

**CITY SCHOOL DISTRICT OF THE CITY OF LONG BEACH
NASSAU COUNTY, NEW YORK**

**REQUEST FOR PROPOSALS
TO REFINANCE AN LEASE PURCHASE AGREEMENT**

Overview

The City School District of the City of Long Beach, Nassau County, New York (the "District"), is seeking proposals (the "Proposal") from qualified respondents to be a third-party lessor to a lease purchase agreement with the District (the "Lease"), the proceeds of which will be used to refinance an existing lease purchase agreement (the "Prior Lease Purchase Agreement"). The proceeds of the existing lease purchase agreement funded equipment and related work for the implementation of energy conservation measures pursuant to an energy performance contract between the District and Honeywell International Inc. (the "Performance Contract"). The Performance Contract with Honeywell International Inc. was executed in November 2017. NYSED approval was received in December 2018. The District's building aid ratio is approximately 32.40%

The District seeks competitive proposals for a \$12,714,276 lease-purchase on the basis of a 12-year term with maturity on December 21, 2033.

Project Description

The Project included implementation of various energy saving measures including installation of equipment and related work (the "Equipment"). Energy conservation measures were installed in the following District buildings: Long Beach High School, Long Beach Middle School, Lido Elementary School, East Elementary School, West Elementary School, Lindell Elementary School, Nike Learning Center, Transportation Building and the Maple Facilities Building. The energy conservation measures originally financed are set forth below.

| Equipment Measures by Category | Project Cost |
|---------------------------------------|----------------------------|
| LED Lighting and Lighting Controls | \$ 1,667,224 |
| Boiler Burner Controls | 159,728 |
| Kitchen Hood Controllers | 70,663 |
| Walk-in Freezer / Cooler Controllers | 9,170 |
| Cogeneration Unit | 509,849 |
| Building Management System Upgrades | 2,299,998 |
| Building Envelope Improvements | 146,417 |
| Pipe Insulation | 157,262 |
| Steam Trap Replacement | 321,514 |
| Desktop Computer Power Management | 33,834 |
| Photovoltaic Systems | 5,531,859 |
| Roof Replacement | 3,487,472 |
| Total: | <u>\$14,395,000</u> |

Lease

Any proposed Lease shall define the purpose and objective of the financing and the rights and obligations of each party to the financing. Further, the Lease will specify the applicable interest rate, as well as standard contractual terms and conditions. The form of the lease purchase agreement, and any related documents must be submitted with the proposal. Proposers must satisfy themselves that credit approval will be granted prior to submitting a proposal. All finance documents are subject to negotiation and modification by the District's counsel. All agreements and contractual conditions are required to conform with the laws of the State of New York, including but not limited to New York General Municipal Law, Local Finance Law, Education Law, Energy Law and the regulations of the New York State Education Department, the Commissioner of Education and the Office of the New York State Comptroller. The District's attorneys will review and approve all documents before consideration and/or approval by the Board of Education.

Lessor will be required to provide a form of standard lease purchase agreement with proposal.

Lease Assignment

Assignment of the Lease and related documents by the successful proposer shall be subject to the prior, written consent of the District. The Lease must state that any assignment or transfer of the Lessor's interest shall not be effective until the District has received prior, written notice, signed by the Lessor, of the name, contact person, address, telephone number and tax identification number of the proposed assignee and the District has given its consent in writing. No assignment will be valid unless the Lessor has received the District's prior, written consent.

Amount

The amount to be financed under the Lease is \$12,714,276. Lessor shall be responsible for all fees of Lessor including legal, issuance, origination, commitment and closing costs. The District shall not incur or absorb any fees of Lessor related to Lessor's proposal, negotiations, closing or other activities related to this RFP or the proposed transaction. In the event that a transaction does not close because of the successful proposer's failure to meet the terms of this RFP, the successful proposer shall be responsible for any and all costs incurred by the District in connection with the failed transaction and its negotiation.

Specifications

Interest Rate The Lease Proposal must provide interest rate terms for a lease-purchase option to mature on December 21, 2033 and shall state the interest rates under any options at which the proposing firm will provide the District with financing under the Lease. The Proposal must also cite the index and margin used in establishing the interest rates cited.

Prepayment: The Proposal must state that District will have the right, at its option, to prepay the principal portion outstanding on the Lease, in whole or in part, at any time following 30 days written notice to the Lessor. The Proposal must disclose additional fees and terms, if any, that are required upon the execution of this prepayment right, in addition to interest payable. The Proposal must also disclose how such amounts are to be calculated in the event that the District exercises its right of partial or whole prepayment.

Lease Payments The District will make periodic payments to the Lessor under the Lease. The Lease shall separately state the principal and interest component of the periodic payments to be made thereunder. The total of these payments, which include both principal and interest components made by the District each year throughout the term of the Lease, shall result in substantially level or declining annual debt service (without taking into account projected State aid or annual energy savings). Debt service payments shall be detailed in an amortization schedule prepared by the proposer and provided to the District with its Proposal. For illustrative purposes, please assume a closing date of December 21, 2022 when developing an amortization schedule. Thereafter, debt service payments will be made semiannually in arrears on each June 21st and December 21st with the first debt service payment to be due on June 21, 2022. Lessor shall provide a statement and thirty days notification prior to each payment due date.

The Proposal must state that the interest rate and other terms cited in the proposal will be good through December 27, 2022. The Lease shall not become effective until the delivery of funds.

Term The Lease-Purchase Agreement is scheduled to close on December 21, 2021 and mature on December 21, 2033.

Escrow The project is complete and there will be no escrow requirement associated with the Lease. Lease proceeds will be used at closing to prepay the Prior Lease Purchase Agreement on December 21, 2021.

UCC Filing The District will not provide a legal description for each District property in connection with this financing. In the event the winning bidder requires this information for the purposes of making a fixture filing pursuant to the applicable provisions of the Uniform Commercial Code, the winning bidder may obtain such information at its own effort and expense.

Warranties All manufacturers' warranties, expressed or implied with respect to the Equipment acquired shall be assigned by the Lessor to the District.

Annual Appropriation The annual lease payments are subject to appropriation each year by the Board of Education of the District.

Non-Funding/Executory Clause Pursuant to the General Municipal Law §109-b, and the Energy Law §9-103, the Lease-Purchase Agreement shall contain an executory clause which shall state that should payments not be appropriated by the District in any fiscal year; the District will not be obligated to pay the amounts due beyond the end of the last funded fiscal year and no liability on account thereof shall be incurred by the District beyond the amount of such monies. The financing contract is not a general obligation of the District. Neither the faith and credit nor the taxing powers of the District are pledged to the payment of any amount due or to become due under the financing contract. In the case of a failure to appropriate, the sole security under the Lease shall be the Equipment. In the event that no funds or insufficient funds are appropriated by the District to pay the Lease, the Equipment may be acquired and sold by or on behalf of the Lessor, provided that any excess proceeds from such a sale, after deduction for and payment of fees, expenses and any taxes levied on the sale, shall be paid to the District. Prior to the sale or seizure of such equipment, the District shall be provided adequate written notice, no less than ninety (90) days, to cure any default. Should such a sale or seizure take place there shall be no disruption to the District's operation to the extent possible.

Financing Documents Upon submission of the proposal and following notification of the award, the prospective Lessor must provide the District with a draft of its proposed financing documents, which will incorporate proposed terms and amend sample documents provided with submission. Proposed financing documents and notification of credit approval for the transaction will be due no later than **November 16, 2021**. All financing documents are subject to modification by District counsel. Closing is subject to successful negotiation and approval of all documents by counsel to the District. The District reserves the right to rescind any award due to failure of successful negotiation of the parties to agree to the terms and conditions thereof and to recover its costs in connection therewith. Closing is subject to final approval by the District Board of Education by resolution. The prospective Lessor is advised that the President of the Board of Education is the sole authorized representative of the District for the purpose of signing financing documents.

Lease Termination Upon termination of a Lease through exercise of Lessee's option to prepay or through payment by Lessee of all Rental Payments and other amounts due with respect to such particular Equipment, Lessor's security interest in such Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the termination of Lessor's security interest in such Equipment.

Tax Status The Lease shall qualify as a tax-exempt lease financing, that is, the interest component of the Lease will be exempt from Federal, New York State and, where applicable, New York City taxation. The Lease-Purchase Agreement will **not** be designated as "bank qualified" pursuant to Section 265(b)(3) of the Internal Revenue Code. The District will not defend or hold the Lessor harmless from any adverse changes in the tax status of the transaction, after tax yield or cash flows resulting from changes in the Federal or State tax codes or regulations.

Credit Rating Moody's Investors Service, Inc. currently maintains a "Aa2" rating on the District's outstanding general obligation debt. The District will not seek a rating for the Lease.

Binding Authority Each Proposal must be signed by an individual who is legally authorized to contractually bind the proposing firm.

Purchase Price and Certificate The Lessor must submit to the District a certificate (the "Issue Price Certificate"), satisfactory to Bond Counsel, prior to the delivery of the Agreement, assuming the Lessor does not reoffer the Agreement to the general public, which states that the Lessor has purchased the Agreement for its own account and not with a view to distribution or resale and not in the capacity of a bond house, broker or other intermediary, and the price or prices at which such purchase was made, in such form and including such additional information as the District and Bond Counsel shall reasonably require.

Financial Information Links to select credit and project information may be found as follows:

- Link to Energy Performance Contract and Amendment between the District and Honeywell International Inc. dated November 2017: <http://www.capmark.org/RFPs.html>
- Link to Official Statement issued in conjunction with the District's \$16,000,000 School District Refunding (Serial) Bonds, 2020 (Federally Taxable) : <https://emma.msrb.org/P21499922.pdf>
- Link to 2021-2022 Budget Information: http://www.lbeach.org/school_board/budget_finance_operations
- Link to FYE June 30, 2020 Audited Financial Statements: <https://emma.msrb.org/P11530523.pdf>
- Link to FYE June 30, 2019 Audited Financial Statements: <https://emma.msrb.org/ER1403231.pdf>
- Link to FYE June 30, 2018 Audited Financial Statements: <https://emma.msrb.org/ER1320290.pdf>

Evaluation Process

During the evaluation process, the District reserves the right, where it may serve the District's best interest, to request additional information or clarifications from proposers, or to allow corrections of error or omissions.

Amendments to RFP

Any verbal information obtained from or statements made by the representative of the District or its designee at the time of examination of the documents or site shall not be construed as, in any way, amending RFP documents or binding upon the District. Only such corrections or addenda that are issued in writing to all proposers shall become a part of the RFP. Any addendum issued during RFP process shall be included in the RFP response and become a part of any subsequent contract agreement.

Legal Requirements

The Lease is required to conform to the laws of the State of New York, including, but not limited to, General Municipal Law, Local Finance Law, Education Law, Energy Law and regulations promulgated by the Commissioner of Education and the Office of the State Comptroller.

Submission Requirements

In addition to submitting a completed **Proposal Response Form** as attached hereto, each proposing firm must include:

1. Examples of its prior experience with three (3) similar size lease financings for school districts in New York State;
2. Three references from jurisdictions that your firm has provided lease financing to in the past year in New York State; and
3. Any other information that would favor the use of your financial institution by the District.

Proposals are due by **11:00 a.m. on Wednesday, November 3, 2021** by e-mail to:

Mr. Michael I. DeVito, Esq.
Assistant Superintendent for Finance and
Operations
City School District of the City of Long Beach
Tel: 516-897-2090
mdevito@lbeach.org

Ms. Janet Morley
Vice President
Capital Markets Advisors, LLC
Tel: 516-570-0340
jmorley@capmark.org

Questions regarding this RFP may be directed to Janet Morley.

Basis of Award

The District reserves the right, in its sole discretion, to reject any and all proposals, or any part thereof, received in response to this Request for Proposals, to re-solicit for new proposals, to waive formalities, to request additional information from any proposer, and to award and negotiate the terms of the contract with any proposer. The District intends to select the firm whose proposal is most advantageous to the District and meets the District's needs for this lease-purchase agreement, and not necessarily the firm with the lowest cost proposal. In determining which proposal is most advantageous and in the District's best interests, the District will evaluate, among other things, the overall financing cost (inclusive of any interest and fees) to the District, optional redemption provisions,

responsiveness of each proposal to the terms of this RFP and applicable law, the terms and conditions of the proposed agreement, experience and reputation of the proposer in the State of New York. The District will not have any liability to any proposer for any costs or expenses incurred in connection with your response to the request for proposals.

All proposals shall be signed by an individual legally authorized to bind the proposing firm and the signer's name shall also be typed or printed to or under the signature together with his/her title or designation.

Following receipt of the completed proposals, tentative notification will be made to the prospective Lessor whose response best meets the District's needs and otherwise appears to meet the basis for award. It is expected that a formal award will be made by the Board of Education at its December 14th meeting, subject to and contingent upon final review of the Lease Purchase Agreement and all financing documents by the District's legal counsels. Note that the prospective Lessor must provide the District with a draft of its proposed financing documents, together with notification of credit approval in order for District officials to accept and grant final approval.

Tax Opinion

The successful proposer will be furnished without cost with the opinion as to tax exemption of the law firm of Orrick, Herrington & Sutcliffe LLP ("Bond Counsel"). The opinion of Bond Counsel shall contain statements to the effect that, in the opinion of said law firm, under existing statutes and court decision and assuming continuing compliance with certain tax certifications described in the Tax Certificate of the District, (i) the portion of the rental payment designated as and constituting interest paid by District and received by successful proposer during the term of the lease is excluded from successful proposer's gross income for federal income tax purposes under Section 103 of the Code; and (ii) such interest component is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code. The Tax Certificate of the District, which will be delivered concurrently with the delivery of the lease will contain provisions and procedures relating to compliance with applicable requirements of the Code.

Opinion of School Attorney

At closing, the District shall furnish a validity opinion of Volz & Vigliotta, PLLC ("School Attorney"), dated the closing date, including a statement to the effect that there is no controversy or litigation of any nature pending or threatened to restrain or enjoin the execution or delivery of the installment financing agreement.

Summary of Estimated Dates

| | |
|---------------------------------------|----------------------------------|
| RFP sent to providers: | October 25, 2021 |
| Proposal and Response Form Due: | November 3, 2021 (by 11:00 a.m.) |
| Selected Lessor Tentatively Approved: | November 3, 2021 * |
| Credit Approval Completed: | November 9, 2021 |
| Draft Documents Delivered: | November 16, 2021 |
| District Board Meeting Date: | December 14, 2021 Lease approved |
| Closing of Lease: | December 21, 2021 |

*Subject to formal award by Trustees of the Board of Education on December 14, 2021.
The District reserves the right to modify these dates.

Thank you for your interest in Long Beach City Schools.

END OF RFP

PROPOSAL RESPONSE FORM

November 3, 2021

Ladies and Gentlemen:

In response to City School District of the City of Long Beach’s (the “District”) Request for Proposals (“RFP”), the undersigned, an authorized representative of _____ commits said firm to enter into a Lease-Purchase Agreement to provide the required refinancing of the project cost including equipment provided to the District by Honeywell International Inc. under an Energy Performance Contract. We understand that this Lease-Purchase Agreement is subject to the approval of the District’s Board of Education. The submission of this Response Form indicates that we have read the District’s RFP and are fully informed as to the extent and character of this request and we can satisfactorily comply with all specifications of the RFP.

We understand the District will repay our loan in periodic installments, including interest and all financing costs. We understand the lease-purchase shall be funded following the approval of the District’s Board of Education.

Our proposal, the terms of which are good through and including December 27, 2021, is as follows:

The principal amount of the lease will be: \$12,714,276

Lease Maturity will be: December 21, 2033

The interest rate on this loan will be: _____%

The index used to establish this interest rate is: _____

The margin added to the index to establish this interest rate is: _____

Prepayment Terms: _____

Lease payments will be payable on: _____

Other required fees, if any (please explain): \$ _____

Proposing Firm: _____

Contact: _____

Address: _____

Tel.: _____

E-mail: _____

Attachments: Sample Lease Documents