

NOTICE INVITING RFP: Notice is hereby given that the Santa Barbara Unified School District will receive proposals from prequalified firms for Preconstruction and Lease-Leaseback Services for the **San Marcos High School Kiln Room** ("Project").

Contractor's License Required: **CSLB (C-10)**, Electrical Contractor. **Submittal Deadline:**

Proposals must be received by April 18, 2025, by 11:00 a.m. at the office of Santa Barbara Unified School District, 724 Santa Barbara Street, Santa Barbara, CA 93101, Attention:

Marina Verdian **Anticipated Start of Construction:** April 2025. **Prequalification:** All firms

submitting a proposal to this RFP must be prequalified with the District pursuant to Public Contract Code section 20111.6 (b)-(m) without exception prior to submitting a proposal.

Prequalification documents must be submitted by April 7, 2025. Pursuant to Public Contract

Code section 20111.6(j) a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors will be made available by the District no later than five

business days before the proposal opening at the Santa Barbara Unified School District, Planning Dept., 724 Santa Barbara St., Santa Barbara, CA 93101. Prequalification

packages are available through Cybercopy at <http://www.cybercopyplanroom.com>. Pre-

qualification questions must be directed to L.M. Sweaney at Lindasweaney@gmail.com or

leave a voice message or text at (805) 705-0034. Prequalification packages must be

submitted to L.M. Sweaney & Associates, P. O. Box 3187 Santa Barbara, CA 93130 no

later than the date specified herein by **US MAIL ONLY**. **Prevailing Wages:** Pursuant to

the provisions of Section 1773 and 1773.2 of the Labor Code of the State of California, the District has obtained from the Director of Industrial Relations ("DIR"), the general prevailing

rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the work is to be performed for each craft, classification or type of workman

needed to execute the contract which is available for review at

http://www.dir.ca.gov/dlsr/statistics_research.html. During the Work, the DIR will monitor compliance with prevailing wage rate requirements and enforce the Contractor's prevailing wage rate obligations, with a copy of the same being on file with the clerk of the District's governing board. It shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all workmen employed by them in the execution of the contract, and to comply with all prevailing wage requirements set forth in the Labor Code. **DIR**

Registration/Monitoring: Pursuant to the provisions of Section 1771.1 of the Labor Code of the State of California, a contractor or subcontractor shall not be qualified to bid or engage in the performance of any contract for this project unless; (1) currently registered and qualified to perform public work pursuant to Section 1725.5; or (2) expressly authorized to submit a bid by Section 1771.1 and provided the contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded. This project is subject to compliance monitoring and enforcement by the DIR. The successful Bidder will be required to post all job-site notices required by DIR regulations and other applicable law.

Project and Submittal Information: The full scope of work for the Project, prequalification information, and the required submittal information is further set forth in the Request for

Proposals (the "RFP") available on the District's website at www.sbunified.org or via email request to Marina Verdian at mverdian@sbunified.org.

As further described in the RFP, the successful proposal will be that which offers the best value to the District, as determined pursuant to the criteria and evaluation process set forth in the RFP. Following its selection of the successful Responder, the District will notify all Responders of its intent to award a contract.

If the District is unable to successfully negotiate a LLB Contract with the successful Responder which is satisfactory to the District, or if the selected proposer refuses or fails to execute the tendered contract, the District may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the District. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score, and so on.

SANTA BARBARA UNIFIED SCHOOL DISTRICT

REQUEST FOR QUALIFICATIONS/ PROPOSALS LEASE-LEASEBACK CONTRACTOR FOR

SAN MARCOS HIGH SCHOOL KILN ROOM PROJECT SBUSD # 08-24/25

SANTA BARBARA UNIFIED SCHOOL DISTRICT
724 Santa Barbara Street, Santa Barbara, CA 93101

Date Issued: March 20, 2025

Deadline for Submittal of Qualifications/Proposals: April 18, 2025, 11:00 a.m.

REQUEST FOR PROPOSALS FOR LEASE LEASEBACK CONTRACTOR

The Santa Barbara Unified School District (“District”) is seeking statements of qualifications and proposals from qualified persons or entities (“Responders”) to perform preconstruction services (including constructability review and value engineering) and construction services for the project specified below, utilizing the lease-leaseback delivery method (“LLB”), as set forth in Education Code section §17406, and related statutes.

SECTION 1: PROJECT-SPECIFIC INFORMATION AND REQUIREMENTS

A. PROJECT INFORMATION

The District is a public school district which serves approximately 12000 students at 22 elementary and junior and senior high schools. A list of sites and District information is available on the District Web Site (www.sbunified.org/schools/).

The details of this project are as follows (“Project”):

PROJECT DETAILS:

- Location: 4750 Hollister Avenue, Santa Barbara, CA 93110
- Description of the Work: Electrical Upgrade for Classroom with Kilns and Pottery Wheels. The purpose of this project is to upgrade the electrical infrastructure of an existing classroom to support the installation and operation of two large kilns and six (6) pottery wheels. The work includes but is not limited to electrical panel upgrades, dedicated circuits, receptacle installations, and compliance with applicable electrical codes and safety standards.
- Scope of Work:
 1. **Electrical Panel Upgrade:**
 - Evaluate the existing electrical panel capacity and determine the need for upgrades.
 - Replace or upgrade the existing electrical panel to accommodate the additional load from the kilns and pottery wheels.
 - Provide a minimum of 20% additional capacity for future growth.
 2. **Kiln Power Supply:**
 - Install two (2) dedicated 480V, 60A circuits for the kilns.
 - Ensure proper grounding and bonding for kiln operation.
 - Install disconnect switches within the required distance of each kiln per code.
 3. **Pottery Wheel Power Supply:**
 - Install Six (6) dedicated 120V, 20A circuits for pottery wheels.
 - Provide GFCI protection for all pottery wheel outlets.
 - Locate receptacles in accessible and code-compliant locations.

- Architect of Record: **John Maloney, JMPE Electrical Engineering** at maloney@jmpe.net
- Estimated Project Cost: \$150,000.00
- Funding Source: Arts Blocks Grant
- Scheduling: April 2025 – September 2025
- License Requirements: CSLB (C-10) Electrical Contractor

B. KEY DATES

Issuance of RFP	<u>March 20, 2025</u>
Deadline to Submit Prequalification Package (at least 10 days before submittal deadline)	<u>April 7, 2025</u>
Deadline for Questions	<u>April 4, 2025</u>
Issuance of Addendum/Answers to Questions Cybercopy Graphics and Print Solutions Website	<u>April 7, 2025</u>
RFP Submittal Deadline	<u>April 18, 2025, 11:00 a.m.</u>
Interviews (Optional)	<u>April 21, 2025</u>
Selection of Best Value Proposal	<u>April 24, 2025</u>
Contract Award	<u>May 13, 2025</u>

C. PROJECT – SPECIFIC PREQUALIFICATION REQUIREMENTS

SECTION II: GENERAL INFORMATION AND SUBMITTAL REQUIREMENTS

A. INTRODUCTION

The successful Responder will enter into a set of LLB contracts with the District (including a Site Lease and Facilities Lease) (cumulatively, the “LLB Contract”) covering both preconstruction and construction services for the project. The successful Responder will work under the direction of District staff, and in cooperation with the project architect and other District consultants.

The successful Responder will be that which provides the best value to the District, based on evaluation of the criteria set forth herein, and taking into consideration the Responder’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required.

This RFP describes the Project, the required services, the selection process, and the minimum information that must be included in the proposal.

B. INTERVIEWS

Responders of the District's choosing may be invited to participate in an interview with a Selection Committee appointed by the District. Interviews will generally consist of the Responder's presentation (not to exceed twenty (20) minutes) and questions posed by the Selection Committee. Total time of each interview will not exceed one (1) hour. Any Responder invited to participate in the interview process shall have present at the interview its anticipated key personnel.

C. SCOPE OF SERVICES

The selected Responder will be required to perform preconstruction services including:

- Participate in design and project-team meetings;
- Review and validate cost-estimates developed by the District's architect;
- Review the design documents for constructability, scheduling, clarity, consistency, and coordination;
- Perform a value engineering analysis as directed by the District prior to the final approval of plans by the Division of the State Architect;
- Create and update a detailed master critical path method Project schedule which includes all milestone dates;
- Prepare cost-estimates of DSA submittal documents;
- Provide assistance in construction planning; and
- Assist in development of construction budget and track budget during course of design.

The selected Responder will be required to perform all work necessary to complete the Project (as required by the construction documents) for a guaranteed maximum price ("GMP"). Construction services shall further include, but not be limited to, coordination of inspections and testing, and completion of tasks required for DSA close out.

All District projects must comply with Title 24 of the California Code of Regulations and be approved by the Division of State Architect. State-funded projects may have additional procurement or construction requirements, including those imposed or overseen by the Office of Public School Construction.

A more specific scope of work shall be negotiated and finalized in the LLB Contract.

D. AGREEMENT STRUCTURE

The LLB Contract will provide for preconstruction services to be provided either on an hourly or fixed fee basis, based on a percentage of the construction cost. The total preconstruction services fee is to be a not-to-exceed, fixed fee. As part of the preconstruction services, the guaranteed maximum price for the completion of the Project will be established in accordance with a formula to be set forth in the LLB Contract or as otherwise negotiated, which shall be subject to approval by the District's Board of Education prior to commencement of construction. Approval of the guaranteed maximum price for the Project is within the sole discretion of the Board and District has the right to elect not to proceed with the construction phase of the Project. Performance of preconstruction services does not

guarantee that contractor will be authorized to proceed with the construction services phase of the Project.

The LLB Contract will include a site lease, wherein the District will lease the Project site to the contractor for \$1 and require the contractor to construct the improvements thereon. The construction shall be in accordance with a Construction Services Agreement, General and Supplemental Conditions, Plans and Specifications, and other construction documents. The LLB Contract will include a facilities lease, under which contractor will lease the facilities back to the District. The District will make lease payments for the facilities which will not exceed the guaranteed maximum price for the Project. The District will have the ability to occupy the site during the financing period. Title to the facility will vest with the District as lease payments are made.

**E. PREQUALIFICATION REQUIREMENT; SUBCONTRACTOR
PROCUREMENT.**

All Responders must be prequalified in accordance with Public Contract Code 20111.6(b)-(m) for at least five business days before the date of submittals or must submit a completed prequalification package by the deadline stated herein. Proposals not conforming to this requirement will not be accepted.

Pursuant to Public Contract Code section 20111.6(j) a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors will be made available by the District no later than five business days before the proposal opening at the Santa Barbara Unified School District, Planning Dept., 724 Santa Barbara St., Santa Barbara, CA 93101.

Prequalification packages are available through the Santa Barbara Unified School District, Planning Dept., 724 Santa Barbara St., Santa Barbara, CA 93101 (805) 963-4338 x6280 or with Cybercopy at <http://www.cybercopyplanroom.com>. Pre-qualification questions must be directed to L.M. Sweaney at Lindasweaney@gmail.com, leave a voice message or text at (805) 705-0034.

Prequalification packages must be submitted to L.M. Sweaney & Associates, P.O. Box 3187 Santa Barbara, CA 93130 (US MAIL ONLY) (Voice Message or text: 805-705-0034) no later than the date specified herein. **FAXED PRE-QUALIFICATION APPLICATIONS WILL NOT BE ACCEPTED.**

Any electrical, mechanical and plumbing subcontractors identified in the Proposal or who will perform work on the Project must also be prequalified. The District is not requiring that Responders identify and designate subcontractors who will be performing work on the Project, although Responders may do so. After award of the LLB Contract, and in accordance with Education Code section 17406(a)(4)(B), the selected Responder shall be required to award construction subcontracts with a value exceeding one-half of one percent of the price allocable to construction work in accordance with the following process:

1. Provide public notice of availability of work to be subcontracted in accordance with publication requirements applicable to the competitive bidding process of the District,

including a fixed date and time on which qualifications statements, bids, or proposals will be due.

2. Establish reasonable qualification criteria and standards.
3. Award the subcontract either on a best value basis or to the lowest responsible bidder.

The process above may include prequalification or short-listing.

Subcontractors awarded subcontracts as set forth above or otherwise identified in Responder's proposal shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.), as applicable.

F. SUBMITTAL INFORMATION

The deadline for submittals is identified in the Key Dates section on the Notice to Contractors. Submittals received after the deadline may be rejected. All submittals become the sole property of SBUSD and the content will be held confidential until the selection of a firm is made.

Submit sealed proposals clearly marked "SBUSD LLB RFP" to the following location:

Santa Barbara Unified School District
Attention: Marina Verdian
Director of Facilities & Modernization
724 Santa Barbara Street
Santa Barbara, CA 93101

Questions or clarification may be submitted via e-mail to Marina Verdian at mverdian@sbunified.org. Questions must be received no later than the deadline identified in the Key Dates section of the Notice to Contractors. Questions received after this deadline will not be answered. Timely questions received and answers will be posted on the district website facilities page on the date identified in the Key Dates section on the Notice to Contractors.

G. SUBMITTAL REQUIREMENTS

All submittals shall be in the form and formatted as specified in this RFP.

Responder shall furnish one original and 6 copies of the submittal, plus one digital copy on a thumb drive. Content shall be tabbed and numbered per the item set forth in this Submittal Requirements section. Include a Table of Contents. The submittal should be responsive to each of the items set forth below. (All references to "you", "your," or "firm" mean the individual or entity submitting a Proposal.)

1. **Tab 1: Transmittal Letter**– All submittals should include a transmittal/introductory letter, setting forth the date and contact information of the Responder, signed by the principal who has the authority to negotiate with the District.

2. **Tab 2: Firm Identification and Background**

- a. Provide:
 - i. the name of the legal entity and type of organization;
 - ii. the name, address and telephone number of the individual who has the authority to represent and make legally binding commitments on behalf of the firm;
 - iii. a brief history of the firm, including former names, number of years the firm has participated in construction;
 - iv. the contractor license number and a statement of whether license has been revoked or suspended within the last five years;
 - v. the Department of Industrial Relations Registration Number; and
 - vi. a statement on bonding capacity and insurance coverage
- b. Describe how work will be coordinated in Santa Barbara, with reference to the firm's office location.
- c. Identify trades for which the firm is able to self-perform.
- d. State whether the firm has had any accidents in the past five years that resulted in a construction fatality on any projects and provide any details for each incident. Please state whether the firm has had any recordable injuries in the past five years and provide the average total recordable injuries for the past five years.
- e. Provide specific information on any termination for convenience, litigation settled or judgments entered within the last five (5) years, as well as any civil judgments within the last five (5) years.
- f. Identify if the firm or any employee of the firm is a party to an existing dispute with an owner, or owner's consultants, related to any project for which the firm provided construction services. If so, please describe the nature of the dispute and its anticipated outcome.
- g. Identify if the firm has ever filed a petition for bankruptcy. If so, please provide the date the petition was filed and identify the jurisdiction in which it was filed.

3. **Tab 3: Experience Statement**

- a. Provide a list of all lease-leaseback projects completed in the last five years. For each project, identify the owner, total construction cost, the key personnel who worked on such projects, and whether you were able to return any unused contingency to the owner.
- b. Provide a list of all California K-12 or community college construction projects completed within the last five years. For each project, identify the owner, total construction cost and the key personnel who worked on such projects.

4. **Tab 4: Personnel** - Identify all key staff to be involved with the Project. Provide a current resume for each key staff member, along with a statement of experience/expertise with regard to public school construction.

5. **Tab 5: Pre-Construction Services**

- a. Provide a proposal for preconstruction services. Include value engineering, constructability review, estimating, and scheduling.

- b. Provide examples of constructability reviews that you performed that resulted in the identification of significant design conflicts or omissions, and of value engineering that resulted in significant savings of money or time (optional).
- c. Identify any commitments or limitations which would impact your ability to provide preconstruction services in a timely manner.
- d. Provide a not to exceed fee proposal for preconstruction services expressed both as a fully loaded hourly rate and as a percentage of total construction cost (e.g. excluding architectural fees, construction management fees). Identify any reimbursable items not included in the fee proposal, and any mark-up associated therewith.

6. **Tab 6: Project Information**

- a. Identify your firm's: (1) ability to undertake and accomplish the required scope of services while meeting deadlines; (2) record of meeting schedules and deadlines of other clients; (3) advantages over other firms in the same industry; and (4) strength and stability as a business.
- b. Provide a description of current and projected workload and identify any projects, or other limitations or commitments, that may have a potential to impede your firm's ability to provide the services contemplated by this RFP in a timely manner.
- c. Provide a list of subcontractors based in the Tri-County area that you would invite to bid on this project. Identify which (if any) of these subcontractors you have previously contracted with.
- d. Identify any involvement the firm has in the community or familiarity the firm has with the local environment. Provide a plan for implementing local outreach and maximizing participation of local trade contractors.
- e. Provide copies of any DIR Civil Wage and Penalty Assessment against your Firm in the past five years, explain the circumstances for the Civil Wage and Penalty Assessment, and the final resolution.
- f. Explain how the firm monitors and enforces payment of prevailing wages by firm's subcontractors.
- g. Identify your plan and methodology to comply with the requirements for the use of a "skilled and trained workforce" as defined in Education Code section 17407.5 and Public Contract Code section 2600 et seq., for each apprenticeship occupation that you anticipate will be used on the Project, including all subcontractors of any tier. Attach an example or form of the monthly report demonstrating compliance with this requirement. Identify which apprenticeship occupation(s) will be the most difficult to meet the percentage requirements for skilled journeypersons on the Project and state why.
- h. Responder may provide any other information relevant to the evaluation criteria that Responder believes would assist the District in evaluating its proposal in this section (Tab 6).

- 7. **Tab 7: GMP** – Identify your approach to establishing the guaranteed maximum price. Identify cost elements to be included, and how cost elements will be verified. Identify

the percentage markup to be applied to costs for self-performed work and subcontracted work.

H. SELECTION CRITERIA

The following sets forth the criteria factors by which each submittal will be evaluated.

	Item	Description	Maximum Points	Firm's Points
1.	Submittal	Compliance with submittal requirements	Pass/Fail	
2.	Approach to Work	Ability to meet District scheduling and budgetary objectives; ability to work with District staff and other consultants	15	
3.	Preconstruction services	Experience and expertise in performing preconstruction services; competitiveness/reasonableness of cost proposal	15	
4.	Personnel	Experience and expertise of key personnel	15	
5.	Experience	Experience with public projects, particularly with lease-leaseback projects comparable in size ; Demonstrates competence and professional qualifications	15	
6.	Community	Local presence; commitment to local outreach and/or community involvement; understanding of community	5	
7.	Subcontractors	Relationships with local subcontractors	15	
8.	Workload	Responder's current and anticipated work load.	10	
9.	GMP Fee	Competitiveness/reasonableness of cost proposal for GMP	15	
10.	Additional Information	Strength of additional information including, but not limited to safety record, ability to self-perform trades	10	
	Total Points:		115	

The District will select the successful proposal based on the factors set forth in the chart above. Each factor will be evaluated as part of the best value score. The total score for each responder will be ranked, with the highest point total representing the proposal which provides the highest best value to the District. There shall be no minimum qualification score.

The District's Selection Committee will review, evaluate and score each proposal in accordance with the above factors. The points assigned to each factor will be based on the Selection Committee's evaluation and impressions of the responses and information received from Responders. Final selection of a Responder and contract award shall be at the discretion of the District and shall be made by the Board of Education.

Following its selection of the successful Responder, the District will notify all Responders of its intent to award a contract.

If the District is unable to successfully negotiate an LLB Contract with the successful Responder which is satisfactory to the District, or if the selected proposer refuses or fails to execute the tendered contract, the District may award the contract to the proposer with the second highest best value score, if deemed in the best interest of the District. If that proposer then refuses or fails to execute the tendered contract, the Board may award the contract to the proposer with the third highest best value score, and so on.

I. OTHER INFORMATION

1. **Conflict of Interest:** The successful Responder shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting construction agreement, nor that any such person will be employed in the performance of any such construction agreement without immediately divulging of this fact to the District.
2. **Skilled Workforce:** Prior to entering into the LLB Contract, the contractor shall provide the District with an enforceable commitment that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the Project or contract that falls within an apprenticeable occupation in the building and construction trades. (Education Code 17407.5)
3. **Insurance:** The successful Responder will need to provide evidence of the following insurance coverages prior to contract award:
 - Workers Compensation
 - Employer's Liability
 - General Liability (including coverage for automobile liability and property casualty) -policy limits of not less than \$2,000,000.00 per occurrence and \$4,000,000.00 aggregate.
 - Builder's Risk based on completed value of Project.Further details of coverage requirements will be set forth in the LLB Contract.
4. **DIR Registration:** Contractors and their subcontractors (of any tier) shall not be qualified to submit or be listed on a proposal, or engage in the performance of any contract for public work, as defined in the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code. It is not a violation of this section for an unregistered contractor to submit a proposal that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to

perform public work pursuant to Section 1725.5 of the Labor Code at the time the contract is awarded. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The successful Responder will be required to post all job-site notices required by DIR regulations and other applicable law.

5. **Prevailing Wage:** The Contractor and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, Chapter 1 of the Labor Code. Pursuant to Labor Code section 1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies are available from the District to any interested party on request and are also available from the Director of the Department of Industrial Relations.
6. **District Rights:** The District reserves the right to: **(1)** Reject any or all submittals at its sole discretion; **(2)** Cancel the Request for Proposals; or **(3)** Modify any requirements contained within the RFP and request a revised submission from all Responders.

The District reserves the right to negotiate the scope and fee for all services. This RFP does not commit the District to negotiate or award a contract. District will not be responsible for any expenses incurred by any firm in preparing and submitting a proposal or response to this RFP.

7. **No Oral Clarifications/Modifications:** The District will not provide any oral clarifications or modifications to the RFP or the requirements hereof; no employee, officer, agent or representative of the District is authorized to provide oral clarifications or modifications to the RFP. No Respondent shall rely on any oral clarification or modification to the RFP.
8. **Protests:** A Responder may protest: (1) the process used to seek proposals for the work; (2) another Responder's proposal for the work; and/or (3) the intended award of the contract for the work, only by filing a written protest with the District in accordance with the procedures set forth in this Section (each a "Protest").

The District will not accept or consider any oral Protest (e.g., by telephone). A Responder may not submit a Protest unless: (1) they have duly submitted a proposal for the work; and (2) they make a supportable assertion that the intended contract award is not in compliance with the law, Board Policy or this RFP's specifications. There is no basis for protest if the District rejects all proposals.

In order for a Protest to be valid and considered by the District, the Protest: (i) Must be received by the District not later than 4:00 p.m. on the fifth business day following the issuance of the notice of intent to award a contract; (ii) Must clearly identify the Responder that is filing the Protest, together with the name, address and telephone number of the person representing the bidder for purposes of the Protest; (iii) Must clearly identify the specific process, or other matter that is the subject of the Protest;

(iv) Must clearly identify the specific provisions of all documents relevant to the Protest; (v) Must clearly identify and describe in detail the specific basis (or bases) for the Protest and all facts relevant thereto; (vi) Must clearly identify and describe in detail all arguments in support of the Protest, including, without limitation, citations to applicable statutory requirements; and (vii) Must be submitted with all documentation the Responder desires to submit that is relevant to and supports the basis or bases underlying the Protest.

If a Protest does not comply with each and all of the foregoing requirements (provided that a Responder will be deemed to have submitted all documentation that it desires in accordance with clause (vii) of the foregoing), the District will reject the Protest as invalid. There is no right to supplement the Protest after the initial submission. A Responder may, at any time, withdraw its Protest.

Upon receipt of a valid Protest, the District and/or its legal counsel will review the Protest and all relevant information and documents and will provide a written determination to the protesting Responder, which determination shall be final. Alternatively, in the District's sole election, the District may present the Protest, together with a written recommendation to the District Board, for final determination.

In response to a Protest that a Responder has not withdrawn, the District may decline to award the contract, may award the contract to a Responder other than as previously intended, may award the contract to a Responder as previously intended despite the Protest, or may take other action as may, in the sole discretion of the District, be deemed appropriate. Notwithstanding the foregoing, the District may proceed with the award of the contract to the intended Responder pending the final determination of a Protest.

COMPLIANCE WITH THE FOREGOING PROTEST REQUIREMENTS IS MANDATORY. EACH RESPONDER THAT DESIRES TO PROTEST MUST FILE ITS OWN PROTEST IN ACCORDANCE WITH THE FOREGOING REQUIREMENTS, AND NO RESPONDER MAY RELY ON A PROTEST BY ANOTHER RESPONDER AS A MEANS OF SATISFYING SUCH REQUIREMENTS. COMPLIANCE WITH THE FOREGOING REQUIREMENTS IS THE SOLE AND EXCLUSIVE MEANS OF PROTESTING A PROPOSAL UNDER THIS RFP, THE CONTRACTOR SELECTION PROCESS AND/OR THE INTENDED AWARD OF THE CONTRACT, AND FAILURE TO SO COMPLY SHALL BE DEEMED AND CONSTRUED AS A WAIVER OF ANY AND ALL RIGHTS THE RESPONDER MAY HAVE TO PURSUE A CLAIM, DEMAND OR ACTION ARISING FROM ANY SUCH MATTER.

END OF RFP