

**SOUTHAMPTON UNION FREE SCHOOL DISTRICT
SUFFOLK COUNTY, NEW YORK**

**REQUEST FOR PROPOSALS
TO FINANCE AN EQUIPMENT LEASE PURCHASE AGREEMENT**

Overview

The Southampton Union Free School District, Suffolk County, New York (the "District"), is seeking proposals (the "Proposal") on November 10, 2021 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 finance equipment and related work for the implementation of energy conservation measures pursuant to an energy performance contract between the District and Energy Systems Group, LLC (the "Performance Contract"). The Performance Contract with Energy Systems Group, LLC was executed in February 2021. NYSED approval was received in July 2021.

The District seeks competitive proposals for a \$3,183,071 lease-purchase agreement on the basis of a 15-year term option with maturity on December 16, 2036 and on the basis of a 18-year term option with maturity on December 16, 2039.

Project Description

The Project contemplates implementation of various energy saving measures including installation of equipment and related work (the "Equipment"). Energy conservation measures are to be installed in the following District buildings: Southampton High School, Southampton Intermediate School, Southampton Elementary School, and the District Bus Garage.

Equipment Measures by Category	Project Cost
LED Lighting and Lighting Controls	\$ 959,730
Heating System Upgrades	139,045
HVAC System Upgrade	1,212,381
HVAC Control Upgrades	509,831
Building Envelope Improvements	129,355
Plug Load Controls	47,943
Kitchen System Upgrades	44,865
Steam Trap Replacements	139,921
	\$ 3,183,071

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.

Proposers will be required to provide a form of standard lease purchase agreement and escrow 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 \$3,183,071. 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 Each Lease Proposal should provide interest rate terms for a lease-purchase for an option to mature on December 16, 2036 and an option with maturity on December 16, 2039. Proposals 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. The proposal shall include an option to prepay without penalty.

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 lease payments (without taking into account projected State aid or annual energy savings). Lease 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 16, 2021 when developing an amortization schedule. Thereafter payments of principal and interest will be made semiannually in arrears on each June 16th and December 16th with the first combined principal and interest lease payment to be due on December 16, 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 November 21, 2021. The Lease shall not become effective until the delivery of funds.

Term The Lease-Purchase Agreement is scheduled to close on December 16, 2021. 15-year term option to mature on December 16, 2036. 18-year term option to mature on December 16, 2039.

Escrow Upon closing, it is anticipated that lease proceeds will be deposited in an escrow account to be utilized over the course of project construction (the "Project Fund"). The escrow provider must be a bank or trust company located and authorized to do business in New York State (the "Escrow Agent"). Investment and collateralization of the moneys in such fund will be solely at the direction of the District and must be in compliance with the New York State General Municipal Law Sections 10 and 11 as well as District investment policy. ***A copy of the District's Investment Policy is attached to this RFP.*** The Escrow Agent shall be an agent of the District. The Project Fund shall be free of any security interest of the Escrow Agent.

1. At the option of the District, the moneys in the Project Fund may be held uninvested in the Project Fund. If invested, the Escrow Agent shall invest amounts on deposit in the Project Fund solely at the written direction of an Authorized Officer of the District. All investments made shall be subject to the following conditions:
 - (a) Such obligations shall be payable or redeemable at the option of the owner within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable in any event, at the option of the owner, within two years of the date of purchase. Any obligation that provides for the adjustment of its interest rate on set dates shall be deemed to be payable or redeemable for purposes of this paragraph on the date on which the principal amount can be recovered through demand by the holder thereof.
 - (b) Such obligations, shall be registered or inscribed in the name of the District and shall be purchased through, delivered to and held in the custody of the Escrow Agent. Such obligations shall be purchased, sold or presented for redemption or payment by such Escrow Agent in obligations only in accordance with prior written authorization from an Authorized Officer. All such transactions shall be confirmed in writing to the District by the Escrow Agent.
2. All investments described above shall be made and ownership recorded in accordance with all applicable requirements of the District's investment policy, and Section 10 and Section 11 of the General Municipal Law, including the required collateralization of escrow funds.
3. The Escrow Agent will expressly acknowledge that the Lessee is not authorized to invest in mutual funds registered with the Securities Act of 1933, as amended and operated in accordance with Rule 2a-7 of the Investment Company Act of 1940, as amended, including no-load money market mutual funds limited to investments in obligations of or guaranteed by the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America, or any similar mutual fund or other money market or liquid deposit investment vehicles.
4. Monies and investments in the Escrow Fund shall not be subject to levy, attachment or lien by or for the benefit of the Escrow Agent, or any creditor thereof.

Excess Proceeds In the event that there are excess proceeds available in the Project Fund at the end of the construction period, proceeds shall be transferred by the Escrow Agent to the Lessor and applied to the next succeeding lease payment and each lease payment thereafter until fully utilized. Such use of funds will not constitute lease prepayment and will not be subject to administrative fees or charges.

UCC Filing The District will not provide a legal description for each District property in connection with this financing. In the event the winning proposer requires this information for the purposes of making a fixture filing pursuant to the applicable provisions of the Uniform Commercial Code, the winning proposer shall 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 District's obligation to make lease payments is 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. 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. Any such sale or seizure must be conducted in conformity with all applicable law, including the New York Uniform Commercial Code.

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 append sample documents provided with submission. Proposed financing documents and notification of credit approval for the transaction will be due no later than **November 24, 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.

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 Services, Inc. currently maintains a "Aaa" 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 Energy Systems Group, LLC executed February 2021: <http://www.capmark.org/RFPs.html>
- Link to Official Statement related to the District's \$17,000,000 Tax Anticipation Notes for 2021-2022 Taxes: <https://emma.msrb.org/P21573138.pdf>
- Link to FYE 6/30/2020 Audit: <https://emma.msrb.org/P21511528.pdf>
- Link to FYE 6/30/2019 Audit: <https://emma.msrb.org/ER1401755.pdf>
- Link to FYE 6/30/2018 Audit: <https://emma.msrb.org/ER1318488.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 10, 2021** by e-mail to:

Jean Mingot

Assistant Superintendent for Business
Southampton Union Free School District
Tel: (631) 591-4527
jmingot@southamptonschools.org

Janet Morley

Vice President
Capital Markets Advisors
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 7, 2021 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 Hawkins Delafield & Wood 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 gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and (ii) such interest is not treated as a preference item in calculating the alternative minimum tax 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:	November 1, 2021
Proposal and Response Form Due:	November 10, 2021 (by 11:00 a.m.)
Selected Lessor Tentatively Approved:	November 10, 2021 *
Credit Approval Completed:	November 17, 2021
Draft Documents Delivered:	November 24, 2021
District Board Meeting Date:	December 7, 2021 Lease approved
Closing of Lease:	December 16, 2021

*Subject to formal award by members of the Board of Education on December 7, 2021.

The District reserves the right to modify these dates.

Thank you for your interest in the Southampton Schools.

END OF RFP

PROPOSAL RESPONSE FORM

November 10, 2021

Ladies and Gentlemen:

In response to Southampton Union Free School District’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 Energy Systems Group, LLC 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 21, 2021, is as follows:

The principal amount of the lease will be: \$3,183,071

Lease Maturity will be: 15 Year Term Option: December 16, 2036
18 Year Term Option: December 16, 2039

	15 Year Term	18 Year Term
The interest rate on this lease 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: _____

Proposer Attachments: Sample Lease and Escrow Documents



Book	Southampton UFSD Board Policies
Section	6000 Fiscal Managment
Title	Investments Regulation
Code	6240-R
Status	Active
Adopted	June 1, 2004
Last Revised	April 29, 2008

Authorized Investments

- A. The Assistant Superintendent for Business and Treasurer are authorized to invest all available district funds, including proceeds of obligations and Reserve Funds, in the following types of investment instruments:

Savings Accounts or Money Market Accounts of designated banks;

Certificates of Deposit issued by a bank or trust company located in and authorized to do business in New York State;

Demand Deposit Accounts in a bank or trust company located in and authorized to do business in New York State;

Obligations of New York State; Obligations of the United States Government (U.S. Treasury Bills and Notes);

Repurchase Agreements involving the purchase and sale of direct obligations of the United States;

- B. All funds except Reserve Funds may be invested in Revenue Anticipation Notes or Tax Anticipation Notes of other school districts and municipalities, with the approval of the State Comptroller.
- C. Only Reserve Funds may be invested in obligations of the school district.

Conditions

All investments made pursuant to this investment policy will comply with the following conditions:

- A. Collateral
1. Savings accounts, money market accounts, time deposit accounts and certificates of deposit will be fully secured by insurance of the Federal Deposit Insurance Corporation or by obligations of New York State, the United States, New York State school districts and federal agencies whose principal and interest are guaranteed by the United States. The market value of collateral will at all times exceed the principal amount of the certificate of deposit. Collateral will be monitored no less frequently than on a weekly basis.
 2. Collateral will not be required with respect to the direct purchase of obligations of New York State, the United States and federal agencies, the principal and interest of which are guaranteed by the United States Government.
- B. Delivery of Securities
1. Payment of funds may only be made upon receipt of collateral or other acceptable form of security, or upon the delivery of government obligations whether such obligations are purchased outright, or pursuant to a repurchase agreement. Written confirmation of delivery shall be obtained from the custodial bank.
 2. Every Repurchase Agreement will make payment to the seller contingent upon the seller's delivery of obligations of the United States to the Custodial Bank designated by the school district, which shall not

be the repurchase, or in the case of a book-entry transaction, when the obligations of the United States are credited to the Custodian's Federal Reserve account. The seller will not be entitled to substitute securities. Repurchase agreements shall be for periods of 30 days or less. The Custodial Bank shall confirm all transactions in writing to insure that the school district's ownership of the securities is properly reflected in the records of the Custodial Bank.

C. Written Contracts

1. Written contracts are required for certificates of deposit and custodial undertakings and Repurchase Agreements. With respect to the purchase of direct obligations of U.S., New York State, or other governmental entities in which monies may be invested, the interests of the school district will be adequately protected by conditioning payment on the physical delivery of purchased securities to the school district or custodian, or in the case of book-entry transactions, on the crediting of purchased securities to the Custodian's Federal Reserve System account. All purchases will be confirmed promptly in writing to the school district.
2. The following written contracts are required:
 - a. Written agreements will be required for the purchase of all certificates of deposit.
 - b. A written contract will be required with the Custodial Bank(s).
 - c. Written contracts shall be required for all Repurchase Agreements. Only credit-worthy banks and primary reporting dealers shall be qualified to enter into a Repurchase Agreement with the school district.

The written contract will stipulate that only obligations of the United States may be purchased and that the school district shall make payment upon delivery of the securities or the appropriate book-entry of the purchased securities. No specific repurchase agreement will be entered into unless a master repurchase agreement has been executed between the school district and the trading partners. While the term of the master repurchase agreement may be for a reasonable length of time, a specific repurchase agreement will not exceed thirty (30) days.

D. Designation of Custodial Bank

1. The Board will designate a commercial bank or trust company authorized to do business in the State of New York to act as Custodial Bank of the school district's investments. However, securities may not be purchased through a Repurchase Agreement with the Custodial Bank.
2. When purchasing eligible securities, the seller will be required to transfer the securities to the district's Custodial Bank.

E. Selection of Financial Institutions

1. The Assistant Superintendent for Business and Treasurer will periodically monitor, to the extent practical but not less than annually, the financial strength, credit-worthiness, experience, size and any other criteria of importance to the district, including maximizing interest, of all institutions and trading partners through which the district's investments are made.
2. Investments in time deposits and certificates of deposit are to be made only with commercial banks or trust companies, as permitted by law.

F. Operations, Audit, and Reporting

1. The Assistant Superintendent for Business and Treasurer or designee will authorize the purchase and sale of all securities and execute contracts for investments and deposits on behalf of the school district. Oral directions concerning the purchase or sale of securities will be confirmed in writing. The school district will pay for purchased securities upon the simultaneous delivery or book-entry thereof.
2. The school district will encourage the purchase and sale of securities through a competitive process involving telephone solicitation for at least three quotations.
3. The independent auditors will audit the investment proceeds of the school district for compliance with the provisions of this Investment Regulation.
4. Quarterly investment reports will be furnished to the Board of Education.