

Berkeley Unified School District

**REQUEST FOR PROPOSALS
FOR
PRECONSTRUCTION AND LEASE-LEASEBACK
SERVICES FOR LONGFELLOW MIDDLE
SCHOOL**

Submit to:

**Berkeley Unified School District
1720 Oregon Street, Berkeley, CA 94702**

Attn: John Calise

PURPOSE OF THE RFP:

By way of this Request for Proposals (“RFP”), the Berkeley Unified School District (“District”) seeks Proposals from Lease-leaseback contractors (“Contractor” or “Firm”) to provide preconstruction services and lease-leaseback construction services for the District’s Longfellow Modernization Project. The purpose of this RFP is to obtain information that will enable the District to select a Lease-Leaseback Contractor using the best value selection process, under Education Code section 17400 et seq., that can assist the District with both pre-construction services and construction services. Best value selection is an evaluation process of Firm’s that allows the consideration of evaluation criteria and price in determining which Proposal offers the best value to the District. Each Contractor responding to this RFP should be prepared and equipped to provide the pre construction and lease-leaseback services described in this RFP to the District in an expeditious and timely manner and on relatively short notice so as to enable the District to meet critical time deadlines and schedules.

This RFQ/P does not commit the District to award a contract or pay any costs incurred in the preparation of a proposal responsive to this RFQ/P. The District reserves the right to accept all or part of any proposal or to cancel, in part or in entirety, this RFQ/P. The District further reserves the right to accept the Proposal(s) that it considers to be in the best interest of the District.

BACKGROUND ON THE PROJECT:

The Berkeley Unified School District is responsible for educating more than 9,400 individual students in 11 public elementary schools, 3 middle schools, one comprehensive high school, and an alternative high school. In addition, the district has 3 preschool facilities and an Adult School serving several thousand students each year. With a tradition of excellence rooted in a vibrant community, Berkeley Unified alumni have become national and international leaders in business, civic society, politics, academia, sports and the arts. Students and staff in Berkeley Unified come from a wide variety of ethnic and socioeconomic backgrounds, surrounded by one of the most intellectually and culturally rich regions in the United States. In March 2020 the citizens of Berkeley approved a \$380 million Measure G Facilities Bond.

The selected Contractor shall have experience with the construction of public school facilities and in working with the Office of Public School Construction (“OPCS”), the Division of State Architect (“DSA”), and Title 24 of the California Code of Regulations. To

submit a proposal, Contractors must be properly licensed by the California Contractors State License Board and registered with the Department of Industrial Relations (“DIR”) as required by law. The selected Contractor will be required to comply with the Labor Code prevailing wage requirements and the District’s bonding and insurance requirements. The selected Contractor shall be required to work cooperatively with District staff, the Board of Education, all other technical consultants, the architect, project inspector and any program and/or construction manager, if any, retained by the District for the Project, citizens’ oversight committee, other District committees and the community to facilitate timely and professional completion of the Project.

This project will be constructed using the lease-leaseback project delivery method authorized by Education Code section 17400 et seq. The District has retained Van Pelt Construction Services as the design manager (“DM”) and construction manager (“CM”) for the Project. The District has contracted with Gould Evans (“Designers”) to design this project and the lease-leaseback Contractor will be expected to provide both preconstruction services and lease-leaseback construction of the project in strict compliance with the plans and specifications finalized by the Designers.

The District is expecting to file a negative declaration in compliance with CEQA Appendix G.

SCOPE OF WORK:

The Longfellow Middle School project is a comprehensive modernization that will touch every aspect of the campus. Work includes demolition of existing finishes, and demolition of a portion of the 6th grade annex building. Modernization includes administrative spaces, an addition at the front entry, restroom refurbishment, play yard improvements, solar panels on the roof, electrical, mechanical and plumbing and other work. The sixth grade annex spaces will be re-organized to create a connection to the cafeteria across Ward Street. The cafeteria building south of Ward Street is excluded from this project.

A conceptual plan and preliminary allocation are included for your reference only. The plan and the budget are not to be considered the scope of work or the proposed cost of the project but rather to illustrate possible scope that may be incorporated into the project.

The Construction budget, excluding contingency, is \$20,532,738.

RFP TIMELINE:

Request for Proposals Issued	September 17, 2021
Deadline for Prequalification Applications	September 27, 2021 by 2:00 pm
Issuance of Prequalification Determinations	September 29, 2021
Mandatory Site Walk	September 29, 2021 at 10:00 am

**Longfellow Middle School
1500 Derby Street, Berkeley CA 94703**

Deadline for Submittal of Questions	October 6, 2021 by 2:00 pm
Responses to the Questions Submitted	October 12, 2021
Due Date for Submittal of Proposals	October 19, 2021 by 2:00 pm
Short List Interviews	November 2, 2021
Interviews*	November 18, 2021
Submit Board Item	November 19, 2021
Anticipated Board Approval Date	December 8, 2021
Notification of Selected Firm	December 9, 2021
Construction drawings completed	August 31, 2022
DSA submittal	September 9, 2022
Expected DSA back-check & approval	March 31, 2023
LLB contractor's submission of final	
Total Base Rent & approval	April 14, 2023
Construction administration	May 1, 2023 - November 1, 2024
DSA Close-out	October 1, 2024 - Jan 31, 2025

* At this time all meetings will be done via zoom, if this changes, meetings and interviews will take place at 1720 Oregon Street, Berkeley CA 94703. A zoom link will be issued with the short list on November 2, 2021.

**MANDATORY LEASE-LEASEBACK CONTRACTOR AND SUBCONTRACTOR
PREQUALIFICATION**

All Firms submitting a Proposal to this RFP must be prequalified with the District via Quality Bidders without exception prior to submitting a Proposal. Any Firm that submits a Proposal and is not prequalified will be deemed non-responsive and that Firm's Proposal will be rejected and returned to the Firm.

All electrical, mechanical, and plumbing subcontractors, specifically those subcontractors with C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 speciality licenses ("MEP Subs"), that are designated in your Proposal must also be prequalified prior to submitting the Proposal; and all MEP Subs not identified in the Proposal must be prequalified prior to being awarded a subcontract.

This RFP is structured to occur in three phases, The first phase is prequalification. All bidders must submit and obtain approval through Quality Bidders. All bidders must reply to a series of "Yes" or "No" questions. All bidders must provide the requested prequalification information. Firms will be notified that they have been prequalified after all three of these requirements have been met.

The second phase is the submittal and processing of Proposals from prequalified firms designating prequalified subcontractors. Firms will be notified when they have been selected for interviews.

The third phase is interviews. A maximum of four firms will be selected to participate in interviews.

Firms which are not prequalified will have any Proposal(s) submitted returned unopened. Proposals from Firms which designate subcontractors subject to prequalification, as specified herein, that have not been prequalified will be rejected.

The Prequalification Questionnaire and Scoring Criteria are attached hereto. Prequalification Questionnaire and financial statements must be verified under oath and are not public records pursuant to Public Contract Code section 20111.6.

The District reserves the right to waive non-substantive irregularities in Prequalification Questionnaire Submittals. Prequalification determinations are not debarments and are not determinations of the responsibility of contractors, generally, to perform public works; they are determinations related specifically to the Project and are made according to the uniform Scoring Criteria.

QUESTIONS AND CLARIFICATION OF THE RFP

All questions, requests for explanation or clarifications of any kind in regard to this RFP shall be made in written form, submitted via email to: capitalprojects@berkeley.net; by no later than 2:00 p.m., October 6, 2021. A response will not be provided to any late questions, or requests for explanation or clarifications. A response will not be provided to questions sent to any other email address. All addenda and clarifications will be posted on the District's website, <https://www.berkeleyschools.net/departments/purchasing/> and provided to those Firm's that have registered with the District.

LICENSE REQUIREMENTS

Pursuant to Business and Professions Code section 7028.15 and Public Contract Code section 3300, the Contractor must possess a Class A license at the time of submittal of its Proposal, and for the duration of the contract, if awarded. Subcontractors must possess the appropriate license for each speciality subcontracted on the project.

PRECONSTRUCTION SERVICES

The District anticipates that the successful Contractor will provide preconstruction services, including but not limited to reviewing the project's plans and specifications during the design of the project to identify and call out all deficiencies, incongruities and inconsistencies that may affect constructability of the project, including but not limited to design and specification omissions, incomplete and/or inconsistent plans, details and specifications, and any lack of coordination, and any lack of coordination, together with all other appropriate, necessary and/or required services to facilitate, and in preparation for, the successful development and construction of the project.

In addition, the preconstruction services will include, but not be limited to the following services:

- Review of the design and support documentation for content, constructability, completeness, scheduling, clarity, consistency, and coordination;
- During Phase 1, there will be an initial design “kick-off” team meeting involving the Contractor, AOR, CM, DM, IOR (Inspector of Record) and District. Thereafter, Contractor meetings with the District, DM, CM and AOR (and IOR as needed) will be held bi-weekly on-site or virtual and attendance will be mandatory. In addition to these meetings, the Contractor will be required to make virtual or on-site presentations at up to five (5) meetings to the Board of Trustees and may be asked to make five (5) presentations to the community;
- Review and validation of estimates prepared by the architect;
- Preparation of a master critical path method schedule for the project;
- Preparation of detailed cost estimates based on the final construction documents, including allowances, contingencies, general conditions, costs and fees;
- Performance of a constructability review of plans and specifications at 50% CD and 100% CD to ensure bidability of the Project and provide written confirmation that the construction documents are constructible without need for further information, clarification or revision. The District may perform an internal constructability review and provide comments for resolution or incorporation. At each phase submission, a review of the drawings and specifications will be performed by the District, and the Contractor will be responsible for ensuring the District’s comments are incorporated;
- Undertake a value engineering analysis and prepare a report with recommendations for reducing construction costs as needed to meet the Districts’ goals and objectives;
- In consultation with the Architect and the District, review design documents for constructability, scheduling, clarity, consistency and coordination; and work with the Architect and the District on scheduling and sequencing of the Project to meet the District’s needs;
- Development and update of Guaranteed Maximum Price (“GMP”) estimates throughout pre-construction, with monthly updates until execution of the Total Base Rent amendment to the Lease Leaseback Agreement. Subcontractor bids and self-performed work shall be identified in the GMP.

CONSTRUCTION SERVICES

The Contractor shall perform all work and obligations described in the attached Lease Leaseback Agreement, including the following construction and post-construction services:

1. Construction of the Project in accordance with the plans and specifications. The selected contractor will be required to do their work on an occupied site. They will

be required to manage access to the work area, maintain fencing and maintain the work area;

2. The Contractor shall perform all construction services for the Project as described in the DSA approved plans, specifications and the LLB Contract Documents. Contractor will interpret the construction documents and issue any necessary clarifications or modifications. Any requested material changes will be subject to review by the AOR and CM and approval by the District and DSA, if applicable. Contractor must review all submittals, requests for information, shop drawings, samples, mock-ups, construction schedules, special testing and inspections, closeout documents and as-built drawings to ensure conformance with DSA approved documents. The Contractor will coordinate and expedite record drawings and specifications;
3. The Contractor must also prepare a post-construction punch list upon substantial completion for conformance with the Project documents and review as-builts and provide comments and prepare final record drawings. AOR paperwork will be completed for DSA closeout with certification. Contractor will Compile operations and maintenance manuals, warranties/guarantees, and certificates;
4. Obtaining occupancy permits and coordinating testing, documentation and governmental inspections and approvals;
5. Prepare final accounting and closeout reports and occupancy plan reports;
6. Other responsibilities as necessary for the completion of the Project in accordance with the plans and specifications.

These professional services shall be undertaken with the goal that the DSA approved plans and specifications for the project will be complete such that the project can be constructed by a competent licensed general building contractor in strict accordance with the DSA approved plans and specifications without significant Requests for Information or Clarification, Change Orders, delays, or expense to the District in excess of the validated Project cost estimate with appropriate contingencies and allowances, if any.

CONTRACT REQUIREMENTS

DSA approval of the plans and specifications for the Project has not yet been obtained. The Contractor will be expected to enter into the Lease Leaseback Agreement for all preconstruction and construction work. Once all preconstruction services are completed and DSA approval is obtained, the selected Contractor shall provide the District with objectively verifiable information of its costs to perform the Project and a written rationale for the total construction cost, including documentation sufficient to support the calculation. Contractor's written rationale shall detail the "base construction cost" for the Project, consisting of (a) all subcontracts to be awarded by Contractor for the Project, plus (b) any separately awarded contracts for materials and supplies for the Project. The District Board of Education shall approve or reject the total construction cost at a public meeting and execute the Contract Documents before the Contractor may proceed with the Project.

The Contract Documents for the Project will consist of:

1. The RFP and the Contractor's completed Qualification Questions

2. The Lease Leaseback Agreement for Preconstruction and Construction Services, including the Project plans and specifications;
3. The Site Lease;
4. The Facilities Lease;
5. The LLB General Conditions;
6. The Payment and Performance Bonds, and;
7. The Certificates of Insurance for the Project, if applicable.

SUBCONTRACTORS

All subcontractors who will perform more than 0.5% of the construction work must be selected by a competitive bidding process or best value process as described in the Education Code section 1740(a)(4). Contractor shall establish reasonable qualification criteria and standards for subcontractors and shall provide public notice of availability of work to be subcontracted in accordance with the publication date applicable to the District's competitive bidding process, including a fixed date and time on which qualifications, statements, bids or proposals will be due.

All subcontractors shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (commencing with Public Contract Code section 4100).

DIR REGISTRATION AND PREVAILING WAGES

DIR Registration. Contractors and their designated subcontractors shall not be qualified to submit or be listed on a proposal, subject to the requirements of Section 4104 of the Public Contract Code, 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 bid 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.

Prevailing Wages. 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. The Contractor shall obtain copies of the above-referenced prevailing wage sheets and post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

SUBCONTRACTOR DESIGNATIONS

Pursuant to Education Code section 17406(a)(4)(A), the District will allow Firms to designate subcontractors for specific scopes of work on the Project. Each Firm shall list only one subcontractor for each scope of work as is defined by the Contractor in its proposal. All subcontractors shall be properly licensed by the Contractors State License Board. All designated subcontractors will be afforded the protections of the Subletting and Subcontracting Fair Practices Act. Please use the subcontractor designation form at Attachment 3.

In accordance with Education Code section 17406, any subcontractor that is not identified in your proposal and whose subcontract value will exceed one-half of one percent of the price allocable to construction work must be awarded, after the award of the lease-leaseback contract, as follows:

1. Provide public notice of availability of work to be subcontracted in accordance with publication requirements applicable to the competitive bidding process of the school 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 on a best value basis or to the lowest responsible bidder.

All subcontractors (of any tier) performing any portion of the Work must comply with Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project.

CONTENTS OF THE PROPOSAL

Firms must submit 5 hard copies, one unbound hard copy and a bookmarked digital copy in PDF format (on a thumb drive) of the Proposal. The material must be in 8-½ inch x 11 inch format with a font size of at least 11. The proposal may include 11 x 17 inch sheets that are folded to 8-½ x 11 inches. The RFP/Q must include divider tabs labeled with boldface headers. The maximum page count is 75 double sided pages. Excluded from the page count are the front and back cover, table of contents and team resumes. All Proposals should address the requested information in each of the evaluation criteria below. The Proposal shall demonstrate the qualifications, competence, and capacity of the firm:

- A. **Cover Letter/Letter of Interest** - Include a cover letter, addressed to John Calise, Executive Director, Facilities Division, stating the eligibility of the firm to respond to this RFP, a brief description of the firm and statement of interest. Proposer should indicate receipt of each addenda. Include the name, address, email, and telephone number of the person authorized to make decisions on behalf of the firm.

The Cover letter shall also describe the Contractor's firm, scope of services, office location(s), K-12 experience over the past (5) calendar years (January 2016 through December 2020) and include each project's initial project budget, final project budget start date, projected end date and actual end date.

Describe projects currently projected to be in construction January 2023 through December 2024. Indicate if any of the proposed team members are currently on those projects and their role.

B. **Table of Contents** - The Table of Contents shall reflect the order stated herein and shall include section titles and page numbers.

C. **Evaluation Categories**

1. **Mandatory Requirements** – The following requirements are mandatory and must be satisfied. The mandatory requirements will be scored on a pass/fail basis. Failure to meet any one of the mandatory requirements specified in this Section VIII(C)(1) will disqualify your Firm from any further consideration for this RFP.

a. **Lease-Leaseback Contractor and Subcontractor Prequalification** – All Firms submitting a proposal to this RFP must be prequalified with the District without exception prior to submitting the proposal. Any Firm that submits a proposal and is not prequalified will be deemed non-responsive and that Firm's proposal will be rejected and returned to the Firm unopened. All prequalification is done by quality bidders.

All electrical, mechanical, and plumbing subcontractors, specifically those subcontractors with C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46 specialty licenses, that are designated in your proposal, must also be prequalified prior to submitting the proposal.

MEP subcontractors (including those with the specialty licenses listed above) that are NOT designated in the proposals must be prequalified prior to the award of their subcontract. A list of prequalified MEP subcontractors will be made available by the District upon request. However, it is the responsibility of the Firm to ensure that all MEP subcontractors holding any of the licenses listed above are properly prequalified.

Any Proposal listing MEP contractors that have not been prequalified shall be deemed non-responsive. It shall be the responsibility of the Firm submitting a Proposal to check with

the District for lists of prequalified MEP subcontractors, which lists shall be made available as required under Public Contract Code section 20111.6.

- b. **License Requirements** – Pursuant to Business and Professions Code section 7028.15 and Public Contract Code section 3300, the Contractor must possess a California Contractor’s **Class A** license at the time of submission of its proposal, and for the duration of the contract, if awarded. Subcontractors must possess the appropriate license for each specialty subcontracted on the project.
- c. **Performance and Payment Bonds/Insurance Requirements** – All Firms submitting a proposal to this RFP must be able to provide the District with a separate 100% faithful payment bond and a 100% faithful performance bond. Provide a letter from your surety indicating your overall bonding capacity and the ability to meet the Bond Requirements of the Construction Services Agreement.

Provide a letter from your insurance broker stating that you will be able to provide the insurance coverage in Section 35.4 of the Construction Services Agreement.

- 2. **Firm Personnel, Capacity, and Methodology – Attachment 2**
Each Firm must completely answer the questions in Attachment 2 of the RFP. Note: **Questions may be answered in other sections of the Proposal if clearly and conspicuously identified and referenced on the questionnaire.** The following shall be stated:

- a. **Description of Firm** - Include a description of qualifications for providing preconstruction and lease-leaseback services on California school construction projects. Include information regarding the size of the company, location of the office from which the required services would be performed, nature of work performed, and years in this particular business. The Firm shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards. Selected firm(s) must be able to execute the District’s standard agreement. (A Copy of the District’s Agreement is attached to this RFQ as Attachment 1.) Firms responding to this RFQ must acknowledge that they have reviewed these provisions of the agreement and must agree to the indemnity and insurance provisions contained in the District’s standard agreement and confirm in writing that, if given the opportunity to contract with the District, the firm has

no substantive objections to the use of the District's standard agreement. Include the following statement:

- b. **Firm's Personnel and Staffing Resources** - Submit resume(s) or profiles for each key staff who will be proposed to provide the requested services, including their qualifications and recent relevant experience providing similar services. Each resume shall include but not be limited to the following information; (a) Education; (b) Years of relevant experience; (c) Professional registrations, certifications and affiliations (d) Project-specific experience with focus on public projects and emphasis on K-12 projects providing preconstruction and lease-leaseback services, including dates and durations of each project listed and the name of the firm where employed. Include a discussion on the firm's philosophy and approach for providing outstanding customer service; (e) Years of employment with the firm and positions held.
- c. **Capacity & Methodology** - Describe how the Firm will provide services and fulfill the requirements and expectations of the District and this RFP. Use this section to address the ability of your company to undertake and accomplish the required scope of services while meeting any deadlines, the Firm's record of meeting schedules and deadlines of other clients; advantages over other firms in the same industry; strength and stability as a business concern; and supportive client references. Describe the Firm's ability to provide preconstruction and lease-leaseback services exclusively and in a timely manner for the District and the Firm's commitment to providing personnel assigned to District's Project.
- d. **Litigation** - Furnish and provide specific information on any termination for default, litigation settled or judgments entered within the last five (5) years, and civil judgments or criminal convictions for false claims within the last five (5) years. 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.

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. **Relevant Experience and Past Performance**

- a. **With District** – District shall evaluate actual performance of the Firm, if any, on construction projects for the District within the last ten (10) years. This category will be scored a zero for any Firm that has not performed projects for the District within that time. This category may be scored negatively, assigning negative rather than positive points, resulting in a net score deduction for Firms that have performed poorly within that time frame. Factors considered for projects performed for the District within that time frame shall include: (1) size of the project, (2) complexity of the scope of work, (3) quality, reliability and accuracy of preconstruction services, (4) quality, reliability and timeliness of lease-leaseback services, (5) nature and scope of changes in price for preconstruction and lease-leaseback services, (6) nature and scope of changes to schedule for preconstruction and lease-leaseback services, (7) effectiveness of team approach to preconstruction and lease-leaseback services, including, without limitation, communication, cooperation, and disputes with the District and other project team members.
 - b. **Outside District** - Description of past performance and related experience. Each Firm is required to submit a list of its most relevant preconstruction and lease-leaseback services provided in the past five (5) years that are of the approximate size of the project described in the RFP. The list shall include: (1) a description and size of the project, (2) scope of the work, (3) dates services were performed for preconstruction services and for lease-leaseback services, (4) total price for the project (please state amounts separately for preconstruction services and for lease-leaseback services, (5) client’s name and address, and (6) client email and phone number.
4. **Preconstruction Services** – Describe your methodology in providing preconstruction services for the project, specifically discussing value engineering, constructability review, estimating, and scheduling. 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.
5. **Subcontractor Designations and/or Subcontracting Plan**
- a. Subcontractor Designations – each firm shall list only one subcontractor for each scope of work as is defined by the Contractor in its proposal by providing the subcontractor’s name, address, and license number. All subcontractors shall be properly licensed by the Contractors State License Board.

b. Subcontracting Plan – describe all material elements of your plan to procure subcontractors that were not designated in your Proposal whose subcontract will exceed ½ of 1% of the price allocable to the construction work will be awarded. Include in your description: whether any further prequalification or other method of shortlisting of subcontractors for consideration will be used and, if further prequalification or other method of shortlisting will be used, the qualification criteria and standards to be applied whether the procurement of subcontractors on the basis of best value or the lowest responsive, responsible bidder and, if on a best value basis, the criteria and standards to be applied.

6. **Labor Compliance/Skilled and Trained Workforce** – Describe your ability to comply with statutory requirements for the payment of prevailing wages, including the monitoring and enforcement of your subcontractor’s payment of prevailing wages. Provide copies of any DIR Civil Wage and Penalty Assessment issued to you, explain the circumstances for the Civil Wage and Penalty Assessment, and the final resolution.

Further describe your, including your subcontractors at any tier, 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 apprenticeable occupation that will be used on the project. Include in your discussion your plan and methodology to comply with the percentage requirements for the use of “skilled journeyman” for each apprenticeable occupation. Finally, identify and discuss which apprenticeable occupation(s) will be the most difficult to meet the percentage requirements for skilled journeymen on the project and state why.

7. **Safety** – Discuss your plan to maintain a safe worksite. In your discussion, include whether your Firm has an Injury and Illness Prevention Program that complies with 8 CCR § 1509, whether your firm has a safety program that meets Cal/OSHA requirements, and whether your Firm will provide a full time person dedicated to safety on the project.

Please state whether you have had any accidents in the past five years that resulted in a construction fatality on any of your projects and provide any details for each incident.

Please state whether you have had any recordable injuries in the past five years and provide the average total recordable injuries for the past five years.

Please provide an EMR verification from the State of California or an insurance company for each of the past five years.

8. **Financial Information** - Provide copies of your Firm's audited financial statements for the most recent three (3) fiscal years. Audited financial statements shall include: balance sheet, income statement, statement of changes, footnotes, and subsidiary schedules. All financial statements shall be prepared in accordance with Generally Accepted Accounting Principles applied on a consistent basis and shall be audited in accordance with Generally Accepted Auditing Standards by an Accountant certified in the State of California. (Disclosure of financial statements will be confined to those individuals involved in the evaluation of the responses and award of ensuing contracts.)

Provide evidence of your current bonding capacity and current general liability insurance coverage(s).

9. **Additional Information** - Firms are encouraged to provide additional information or description of resources the firm feels is pertinent to the RFP. Respondents are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.

D. Preconstruction Fee, Lease-Leaseback Fee, and General Conditions - Attachment 3

Provide a monthly fee to provide preconstruction services, the lease-leaseback construction services, and general conditions. The monthly fee should include profit, all direct labor costs, fringe benefits, insurance and bonds, overhead, and all other expenses the Contractor will incur in providing the preconstruction services and the lease-leaseback construction services. In the fee proposal, specifically state the proportion of the fee which is set for profit, labor costs, fringe benefits, insurance and bonds, overhead, and all other expenses.

The fee shall be stated either as both a set dollar figure and as a percentage of construction costs. For the basis of construction costs, state the precise methodology used for estimation and calculation of construction costs on which the fee is proposed to be based, including, without limitation:

- Labor costs
- Material costs
- Markups on labor, materials, and any subcontracts, at every tier
- Contingencies utilized

- Standard estimating manuals used as reference
- Software used for estimating
- Experience of estimator
- Accuracy of estimates for past lease-leaseback projects

Your project estimating methodology is acknowledged to comprise a trade secret and will be kept confidential, and not designated as a public record, along with your other financial information.

E. Insurance Requirements

Firms must have the ability to secure insurance coverage and provide Proof of Certificate of Insurance, as described below (See, Construction Services Agreement for specific insurance requirements):

Comprehensive general and auto liability insurance with limits of not less than two million dollars (\$2,000,000) combined single limit, bodily injury and property damage liability per occurrence, including:

- Owned, non-owned and hired vehicles;
- Blanket contractual;
- Broad form property damage;
- Products/completed operations; and
- Personal injury;

Special hazards and excess liability insurance policy (\$5,000,000).

Workers' Compensation Insurance shall be maintained, in accordance with provisions of the California Labor Code, adequate to protect any person, firm, or corporation employed directly or indirectly in connection with the work of the Consultant from claims under Workers' Compensation Acts which may arise for operations, whether such operations be by any person, firm, or corporation, employed directly or indirectly by the Consultant upon or in connection with the work.

F. Equal Employment Opportunity (EEO) Certification - Attachment 4

Each responding firm must certify that compliance with the federal EEO requirements is met.

G. Worker's Compensation Insurance Certification - Attachment 5

Complete and sign the Worker's Compensation Insurance Certification

form. Respondents shall describe the outcome of design and construction-related claims, if any, filed against the firm's general liability or professional liability or automobile liability insurance carriers during the most recent five (5) years. Proof of Insurance for General Liability, Professional Liability, Public Liability and Auto Liability or a statement of liability shall be required from the successful firm according to the terms of this RFP.

PREPARATION AND SUBMITTAL OF THE PROPOSAL

Proposal Submittal and Deadline

Five hard copies, one unbound copy and a digital copy of the technical Proposal must be submitted under sealed cover by no later **than 2 p.m. on October 20, 2021**. The technical Proposal shall include all documents except for the fee Proposal. Label the outside of the sealed technical Proposal envelope or box with your company name, Proposal title and RFP deadline. The fee Proposal must be submitted in a separate, sealed envelope with your company name, Proposal title, "Longfellow Modernization Fee Proposal", and RFP deadline labeled on the outside of the envelope.

Proposals shall be delivered to the attention of:

John Calise, Executive Director Facilities Division
1720 Oregon Street
Berkeley, CA 94703

It is the sole responsibility of the firm submitting the Proposal to ensure that its Proposal and any amendments are actually received in the office prior to the deadline time and due date. Unless this RFP is extended by a written amendment, Proposals received after the time on the due date will not be considered. Faxed or emailed Proposals will not be accepted.

Proposal Completeness

Proposals shall be completed in all respects as required by the instructions herein. A Proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A Proposal will be rejected if, in the opinion of the District, the information contained therein was intended to mislead the District in the evaluation of the Proposal.

District Not Responsible For Preparation Costs

All costs incurred in the preparation, submission and/or presentation of firms responding to the RFP including, but not limited to, the firm's travel expenses to attend any pre-conferences, oral presentations, long distance charges, and negotiation sessions, shall be the sole responsibility of the firm and will not be reimbursed by District.

District shall not pay for any costs incurred for Proposal or contract preparation as a result of termination of this RFP or termination of the contract resulting from this RFP.

Right to Use Ideas

All Proposals and other materials submitted become the property of the District. District reserves the right to use any ideas presented in any response to the RFP. Selection or rejection of the Proposal shall not affect this right.

Modification or Withdrawal Of RFP

A firm may modify or withdraw a Proposal after submission by written request of withdrawal and resubmission, provided that the Proposal withdrawal is prior to the due date deadline specified.

Amendments

Firms are advised that the District reserves the right to amend this RFP at any time. Amendments will be done formally by providing written amendments to all potential firms known to have received a copy of the RFP and/or by publishing the amendment on the District's website.

Equal Opportunity

The firm shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet federal and state guidelines. Legal residents of the United States of America shall be used in providing all services under this RFP.

Firm shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, union membership, in the performance of the work including but not limited to, preparation, manufacturing, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the firm or its agents, employees or representatives, District shall have the right to rescind and terminate the Contract.

The successful firm agrees to include the paragraph above with appropriate adjustments in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

Complete the Equal Opportunity Certification form, attached herein as Attachment No. 4, and return with the Proposal.

Waiver or Breach Thereof

No term or provision of this RFP shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or subsequent breach, except as may be expressly provided in the waiver or consent.

Covenant against Gratuities

The firm warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the firm or any agent or representative of the firm, to any officer or employee or consultant of the District with a view toward securing the resultant contract or securing favorable treatment with respect to any determinations concerning the award of the Agreement. For breach or violation of this provision, the District shall have the right to terminate any negotiation or the resultant contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which the firm agreed to supply shall be borne and paid for by the firm. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

Indemnification and Insurance

The firm, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the District, its employees and representatives, from any liability of any nature or kind in regard to the delivery of these services. (See, Construction Services Agreement for insurance requirements and for hold harmless and indemnify requirements.)

Conflict of Interest

The firm is in agreement that it presently has no interest and will not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The firm further agrees that no person having any such known interest or conveyed an interest shall be employed, directly or indirectly, in the delivery of services under this RFP.

Independent Contractor

The firm represents itself as an independent contractor offering such services to the general public and shall not represent him/herself or his/her employees to be an employee of the District. Therefore, the firm shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses.

Precedence of Documents

The contract between the District and the successful firm (s) shall consist of (1) this Request for Proposals (RFP) and any amendments thereto, (2) the Proposal submitted by the firm to the District in response to the RFP, and (3) the firm agreement included herein to be executed with the successful firm(s). In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the agreement shall govern. However, the District reserves the right to clarify any contractual relationship in writing with the concurrence of the firm, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the firm's Proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

Compliance with Laws

In connection with the furnishing of services or performance of work under this RFP, the firm agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable Federal and State laws, regulations and executive orders to the extent that the same may be applicable.

SELECTION PROCEDURES AND GUIDELINES

The District wishes to award the RFQ/P to the Contractor that has the experience, financial strength, management and expertise to deliver the Project within a proposed schedule and within an established budget. The Contractor will be selected based on demonstrated competence that includes relevant experience with K-12 school district construction and a proven track record for cost-efficient and timely completion of large construction projects.

Proposal Evaluation:

All Firms, and designated MEP subcontractors, must be prequalified for the project prior to submitting a Proposal in response to this RFP. Each Firm must include the specified documents, including the Firm Questionnaire, signed under penalty of perjury, in its Proposal. The District Proposal Evaluation Committee will score each Proposal based on the evaluation criteria and points set forth in the RFP. Each Firm's qualifications will be evaluated and scored only on the information that is included in the Firm's Proposal. Each Proposal must be capable of being evaluated independently. Each person on the Evaluation Committee will independently score each Proposal and each firm's qualification score will be equal to the average score from the Evaluation Committee (i.e. the total number of points from the Evaluation Committee divided by the number of Evaluation Committee members). The Fee Proposals will be unopened and unknown to the Evaluation Committee until after the qualification scores have been determined and finalized.

The RFP contains seven evaluation categories and the maximum number of points is indicated for each category. The maximum number of qualifying points is 150 points.

For the Fee proposal portion of the best value analysis, the District will evaluate the Contractor's proposal on the basis of the fee as a percentage of the direct construction costs. Contractor's proposal must include a completed Fee Proposal Form provided in Attachment 3.

In the event of an inconsistency in the math on the Fee Proposal form, the individual fee percentages shall govern over the fee in dollars, and the fee in dollars shall be recalculated.

Fees will be scored in direct relation to their variance from the lowest fee based on the average fee. The lowest Total LLB fee will receive the maximum score of 50 points. For example:

Proposed Fee %	Variation from Lowest Fee = Proposed Fee % - Lowest Fee %	% Variation = Variation from lowest fee % / Average fee %	Points to deduct from 50 points	Fee Score
10%	10%-10%=0%	0% / 11%= 0%	50 x 0% = 0	50 - 0 = 50
11%	11%-10%=1%	1% / 11% = 9%	50 x 9% = 4.5	50 - 4.5 = 45.5
12%	12%-10%=2%	2% / 11% = 18%	50 x 18% = 9	50 - 9 = 41

In the event two Contractors submit price proposals with the same overall price, both Contractors shall be awarded the same amount of points.

Evaluation Criteria:

The evaluation of Proposals will be based upon review and analysis of the information provided as detailed above, any additional relevant information known to or discovered by the District, and scored as follows:

1. **Firm Personnel, Capacity, and Methodology [25 POINTS]** - Professional qualifications and specialized experience of the proposed staff including the quality of the firm's professional personnel to be assigned to the project and the quality of the firm's management support personnel to be available for technical consultation and/or assistance. Experience, competence, capability, and capacity of the proposed staff to complete projects of similar size, scope, and complexity on time and on budget using the lease-leaseback project delivery method.
2. **Relevant Experience and Past Performance [40 POINTS]** - Experience, competence, capability, and capacity of the proposed staff to complete projects of similar size, scope, and complexity on time and on budget using the lease-leaseback project delivery method. Firms are required to provide information, contact information, and references for similar projects completed using the lease-leaseback project delivery method in the past five years.
3. **Preconstruction Services [40 POINTS]** – Experience and expertise in working with design professionals during design on constructability issues, value engineering, estimating, scheduling, and phasing. The proposal should include a summary level schedule illustrating how the Contractor intends to manage the Project. Provide a schedule and narrative for Phase 1 Design Services and Phase 2 Construction Services. The sum of all the activities in the Contract Schedule shall equal the total Contract price.
4. **Subcontractor Designations and/or Subcontracting Plan [20 POINTS]** – Competence, capability, and capacity to subcontract major scopes of work

and subcontractors designated in the Proposal. Also, subcontracting plan to award subcontracts in excess of ½ of 1% of price allocable to the construction costs for those subcontractors who were not designated in the Proposal.

5. **Labor Compliance/Skilled and Trained Workforce** [5 POINTS] – Ability to comply with statutory requirements for the payment of prevailing wages and qualifications of the workforce for all workers on the project, including subcontractors. Specifically, the ability of the Firm to employ a “skilled and trained workforce” for each apprenticeable occupation, including subcontractors at any tier, and plan to meet the percentage requirement of skilled journeyperson on the project.
6. **Safety** [10 POINTS] – Firm’s history regarding the safe performance of construction contracts. Firm’s experience modification rate and average total recordable injury or illness rate of the past five years will be reviewed and evaluated.
7. **Financial Information** [10 POINTS] – Firm’s financial resources needed to complete the project, including the ability to finance the work and obtain the required payment bonds, performance bonds, liability insurance.
8. **Fee Proposal** [50 POINTS]– Rate schedules as outlined above and in Attachment 3.

GENERAL TERMS AND CONDITIONS

Local Businesses Participation

The District is vitally interested in promoting the growth of small and local businesses within the boundaries of the District by means of increasing the participation of these businesses in the District's purchase of goods and services. The District has a goal of ten (10) percent of all contracts for these services be awarded to local businesses. A locally owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the City and where the owner maintains an office. The firm will be required to certify on the invoices the names of local businesses utilized in any and all District assigned work.

District Obligation

Receipt of Proposals and responses to this RFP does not obligate the District in any way. The District reserves the right to accept or reject any or all Proposals, to waive any irregularities or informalities in any Proposal or in the RFP process.

Award of Contract

This RFP implies no obligation to award contracts to any firm. If it is in the best interest of the District, the District retains the sole and absolute right to select the firm that best meets the District requirements. The award is subject to acceptance by the Governing

Board of the Berkeley Unified School District. The District also reserves the right to reject all Proposals.

Approval to Start Work

The successful firm may perform work once a Lease-Leaseback Agreement (Site Lease, Sublease, and Construction Services Agreement) has been fully executed and approved by both parties and all appropriate documentation has been received and approved by the District, and a purchase order has been issued. The District shall not be responsible for work done, even in good faith, prior to approval of the agreement and purchase order issuance by the District.

Ownership of Documents

All Proposals and materials submitted in response to this RFP shall become the property of the District and shall be considered a part of Public Records, unless exempted by law. In addition, all designs, drawings, specifications, notes and other work developed in the performance of any services resulting from this RFP shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected firms. Selected firms agree not to assert any rights or to establish any claim under the design patent or copyright laws.

Joint Ventures

Where two or more firms desire to submit a single response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture or informal team. The District intends to contract with a single firm and not with multiple firms doing business as a joint venture.

Firm's Power and Authority

The firm warrants that it has full power and authority to grant the rights herein granted and will hold the District hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, the firm declares that it will not enter into any arrangement with any third party, which might abridge any rights of the District under this contract.

Disputes

If a dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute among them via agreement and thereafter by mediation under the American Arbitration Association's Commercial Mediation Rules before resorting to litigation. All parties shall share the costs of any mediation proceedings equally.

Fingerprinting

Per the provisions of the Education Code Section 45125.1, the District has a zero tolerance for all firms having any contacts with students without any clearance from the State Department of Justice. All assigned personnel shall comply with the fingerprinting clearance law prior to providing services at the school sites.

ATTACHMENT 2 – FIRM QUESTIONNAIRE

In this initial step, each Contractor will be evaluated to determine if it meets the essential qualifications set forth below. Contractors must “Pass” each of the essential qualifications by being able to appropriately answer the questions. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the respondent and/or any of its owners, officers, directors, shareholders, parties or principals.

SECTION A - GENERAL INFORMATION

- (1) Describe how respondent has successfully provided preconstruction and lease-leaseback construction services such as those described herein.
- (2) Describe the unique or innovative preconstruction and lease-leaseback construction services utilized on previous projects.

SECTION B - PASS/FAIL QUESTIONS

- (3) Has your Firm contracted for and completed construction as a general contractor (including design-bid-build contractor, lease-leaseback contractor, design-build contractor, as a construction manager at risk, but not as an agency construction manager) of a minimum of:
 - Five (5) Division of the State Architect - approved construction projects,
 - All within the past five (5) years? (Please answer “Yes” or “No”.)
- (4) Has your Firm contracted for and completed construction as a general contractor (including design-bid-build contractor, lease-leaseback contractor, design-build contractor, as a construction manager at risk, but not as an agency construction manager) of a minimum of:
 - Five (5) education projects,
 - Each with a value of at least \$15,000,000, and
 - All within the past eight (8) years? (Please answer “Yes” or “No”.)

Note: You must list these projects and references for each project by name, title, telephone number and email address.
- (5) Does your firm currently hold all contractors’ licenses necessary to perform the work and have those license(s) been consistently active for at least five (5) years without revocation or suspension? (Please answer “Yes” or “No”.)
- (6) Has your Firm been found non-responsible, debarred, disqualified, forbidden, or otherwise prohibited from performing work and/or bidding on work for any public agency within California within the past five (5) years? (Please answer “Yes” or “No”.)
- (7) Has your Firm defaulted on a contract or been terminated for cause by any public agency on any project within California within the past five (5) years and, if so and if challenged, has that default or termination been upheld by a court or an

arbitrator? (Please answer "Yes" or "No.")

- (8) Has your Firm or any of their owners or officers been convicted of a crime involving:
- (1) Bidding for, awarding of, or performance of a contract with a public entity;
 - (2) Making false claim(s) to any public entity; or
 - (3) Fraud, theft, or other act of dishonesty to any contracting party within the past ten (10) years?
- (Please answer "Yes" or "No".)

- (9) Has a performance bond surety for your Firm had to:
- (1) Take over or complete a project,
 - (2) Supervise the work of a project, or
 - (3) Pay amounts to third parties, related to construction activities of your Firm or an Associated Firm within the past five (5) years?
- (Please answer "Yes" or "No".)

SECTION C - LEGAL

- (10) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to similar services involving a school or community college district during the prior (5) years?

- (a) If yes, provide the name of the public agency and briefly detail the dispute:

- (11) Is respondent, owners, and/or any principal or manager involved in or is respondent aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment? _____.

- (a) If yes, provide details:

(12) Will respondents comply with all District, local, State and Federal legal requirements, regulations and laws? _____.

SECTION D – CONFLICT OF INTEREST

(13) Have you ever had any direct or indirect business, financial or other connection with any official, employee or consultant of the District? Identify any conflict of interest in (a):

(a) Please elaborate and discuss any potential, apparent or actual conflict of interest:

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing Respondent Questionnaire pages one through four is true and correct.

Executed this ____ day of _____, 20__, at _____,

State of _____

Company Name

Signature

Title

Print Name

ATTACHMENT 3 – FEE SCHEDULE AND GENERAL CONDITIONS

Fees	Fee Percentage (Fee as a % of Direct Construction Cost Budget)	Fee in Dollard (Fee % multiplied by Direct Construction Cost Budget)
Preconstruction Services - Parties will negotiate and agree upon applicable hourly rates and a not-to-exceed amount for preconstruction services based on the estimated project cost and the Firm's proposed fee for preconstruction services.		
Construction Phase - LLB's Site Management Fee		
Construction Phase - LLB's General Conditions and general requirements, including but not limited to temporary facilities, utilities, structures, fences, dust control, wayfinding, scheduling, noise control, environmental related matters, archeology services, emergency evacuation routes, security, safety, traffic control, scaffolding, and SWPPP.		
Construction Phase - LLB's Overhead & Profit - supervision of subcontractors and other management responsibilities, and employees/labor (including but not limited to wages, salaries, benefits) for any work performed by the Contractor.		
Construction Phase - LLB's contingency for the construction phase.		
Bonds and Insurance - including but not limited to payment and performance bonds.		
All other costs incurred in performance of Contractor's obligations under the terms of the LLB Contract Documents, including but not limited to the Site Lease and Facilities Lease.		
Total LLB Fees		

**ATTACHMENT 5 – RESPONDENT'S CERTIFICATE REGARDING
WORKMEN'S COMPENSATION**

Labor Code Section 3700:

"Every employer except the state and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workmen's Compensation or to undertake self-insurance in accordance with the provision of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Signature

Name of Principal

Title

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performance of any work under this contract.)