Contract No. DCAM-21-NC-RFQ-0001E PPA-23-01 with NEO, LLC a District CBE/SBE minority-owned solar developer.

The contract will authorize the contractor to provide turn-key solar system development, including design, construction, interconnection, operation, maintenance, community solar program operations, and Power Purchase Agreement administration for Bundle 1. This includes Banneker High School, John Lewis Elementary School and Takoma Aquatic Center, identified hereafter as Bundle-1 for the full 20-year term of the Power Purchase Agreement (PPA). The purpose will be to deploy renewable energy to combat climate change, creating innovation, and realizing long-term cost savings. DGS will purchase all electricity generated by the systems on an on-going basis.

The projects contemplated under Bundle-1 involve pre-design engineering studies of the sites, confirmation of the solar potential, and certain other pertinent technical details. The System Owner will complete the final design and construct the systems while meeting the requirements of the District. The System Owner shall be also be required to provide all of the labor, supplies, materials, repairs, tools, vehicles, transportation, travel to and from work sites, per diem, subcontractor cost, home office overhead, profit, insurance coverages, and provisions as stipulated in the Power Purchase Agreement and all else necessary to perform all work described hereunder in accordance with applicable all applicable laws and regulations.

Council approval is needed to authorize the continuation of the necessary services.

- **Modification Nos. 3, 5 and 8, and Proposed Modification No. 10 with Consys, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2023**
- **Modification Nos. 3, 5 and 8, and Proposed Modification No. 10 with Consys, Inc. Approval and Payment Authorization Emergency Act of 2023**

These measures approve Modification Nos. 3, 5 and 8, and Proposed Modification No. 10 with Consys, Inc, a certified Local Business Enterprise.

Under the contract the contractor shall provide all necessary construction services, supervision, permits, labor, supplies, equipment, materials and all other work necessary for the completion of the Project in accordance to the Drawings and Specifications documents. The Project shall greatly expand OSSE operations on this currently vacant and abandoned 2.5-acre site, providing the urban infrastructure required to fulfill the transportation and logistics demands of an increasing Washington DC student population. The Contractor's scope of work will consist of VE

Reimplementation Part 1 and Part 2; Prefabricated Fueling System; Elevator Materials Increase and Segmental Wall Geotech Services.

Modification Nos. 3, 5 and 8 increased the total contract amount by \$974,091.91. Modification Nos. 1, 2, 4, 6, 7 and 9 were executed for administrative purposes.

The proposed Modification No. 10, if approved, will increase the Contract's Not to Exceed amount by \$2,797,413.90. Since the aggregate amount of the Contract, Modification Nos. 3, 5 and 8, and proposed Modification No. 10 exceed \$1 million, Council approval is required.