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DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD

APR 10 1995

PROTEST OF:

Government of the District of Columbia  
CONTRACT APPEALS BOARD

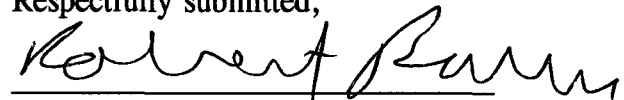
DISTRICT OF COLUMBIA LOCAL )  
DEVELOPMENT CORPORATION )  
300 I Street, N.E. )  
Suite 104 )  
Washington, D.C. 20002 )  
Telephone: (202) 547-8881 )  
UNDER RFP NO. 1191-14-G1-95 )

CAB NO. P-421

MOTION OF DISTRICT OF COLUMBIA LOCAL DEVELOPMENT CORPORATION TO  
RECONSIDER THE OPINION OF THE  
CONTRACT APPEALS BOARD

For the reasons set forth in the attached Memorandum of Points and Authorities in Support of the Motion of District of Columbia Local Development Corporation ("DCLDC") to Reconsider the Opinion of the Contract Appeals Board dated March 17, 1995, DCLDC respectfully requests that the CAB reconsider its Opinion and Order.

Respectfully submitted,



Robert Bunn, Esq., D.C. Bar # 124677  
Maloney & Burch  
1100 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20036  
(202) 293-1414

Attorney for Protestor

DISTRICT OF COLUMBIA  
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE MOTION OF  
DISTRICT OF COLUMBIA LOCAL DEVELOPMENT CORPORATION TO  
RECONSIDER THE OPINION OF THE  
CONTRACT APPEALS BOARD

STATEMENT OF THE CASE

On March 17, 1995, the CAB issued an Opinion in the above-captioned case, denying the Protest. DCLDC did not receive its copy of the Opinion from the CAB until March 27, 1995. Pursuant to D.C. Contract Appeals Board ("Board") Rule 313, 36 DCMR 2713 (April 21, 1989), Protestor, District of Columbia Local Development Corporation ("DCLDC"), respectfully submits this Motion of DCLDC to Reconsider the Opinion of the Contract Appeals Board. The Motion requests dismissal on the grounds that the CAB made errors of fact in its Opinion.

The CAB stated and used as a fundamental factual predicate of its arguments in Part I of the Opinion that the Solicitation was not an invitation for bids but for a negotiated contract. The Solicitation was an invitation for bids in that it was a request for competitive

sealed proposals under Ch. 16 of the Procurement Regulations. Therefore, the LDC requirement was a matter of responsiveness not responsibility.

The Solicitation on page B.1.1 requires sealed responses. Appendix B-2 uses the Ch. 16 cost verification mechanism. The District reserved to itself the benefits of a sealed bid solicitation and should not now be given the benefit of non-sealed bid. Sections B.13 through B.15 of the Solicitation set forth sealed bid type requirements and conditions concerning late proposals, final offers and discussions. The language is language for competitive sealed solicitations, in other words bids, under Ch.16. This is not a solicitation for a negotiated contract.

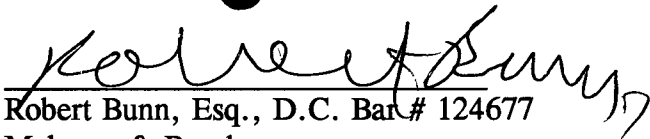
The District representatives testified that they could not have determined that the successful bidder was a LDC without the Articles and ByLaws. The CAB confirms this fact by using those documents to make its own LDC status determination. Thus, the communications to obtain the Articles and Bylaws were discussions to determine the most material term of the Solicitation - LDC status.

Therefore, DCLDC asks that the Motion be granted and DCLDC be heard further on its Protest.

### CONCLUSION

The Board made errors of fact in its Opinion and Order. Therefore, DCLDC respectfully requests that the Board Reconsider its Opinion and Order and schedule this Protest to be heard forthwith.

Respectfully submitted,

  
Robert Bunn, Esq., D.C. Bar # 124677  
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Washington, D.C. 20036  
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Attorney for Protestor

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CAB NO. P-421

ORDER

Upon consideration of the Motion of the District of Columbia Local Development Corporation ("DCLDC") to Reconsider the CAB's Opinion dated March 17, 1995, the Memorandum of Points and Authorities in Support of the Motion to Reconsider by DCLDC, and any Opposition thereto, it is, by the Board,

ORDERED, That the Motion of the District to Reconsider be, and is hereby, GRANTED; and it is

FURTHER ORDERED, That the Protest shall be heard before the Board on the date to be scheduled forthwith.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Judge, Contract Appeals Board

CC: Howard S. Schwartz  
Warren J. Nash  
Assistant Corporation Counsels, D.C.  
441 4th Street, NW  
Washington, D.C. 20001

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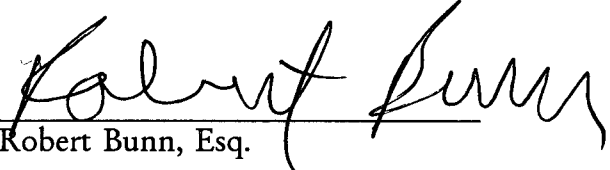
Steven Schneebaum, Esq.  
Patton & Boggs  
2550 M Street, N.W.  
Washington, D.C. 20037

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Reconsideration and Memorandum of Points and Authorities in Support was served on the following persons this 10<sup>th</sup> day of April, 1995, by first class mail, postage prepaid:

Howard S. Schwartz  
Warren J. Nash  
Assistant Corporation Counsels, D.C.  
441- 4th Street, N.W.  
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April 10, 1995

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Government of the District of Columbia  
**CONTRACT APPEALS BOARD**  
Docket Entry Made



Rose Gillison, Clerk of the Board  
D.C. Contract Appeals Board  
717 14th Street, N.W.  
Suite 430  
Washington, D.C. 20005


Re: *Protest by District of Columbia  
Local Development Corporation  
Re: RFP No. 1191-14-G1-95*

Dear Ms. Gillison:

On behalf of District of Columbia Local Development Corporation (the "Company"), please find enclosed an original and four (4) copies of the Company's Motion to Reconsider the Opinion of the CAB.

Please call the undersigned or Robert Bunn of this office at (202) 293-1414 if you have any questions or need further information. Thank you.

Sincerely yours,

  
Karen C. Rindner

enc.

**Case File**