



HRD Request for Modification or Substitution Approval

Date: June 9, 2021
 To: Andrea Dorch, Human Relations Department
 From: Leona Walton, Water Services Department
 Subject: Contract/Project No.: 1493/81000756
 Project Title: City-Wide Sewer Infrastructure Rehabilitation within Waterways - Renewal No. 1

☐ Amendment No. _____ ☐ Change Order No. _____ (See Contract Summary on the next page.) ☒	
Funding: ☒ City (MBE/WBE/DBE) ☐ Federal (DBE) ¹ ☐ State (DBE) ¹ - Grant _____ ☐ Other: _____	
Contract Category: ☐ Construction ☐ General Service ☐ Facility Repair ☐ Design Professional ☐ Professional Services ☐ Concession ☒ Other: Design-Build	
Company: Kissick Construction Company, Inc. Contact: Pete Browne/John Garvey Contact Email: pbrowne@kissickco.com/jgarvey@kissickco.com	Address: 8131 Indiana Ave, Kansas City MO 64132 Phone: (816) 363-5530 Fax: (816) 523-1557
Additional Information: Kissick was notified by City that a force main had failed and was leaking sewage into a waterway which resulted in the need for an emergency repair. The site of the failure was located in a permitted landfill so environmental testing of the landfill was required as part of the repair. With this being an emergency, the project site was not part of the initial Work defined per the contract. A No-Cost Change Order was executed, and the work was performed by Genesis Environmental Solutions, subcontractor and certified WBE. Genesis was not included on the initial CUP approved for the project therefore the company needs to be added.	

cc: Project Manager

FOR HUMAN RELATIONS DEPARTMENT USE ONLY The attached <u>Request for Modification or Substitution</u> is:		The Request for Best Faith Efforts Waiver is:
☒ Approved ☐ Disapproved		☐ Approved ☐ Disapproved ☐ Not Applicable
Contractor Utilization Plan Participation as Amended: <u>11</u> % MBE & <u>6</u> % WBE or _____ % DBE		
DocuSigned by: Human Relations Department		6/22/2021 Date

FOR GRANTING AGENCY USE ONLY² ☐ N/A	
Approved by: _____ Date: _____	

¹ DBE Programs apply to specific federal or state grant requirements.

² Federal and state grant agreements may require granting agency approval of D/M/WBE participation changes.

CONTRACT SUMMARY³

Approved CUP:

11 % MBE6 % WBE % DBE

Original Contract Maximum Obligation: \$ 6,885,000.00

Amendment/Change Order No. 1: 0.00

Amendment/Change Order No. 2: _____

Amendment/Change Order No. 3: _____

Amendment/Change Order No. 4: _____

Amendment/Change Order No. 5: _____

Current Maximum Obligation: \$ 6,885,000.00*Proposed Amendment/**Change Order No. _____*

\$ _____

Proposed Revised***Contract Maximum Obligation***

\$ _____

Attach a copy of the most recent 00485.01 M/WBE Monthly Utilization Report

³ The CONTRACT SUMMARY information should match information and calculations gathered and computed on the Contract Amendment or Change Order Preparation Checklist. The Checklist forms are found on Contract Central.



REQUEST FOR MODIFICATION OR SUBSTITUTION

BIDDER/PROPOSER/CONTRACTOR: Kissick Construction Co., Inc.
ADDRESS: 8131 Indiana Ave, Kansas City, MO 84132
PROJECT/CONTRACT NUMBER OR TITLE: 81000756/1493
City-Wide Sewer Rehabilitation - Renewal 1
AMENDMENT/CHANGE ORDER NO: (if applicable) _____

Project Goals:	<u>11% MBE</u>	<u>6% WBE</u>
Contractor Utilization Plan:	<u>11</u> % MBE	<u>6</u> % WBE

1. I am the duly authorized representative of the above Bidder/Contractor/Proposer and am authorized to request this substitution or modification on behalf of the Bidder/Contractor/Proposer.

2. I hereby request that the Director of HRD recommend or approve: (check appropriate space(s))

- a. X A substitution of the certified MBE/WBE firm Genesis Environmental Solutions
(Name of new firm)
to perform Hazardous Waste Testing & on-site Environmental Specialist,
(Scope of work to be performed by new firm)

for the MBE/WBE firm N/A - new scope added which is currently
(Name of old firm)

listed on the Bidder's/Contractor's/Proposer's Contractor Utilization Plan to

perform the following scope of work: N/A - new scope added,
(Scope of work of old firm)

- b. _____ A modification of the amount of MBE/WBE participation currently listed on the Bidder's/Contractor's/Proposer's Contractor Utilization Plan from

_____ % MBE _____ % WBE (Fill in % of MBE/WBE Participation currently listed on Contractor Utilization Plan)

TO

_____ % MBE _____ % WBE (Fill in New % of MBE/WBE Participation requested for Contractor Utilization Plan)

- c. Attach 00450.01 Letter of Intent to Subcontract letter for each new MBE/WBE to be added.
d. Attach a copy of the most recent 00485.01 or on-line M/WBE Monthly Utilization Report

3. Bidder/Contractor/Proposer states that a substitution or modification is necessary because: (check applicable reason(s))

☐ The MBE/WBE listed on the Contractor Utilization Plan is non-responsive or cannot perform.

☐ The MBE/WBE listed on the Contractor Utilization Plan has increased its previously quoted price without a corresponding change in the scope of work.

☐ The MBE/WBE listed on the Contractor Utilization Plan has committed a material default or breach of its contract.

☒ Requirements of the scope of work of the contract have changed and make subcontracting not feasible or not feasible at the levels required by the goals established for the contract.

☐ The MBE/WBE listed on the Contractor Utilization Plan is unacceptable to the City contracting department.

☒ Bidder/Contractor/Proposer has not attempted intentionally to evade the requirements of the Act and it is in the best interests of the City to allow a modification or substitution.

4. The following is a narrative summary of the Bidder's/Contractor's/Proposer's good faith efforts exhausted in attempts to substitute the MBE/WBE firm named above which is currently listed on the Contractor Utilization Plan with other qualified, certified MBE/WBE firms for the listed scope of work or any other scope of work in the project:

Emergency Water Main Repair. The location of this repair is over an abandon landfill.

KCMO Water Services requested we have an Environmental Specialist on-site during the
repair and for testing. Genesis is a WBE and a Subcontractor Kissick regularly uses for
this type of work.

5. Bidder/Proposer/Contractor will present documentation when requested by the City to evidence its good faith efforts.

Dated: 5/25/21

Kissick Construction Co., Inc.
(Bidder/Proposer/Contractor)

By:



(Authorized Representative)
Matt Rothermel - Vice President



KANSAS CITY
MISSOURI

LETTER OF INTENT TO SUBCONTRACT

Project/Contract Number: 81000756/1493

Project Title: City-Wide Sewer Infrastructure Rehabilitation within
Waterways Renewal No. 1

Kissick Construction Co., Inc. ("Prime Contractor") agrees to enter into a contractual agreement with Genesis Environmental Services ("M/W/DBE Subcontractor"), who will provide the following goods/services in connection with the above-referenced contract:

(Insert a brief narrative describing the goods/services to be provided. Broad categorizations (e.g., "electrical," "plumbing," etc.) or the listing of the NAICS Codes in which M/W/DBE Subcontractor is certified are insufficient and may result in this Letter of Intent to Subcontract not being accepted.)

On-Site Environmental Services and Hazardous Waste Testing

for an estimated amount of \$ 10,000.00 or _____ % of the total estimated contract value.

M/W/DBE Subcontractor is, to the best of Prime Contractor's knowledge, currently certified with the City of Kansas City's Human Relations Department to perform in the capacities indicated herein. Prime Contractor agrees to utilize M/W/DBE Subcontractor in the capacities indicated herein, and M/W/DBE Subcontractor agrees to work on the above-referenced contract in the capacities indicated herein, contingent upon award of the contract to Prime Contractor.

Kissick Construction Co., Inc.

[Signature]
Signature: Prime Contractor

Matt Rothermel
Print Name

Vice President
Title

Date

Genesis Environmental Services, Inc.

[Signature]
Signature: M/W/DBE Subcontractor

M. SITAMUS THOMAS
Print Name

PRESIDENT
Title

5/28/21
Date

MEMORANDUM

Date: June 22, 2021

To: Human Relations Department Director Phillip Yelder

From: Mark Runge, Sr. Contract Compliance Officer

Subject: RFM Approval Request from: Water Services / Kissick Construction

Category: Design-Build

Project: City Wide Sewer Infrastructure Rehabilitation within Waterways-Renewal No. 1

Project #: 1493 / 81000756 (1st Renewal of 1275)

Contract Amount: \$6,885,000.00

Background:

The FICB set the goals for the original project at 11% MBE and 6% WBE on 1/20/2016. HRD approved a CUP from Kissick Construction on 1/19/2017 with participation of 11% MBE and 6% WBE as follows:

MBE:

All American Redi-Mix- Concrete Supply- \$90,784*
Anderson & Sons- Hauling- \$350,683
Taliaferro & Browne- Surveying- \$38,100
SA Flick Seed- Landscaping- \$210,650

Total MBE participation of \$690,217 out of \$6,258,649 for 11% MBE.

WBE:

Trekk Design- Sewer Design- \$180,700
Maher Oil- Fuel Supply- \$80,170
IBC Traffic- Traffic Control- \$13,575
JA Lillig Excavating- Hauling- \$115,550

Total WBE participation of \$389,995 out of \$6,258,649 for 6% WBE.

Notes:

All American Redi-Mix is no longer an MBE. The company was sold in January 2019. Participation up to January 2019 counts towards the goals. Maher Oil should have been listed as a Supplier for 25% credit, but it does not appear that

this was processed correctly and they were credited at 100%. Schmitz-King was on the original CUP but they were replaced by Taliaferro & Browne when they went out of business before the CUP was processed in 2017.

Request for Modification:

The prime contractor is requesting the addition of Genesis Environmental (MBE) to the contract. According to the prime contractor, there was an emergency force main break added to the project that occurred in a permitted landfill. This required environmental testing which was performed by Genesis Environmental. If approved, the participation on the CUP would be changed as follows:

MBE:

All American Redi-Mix- Concrete Supply- \$0
Anderson & Sons- Hauling- \$217,560
Taliaferro & Browne- Surveying- \$23,699
SA Flick Seed- Landscaping- \$130,925
Genesis Environmental- Environmental Testing- \$10,000
Redford Construction- Utilities- \$240,068

Total MBE participation of \$622,252 out of \$3,885,000 for 16% MBE.

WBE:

Trekk Design- Sewer Design- \$112,277
Maher Oil- Fuel Supply- \$49,728
IBC Traffic- Traffic Control- \$13,713
JA Lillig Excavating- Hauling- \$71,873

Total WBE participation of \$247,591 out of \$3,885,000 for 6% WBE.

***Note:**

IBC Traffic is on the CUP as a first-tier with Kissick and as a second-tier with Redford Construction. Redford Construction does not appear to have been on the original CUP and may have been added before the original contract had expired because they are listed as having participated on 1275. It is possible that they may have replaced All American Redi-Mix.

Recommendations:

HRD recommends that the RFM to add Genesis Environmental (MBE) to the CUP be approved. The participation on the CUP will stay at 11% MBE and 6% WBE even though it appears that the participation will increase to 16% MBE and 6% WBE. The prime contractor has not requested any change in the participation listed on the approved CUP of 11% MBE and 6% WBE.

Notes:

According to B2G, the prime contractor is currently achieving the following participation on the contract:

Dollars paid to prime contractor by City to date: \$3,652,894.44.
Dollars paid to MBEs by prime contractor to date: \$260,961.07 for 7% MBE.
Dollars paid to WBEs by prime contractor to date: \$10,516.30 for 0.3% WBE.

According to the prime contractor, they have paid Trekk Design Group \$137,604.25 on the contract, but they have not yet reported the payment in B2G. This would increase their current participation to 7% MBE and 4% WBE. The prime contractor indicated that there is a significant amount of work that will be done by Redford Construction and some additional work has been put on hold by the City. The prime indicated that there will be some emergency repairs included in the contract and the prime contractor will utilize MBE/WBE subcontractors on that work as much as possible.

According to B2G, the prime contractor achieved the following participation on the original contract 1275:

Dollars paid to prime contractor by City to date: \$6,858,000.
Dollars paid to MBEs by prime contractor to date: \$725,237.62 for 11% MBE.
Dollars paid to WBEs by prime contractor to date: \$531,760.32 for 8% WBE.

Contract 1275 is still listed as Open so it is possible that some payments may have been reported on 1275 instead of 1493.