



Request For Proposals
LEGAL SERVICES

OLD POINT HOMES

RFP Issued: May 19, 2009
Proposal Deadline: June 5, 2009 at 4:30pm EST

Issued by
Hampton Redevelopment and Housing Authority

For Information Contact:
PHILIP PAGE, JR.
COMMUNITY DEVELOPMENT DEPARTMENT
HAMPTON REDEVELOPMENT AND HOUSING AUTHORITY
1 S. ARMISTEAD AVE
HAMPTON, VA 23669

I. Purpose

The Hampton Redevelopment and Housing Authority (the “Authority”) is seeking proposals to provide legal services on an as-needed basis that may be required in the development of a town home development in Hampton, Virginia.

II. Introduction

The Hampton Redevelopment and Housing Authority, a political subdivision of the Commonwealth of Virginia, provides and maintains affordable housing in Hampton, Virginia. The Authority currently has 541 units of Public Housing over three properties and several scattered sites units. The authority also manages and /or owns several developments of Non-Public Housing with a total of one 130 units. The Authority administers 2,618 Housing Choice and Mainstream Vouchers.

The Authority is in the process of developing a 27-unit town home development in Hampton, VA to be known as Old Point Homes Project (the “Project”). The Project is being funded through money from the Department of Housing and Urban Development (HUD). It was recently awarded an allocation of Low Income Housing Tax Credits (LIHTC) in the annual amount of \$469,836 by the Virginia Housing Development Authority. (VHDA)

III. Scope of Services

A. General services shall include but not be limited to:

The Authority seeks to retain legal services and representation in connection with its Old Point Homes Project. Legal representation for this Project will include, but is not limited to, advice regarding organizational and project structure, negotiation of consulting and development contracts, drafting and negotiation of architectural and construction contracts, review and negotiation of documents for loan and equity closings, the delivery of typical closing opinions (including organization, authority and enforceability), assistance in meeting lender and investor due diligence requirements, and related matters.

B. Specific services shall include but not be limited to:

1. HUD Submittals and Review:

- Assist with HUD submission for site disposition;
- Review and advise on (or manage the drafting and submission) of Mixed Finance Proposal (Rental Term Sheet) to HUD;
- Prepare HUD submission, including: Mixed-finance ACC Amendment with Rider and Exhibits; Declaration of Restrictive Covenants; Regulatory and Operating Agreement; PHA Loan Documents; certifications and opinions;
- Ensure inclusion in equity and third-party loan documents of required HUD provisions;
- Create evidentiary binders and manage evidentiary submission and resubmission process;

- Negotiate with HUD counsel concerning regulatory compliance matters and unusual aspects of submission; and
- Where necessary, seek senior HUD involvement in expediting approval.

2. Syndication and Closing:

- Represent Authority in negotiations with all consultants and funding agents, including, but not limited to, tax credit syndication structures, equity investors, bond underwriters, VHDA and HUD;
- Counsel Authority on business, tax and financial structuring. Prepare organizational documents for the Authority and/or review existing documents. Documents include Partnership Agreement, Certifications of Good Standing, Articles of Incorporation, By-Laws. Review general partner documents;
- Prepare tax credit and syndication documents including, but not limited to, Land Use Restriction Agreement, Tax Credit Reservation, Guaranty Agreement, Right of First Refusal;
- Provide loan review and negotiation with funders on construction and/or permanent financing documents. Review construction loan financing documents such as Commitment Letter, Certificate of Occupancy, Architect's Certification, IRS Form 8609;
- Advise on property acquisition and disposition decisions, title work and related real estate services. Prepare and/or review related documents such as appraisal, survey, title insurance, deed, easements; and
- Prepare closing documents such as the Tax Opinion, Authority Opinion, Zoning Opinion and Post construction closing documents.

IV. Type of Contract

The Authority requires legal services on an as-needed basis. Because of the nature of the need, a firm-fixed price contract or cost-reimbursement contract will not suffice to meet the Authority's needs. The selected law firm will bill the Authority on a fixed hourly rate basis. Additionally, the selected law firm shall bill the Authority for certain reimbursable items (i.e. copies travel time, etc.) to be designated in the contract. In the event the selected law firm performs services, provides materials or incurs costs in excess of those provided for in the contract, it does so at its own risk, and may not be reimbursed by the Authority for amounts exceeding the not-to-exceed price.

V. Section 3 Compliance

The work to be performed under the contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-

assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to the contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of the contract, the parties to the contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

VI. Evaluation Criteria

Proposals will be evaluated utilizing the following factors:

A. Experience/Past Performance – 35%

- Evaluation of experience/past performance will include review of evidence of the professional licensure, qualifications and experience of the attorney or firm, especially in the areas of housing authority law, commercial real estate, mixed and public financed development;
- references/representative clients (must include complete contact information for at least three references or representative clients for whom the attorney or firm has performed similar services within the past three years);
- past performance (must include complete contact information for any public or semi-public agencies for whom the attorney(s) or firms(s) has performed services within the past three years).

B. Qualifications – 35%

- Ability of lead counsel and team to successfully complete all phases of work required to finalize a mixed-finance project requiring approvals by HUD and VHDA. Ability to take project from HUD submission through closing of financing and post construction certifications.
- Team knowledge and familiarity with HUD, HUD staff and related regulations governing Replacement Housing Factor funds, Capital Fund Factor funds and their use in Mixed Finance applications.
- Team familiarity with VHDA and rules governing Low Income Housing Tax Credits, bond financing and publicly funded mixed-finance transactions.

C. Price – 20%

- Evaluation of price will include review of the fee schedule of the attorney(s) or firm(s) hourly fees and other charges, for the initial term. Only the prices for the initial term shall be considered in the evaluation of proposals.

- Reasonableness of the fees and other charges will be considered. Reasonableness of the fee shall be determined based on the Authority's independent estimate of hourly rates and fees for other items.

D. Section 3 – 10%

- Utilization or employment of Section 3 residents in this project or agreement to donate funds to support economic development programs in the city of Hampton, VA.

VII. Submission and Selection Process

The Authority desires to engage the best qualified Law Firm who will provide the most advantageous contract to the Authority. The Authority will review the proposals submitted in accordance with the Evaluation Criteria listed in Section V. A committee shall evaluate all proposals. Proposals determined to be non-responsive will be eliminated. Once the qualified offerors have been determined, the committee shall rank all responsive proposals. At the Authority's discretion, Law Firms may be invited to make oral presentations and/or engage in discussions with the Authority. Offerors should be willing to attend such a presentation, if necessary, at its own expense. Final selection and award is in the discretion of the Authority.

Proposals should be submitted electronically as either a .doc, .pdf or .tiff file. Hard copies should be scanned and converted into one of the aforementioned formats. Proposals should be separated and ordered according to Paragraphs A – D of *Section IV Evaluation Criteria* above. The entire proposal should be no more than 10 pages. Only one (1) copy is required and should be emailed to development@hrha.org. The proposal must be received before the deadline of 4:30PM EST on June 5th, 2009.

If electronic submission is not possible, proposal may be submitted in paper form. Proposal should be on 8 1/2" x 11" paper and bound so that the documents can be easily separated and copied. Proposals may be mailed to the address listed on page one of the RFP and must be received on or before the deadline of 4:30PM EST on June 5th. The Authority is not responsible for proposals not received.

VIII. Conflicts of Interest

Attorney(s) or firm(s) submitting proposals must identify and disclose any real or apparent conflict of interest with the Authority. Situations in which a conflict may arise include when some of the Law Firm's present and future clients may have matters with the authority in which the Authority's interest may conflict during the time that the Law Firm is representing the Authority.

See also General Contract Conditions, Non-construction, Form HUD-5370-C, paragraph 11, Organization Conflicts of Interest.

IX. Responsibility

A contract will be awarded only to a responsible Law Firm who possesses the ability to perform successfully under the terms and conditions of this procurement. Law Firms should include evidence of

their integrity, compliance with public policy, record of their performance, and financial and technical resources. Consideration will be given to these and other factors in making a determination of responsibility.

A contract will not be awarded to a Law Firm who is currently debarred, suspended or otherwise prohibited from practice by federal, state or local governments or determined to be ineligible for contracting by the Department of Housing and Urban Development (HUD) or the Commonwealth of Virginia or any of its agencies with contracting authority. Proposals must include the signed certification statement included in Exhibit B to the RFP.

All proposals shall be signed by an agent authorized to bind the Law Firm. Such signature shall certify that all information contained in the proposal is true to the best of the knowledge and belief of the signer.

Although the Authority reserves the right to conduct discussions with one or more law firms, the Authority may award the contract on the basis of the written proposals only. Each proposal should contain the Law Firm's best offer.

All costs incurred in the preparation and presentation of proposals to the Authority shall be wholly borne by each Law Firm.

All proposals and supporting documentation submitted with each proposal shall become the property of the Authority.

Proposals submitted before the due date may be withdrawn upon request of the Law Firm at any time before the due date. After the due date, proposals are firm offers, and may not be withdrawn or revised without the express permission of the Authority, for a period of sixty (60) days.

X. Period of Performance

The contract awarded will be for the longer of a period of 24 months, beginning on the date of actual award, or the completion of the Project. At its option, the Authority may elect to grant up to 3 renewals for a period of 12 months each under the same terms and conditions.

XI. Insurance

The Law Firm selected for award shall maintain professional liability insurance in amounts/limits reasonable and adequate to protect the Authority from acts, omissions, and negligence on the part of the Law Firm, its partners, attorneys and /or employees. The Law Firm shall furnish the Authority original certificates of insurance evidencing such coverage on the effective date of the contract resulting from this RFP.

XII. Payment of Fees

The Law Firm shall submit invoices for all services performed and/or costs incurred on a regular basis. Specific procedures for billing shall be included in the contract.

XIII. Nondiscrimination

The Law Firm will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disabilities, except where religion, sex or national origin is a bona fide occupation qualification reasonably necessary to the normal operation of the Law Firm. The Law Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this discrimination clause.

XIV. Clauses Incorporated into the Contract

The following clauses are hereby incorporated into the contract to be awarded as a result of this RFP:

Administrative, Contractual, or Legal remedies for Breach

It is the Authority's policy, to resolve all contractual issues informally at the Authority level, without litigation. All disputes shall be resolved under the Disputes Clause of the General Contract Conditions, Non-Construction, Form HUD-5370-C.

Retention of Records

The Law Firm shall retain and make available at its office at all reasonable time for examination, audit or reproduction, all records relating the contract for a period of no less than three (3) years after final payment is made and all other pending matters are closed.

Notice of Awarding Agency Reporting

The Authority does not anticipate that any regular reporting to the awarding agency (other than billing as described in Paragraph X above) will be required.

XV. Instructions to Offerors

Correspondence regarding this RFP should be directed to Philip Page Jr., Director of Development, via email to development@hrha.org. Questions are due May 28th, 2009.

The following is incorporated into this RFP as if fully set forth herein:

General Conditions for Non-Construction (Attachment 1) Form HUD 5370-C (12/11)

Instructions to Offerors, Non-construction (Attachment 2) Form HUD 5369-B (8/93)

Certifications and Representation of Offerors Non-Construction (Attachment 3) Form HUD 5369-C (8/93)

Exhibit A
Schedule of Fees/Costs

Hourly Rates

Partner: _____
Associate: _____
Paralegal/legal assistant _____

Reimbursable Expenses:

Photocopying _____/copy
Telephone: _____
Faxes: _____/page
Postage: _____
Travel _____/mile or actual expense incurred

How will you bill for attorney travel time to/from the Authority's Office, meeting, etc.?

No Charge _____
Attorney's hourly bill rate _____
½ of Attorney's hourly bill rate _____
Other _____

Name, Address and Telephone Number of Attorney(s) or Firms(s) Submitting Proposal:

Name of agent authorized to bind Law Firm

Signature of agent authorized to bind Law Firm

Date

Exhibit B
Certification Regarding Debarment, Suspension, Proposed Debarment and
Other Responsibility Matters

- A. 1. The Law Firm certifies, to the best of its knowledge and belief, that:
- i. the Law Firm and/or any of its principals:
 - a. Are () are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contract by any Federal agency, including HUD, or by any agency of the Commonwealth of Virginia;
 - b. Have () have not (), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or Local) contract or subcontract; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
 - c. are () are not () presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in (A) (1) (b) of this provision.
 - ii. The Law Firm has () has not (), within three-year preceding this offer, had one or more contracts terminated for default or terminated for cause by any Federal agency or agency of the Commonwealth of Virginia.
2. “Principals”, for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment and similar positions).
- B. The Law Firm shall provide immediate written notice to the authority if, at any time prior to contract award, the Law Firm learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- C. A certification that any of the items in Paragraph (A) of this provision exists will not necessarily result in withholding of an award under this RFP. However, the certification will be considered in connection with a determination of the Law Firm’s responsibility. Failure of the Law Firm to furnish a certification or to provide such additional information as requested by the Authority may render the Law Firm non-responsible.
- D. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (A) of this provision. The knowledge and information of a Law Firm is not required to exceed that which is normally possessed by a prudent person in the ordinary courses of business dealings.
- E. The certification in Paragraph (A) of this provision is a material representation of fact upon which reliance will be placed when making award. If it is later determined that the Law Firm knowingly

rendered and erroneous certification, in addition to the other remedies available, the Authority may terminate the contract resulting from this RFP for default or cause.

Name of agent authorized to bind Law Firm

Signature of agent authorized to bind Law Firm

Date

Exhibit C
COMPANY AFFIDAVIT

The affidavit states with respect to this Proposal to the Hampton Redevelopment and Housing Authority:

I (we) hereby certify that if the contract is awarded to our firm that no member or members of the governing body, elected official or officials, employee or employees of said Housing Authority, or any person representing or purporting represent the Housing Authority, or any family member including spouse, parents or children or said group, has received or has been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee or any other financial benefit on account of the act of awarding and/or executing a contract.

I hereby certify that I have full authority to bind the company ant that I personally reviewed the information contained in the RFP and this proposal, and all attachments and appendices, and do hereby attest to the accuracy of all information contained in this proposal, including all attachments and exhibits.

I acknowledge that any misrepresentation will result in immediate disqualification from any consideration in the proposal process.

I further recognize that the Hampton Redevelopment and Housing Authority reserves the right to make its award for any reason considered advantageous to the Housing Authority.

Signature _____ Date _____

Name _____ Phone _____

Title _____ Fax _____

Firm Name _____

Type of business organization (corporation, LLC, partnership, proprietorship)

Address _____

City, State, Zip _____