

Request for Proposals:

Historic Tax Credit Counsel and Ancillary Commercial Real Estate Counsel Services



RFP Issuance Date: October 6, 2021
Proposal Due Date: November 10, 2021

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I. Opportunity

Governors Island Corporation d/b/a The Trust for Governors Island (the “Trust”) invites law firms (each a “Respondent”) to submit proposals (each a “Proposal”), in response to this Request for Proposals (“RFP”), for on-call historic tax credit counsel and ancillary commercial real estate counsel services (the “Legal Services”) as described in more detail below.

The selected Respondent will perform services on a “on-call” basis in accordance with the processes described in this RFP and in compliance with all applicable Legal Requirements.

II. Governors Island and The Trust

Governors Island is a 172-acre, car-free Island in New York Harbor nestled between the Brooklyn waterfront and Lower Manhattan, an eight-minute ferry ride away. The Island today is a popular seasonal destination open to the public from May through October. A new 43-acre park is complemented by dozens of unique historic buildings, educational facilities, a rich arts and culture program and a 22-acre National Monument managed by the National Park Service. Unlike anywhere else in New York, Governors Island offers peaceful settings with sweeping views of the Harbor, skyline and Statue of Liberty. Looking ahead, Governors Island is poised for growth as a year-round public place for learning, innovation, arts and culture. The Trust is currently exploring the development of a major center for climate adaptation research as part of its growth strategy to become a 24/7 destination.

Opening to the public for the first time in 2004 for select summer weekends, the Island has expanded to be open year-round, 365 days per year. The Island has welcomed over 6M people over that period, with an average 12% increase in visitors year over year.

The Governors Island Corporation, doing business as the Trust for Governors Island, is the 501(c)3 not-for-profit organization created by the City of New York and charged with the planning, redevelopment, and ongoing operations of 150 acres of Governors Island. For additional visitor information, please visit www.govisland.org/info.



III. Legal Services Description

1. General overview of the Legal Services:

The Trust owns approximately 52 buildings located within the Governors Island National Historic district, which has been landmarked by the City's Landmarks Preservation Commission. The Island's historic buildings may be eligible for the New York State Rehabilitation Tax Credit Program, which is used in conjunction with the Federal Historic Preservation Tax Incentive, to provide owners with a financial incentive to rehabilitate a building in a manner that retains its historic characteristics. As historic tax credit financing could be a critical source of financing for buildings renovated by potential Historic District tenants, it is important for the Trust to retain appropriate legal counsel to advise and represent the Trust on issues that may be raised by historic tax credit financing structures. The Trust also seeks outside counsel with a commercial real estate group to support and ensure that leases contain any necessary provisions to secure and retain historic tax credits.

2. The Respondent entering into a contract with the Trust will be required to provide the following Legal Services:

At the request of the Trust, the selected Respondent(s) will assist the Trust by providing on-call historic tax credit counsel and ancillary commercial real estate counsel services, at the direction of the Trust. The selected Respondent(s) may be called upon and must be available to perform any and all of the following services:

- (i) Provide advice on and represent the Trust or its affiliates in tax credit transactions as they relate to commercial real estate leases of historic buildings or as requested by the Trust.
- (ii) Draft and review documents, lead or participate in negotiations and provide other legal advice, all in connection with tax credit transactions as they impact the Trust or its affiliate's interest.
- (iii) Advise the Trust with respect to case law, statutes and regulations pertinent to the Trust and its operations, regardless of whether or not such advice is required in connection with a specific project.
- (iv) The selected Respondent(s) may be asked to attend meetings and negotiations, as reasonably requested by the Trust.
- (v) The selected Respondent(s) may be asked to collaborate with counsel for the Trust, the New York City Law Department and other City agencies

3. Retainer Contract/Specific Legal Requirements:

If a Respondent is selected pursuant to this RFP, the award will be conditioned upon the selected Respondent entering into a written retainer contract with the Trust, specifying the Legal Services to be performed. The retainer contract will include but not be limited to the following required provisions:

- (i) The selected Respondent, while acting as historic tax credit counsel for the Trust, will not represent any other person or act in any other capacity in connection with any parties in negotiations with the Trust for the services that are the subject matter of this RFP.

- (ii) The Trust may cancel the retainer contract at any time upon 30 days' written notice to the selected Respondent.
- (iii) The selected Respondent will make a general statement that its hiring and other employee practices are non-discriminatory and otherwise in accordance with the law.
- (iv) This retainer contract is for on-call historic tax credit counsel and ancillary commercial real estate counsel services and does not in any way obligate the Trust to use Respondent's services for other matters.
- (v) The selected Respondent will comply with Mayor's Executive Order 50 (1980) as amended, and the regulations thereunder, with respect to equal employment opportunity, attached hereto as Exhibit D.

Unless a specific exception is noted, submission of a Proposal in response to this RFP will constitute agreement on the part of the Respondents that the above items will be incorporated into any resulting retainer contract with that firm.

IV. Proposal Sections and Requirements

A. Proposal Sections

Each Respondent responding to this request shall submit, on or before the submission deadline date and time, their proposal in electronic form, in PDF format, to gibids@govisland.org:

- 1. Statement of Qualification
- 2. Fee Proposal

B. Statement of Qualification

- 1. Cover Letter: A letter summarizing the Respondent's capabilities and experience, including a brief company profile, number of years in business, company's full name and address, and the name, address and telephone number of the person authorized to represent the responding firm in all aspects of contract negotiations.
- 2. The Proposal should include the following information:
 - i. A summary of Respondent's relevant experience in representing municipalities, other public/quasi-public organizations, and not-for-profit corporations (particularly agencies and organizations based in New York City), with respect to on-call historic tax credit counsel and ancillary commercial real estate counsel services, providing for each project the name and telephone number of a contact person for the client, a project description, and a list of the persons directly involved and their roles. Please note that the Trust may choose to speak to any, all, or none of the persons whose names and numbers have been provided.
 - ii. A complete listing of all attorneys who would be involved in rendering the Legal Services being requested by the Trust, together with an indication of their titles and responsibilities, a description of their qualifications and past relevant experience, and an estimate of the availability of each of these individuals to

provide the Legal Services requested herein. The Proposal should include a resume and/or detailed statement of professional experience for each such person, including a statement of educational background. The Proposal should also identify the name and provide contact information of the attorney who will be the Trust's primary contact concerning the engagement.

- iii. A narrative description of Respondent's understanding, methodology, and approach to the Legal Services.
- iv. Signed Declaration of Understanding attached as Exhibit A.
- v. Provide Local Law 34 Doing Business Data Form in Exhibit C.

C. Fee Proposal

The Proposal should state the hourly rates of the Respondent firm's proposed fees and expenses for:

- (i) partners, associates, paralegals and other support staff; and
- (ii) other administrative, disbursement, or overhead charges, if applicable.

Please be advised that the hourly rates that the Trust will pay for outside legal services must be approved by the City's Law Department.

V. Proposal Evaluation and Selection

A Trust evaluation committee (the "Committee") will perform a two-part evaluation of all proposals submitted by Respondents (each a "Proposal").

The Committee will review, evaluate and score each proposal on its merits in accordance with established qualitative and quantitative criteria (see criteria below). This evaluation and scoring will determine the Respondent's rating. Respondents will be ranked in accordance with the total evaluation score.

The Committee will evaluate the Proposals and will use the following criteria to evaluate the Proposals received:

- (i) Prior experience in performing services for governmental or public/quasi governmental entities in connection with historic tax credit and ancillary commercial real estate issues;
- (ii) Respondent's fee schedule and other expenses/charges;
- (iii) Respondent's overall expertise and organizational strength, including availability of staff to perform the Legal Services;
- (iv) Quality of legal reputation, generally and specifically with respect to the areas of law that are relevant to this RFP, and quality of references of Respondent; and
- (v) Other information concerning the Respondent as may be disclosed in its Proposal or otherwise available to the Trust.

The Trust may, in its sole discretion, request clarification or supplemental information, or request interviews with Respondents, after the submission due date from one or more Respondents. The Trust may also, in its sole discretion, request best and final offers from one or more Respondents prior to the making of any selection(s) pursuant to this RFP.

VI. RFP Timeline and Contact

1. The Proposal must be signed by a partner or other member of the Respondent, and must contain the name, title, address, telephone number, facsimile number, and e-mail address of an individual with authority to contractually bind the Respondent, and who may be contacted during the period of the Proposal evaluation.
2. Questions
Any questions and associated explanations regarding the RFP must be emailed and received by the Trust no later than 5PM on October 26, 2021. The Trust will evaluate the need to respond to inquiries. No verbal responses to questions will be provided and any information given to Respondents will be shared with all prospective Respondents as an addendum to the RFP (an “Addendum”). All questions must be directed only to gibids@govisland.org with the RFP title in the subject line.
3. Submission Deadline
Respondents shall deliver their pdf proposals via email to gibids@govisland.org or via download link. **All submissions must be delivered on or before November 10, 2021 by 5PM.** Any proposal received after the deadline will be considered for evaluation solely at the discretion of the Trust.
4. Interviews
Interviews may be held with respondents after receipt of proposals, if requested. Interviews will be scheduled after initial review of proposals.
5. RFP Schedule

Questions Due

October 26, 2021 by 5PM

Proposals Due

November 10, 2021 by 5PM

VII. RFP Procedures and Policies

- A. Any information which may have been released verbally or in writing prior to the issuance of the RFP shall be deemed preliminary in nature and bind neither the Trust nor the Respondent.
- B. No Respondent will be selected if an individual who is a member or partner or otherwise a principal and/ or its management team is determined, in the Trust’s sole discretion, to be in arrears or in default of any debt, contract or obligation to or with the City or State of New York, or any other of their instrumentalities or otherwise to be a prohibited person as defined by the Trust. All principals, members or partners of a Respondent must complete a background questionnaire and are subject to investigation by the Trust and the City. The selection of a Respondent may be revoked in the event that any derogatory information is revealed by such investigations.
- C. The Trust is not required to accept the proposal with the lowest fee offer.
- D. Proposal as Offer to Contract. Unless a specific exemption is noted, submission of a proposal in response to this RFP shall constitute an offer on the part of the successful respondent to execute a contract. Any supporting documents or other items attached as exhibits to this RFP shall be incorporated into the contract. Respondent’s proposal shall remain open for acceptance by the

Trust and shall remain firm and binding upon the Respondent for at least ninety (90) days after the date on which the proposals are received by the Trust, except that the Trust may by written notice to the respondent extend that date for an additional forty-five (45) days.

- E. All RFP submission materials become the property of the Trust. The Trust is subject to the New York State Freedom of Information Law (“FOIL”), which governs the process for the public disclosure of certain records maintained by the Trust. (See Public Officers Law, Sections 87 and 89.) Proposal submission material will generally be made available for inspection and copying by interested parties upon written request, except when specifically exempted from disclosure under the requirements of FOIL. **Individuals or firms that submit proposals to the Trust may request that the Trust except all or part of such a proposal from public disclosure, on the grounds that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the individual or firm submitting the information.** Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for such an exception must be in writing and state, in detail, the specific reasons for the requested exception. It must also specify the proposal or portions thereof for which the exception is requested. If the Trust determines that the requested exemption from public disclosure qualifies for an exemption from disclosure under FOIL, the Trust will grant such requested exception to the extent permitted under FOIL.
- F. The Trust will not be liable for any costs incurred by Respondents in the preparation of proposals or for any work performed in connection therein.
- G. Proposal Withdrawals: Respondents may withdraw their proposals from consideration at any time before the proposal submission deadline by submitting written notice to the Trust. Addenda posted to the Trust’s website will be the only authorized method for communicating information to all potential Respondents. Respondents should contact the Trust before submitting a proposal to verify that they have received any addenda issued. Respondents should acknowledge the receipt of any addenda in their proposal submissions.
- H. The Trust reserves the right to postpone or cancel this RFP and reject all proposals.
- I. The Trust’s Rights. This is a “Request for Proposals” and not a “Request for Bids.” The Trust shall be the sole judge of whether a proposal conforms to the requirements of this RFP and of the merits and acceptability of the individual proposals. Notwithstanding anything to the contrary contained herein, the Trust reserves the right to take any of the following actions in connection with this RFP: amend, modify or withdraw this RFP; waive any requirements of this RFP; require supplemental statements and information from any respondents to this RFP; award a contract to as many or as few or none of the respondents as the Trust may select; accept or reject any or all proposals received in response to this RFP; extend the deadline for submission of proposals; negotiate or hold discussions with one or more of the respondents; permit the correction of deficient proposals that do not completely conform with this RFP; waive any conditions or modify any provisions of this RFP with respect to one or more respondents; reject any or all proposals and cancel this RFP, in whole or in part, for any reason or no reason, in the Trust’s sole discretion. The Trust may exercise any such rights at any time, without notice to any respondent or other parties and without liability to any respondent or other parties for their costs, expenses or other

obligations incurred in the preparation of a proposal or otherwise. All proposals become the property of the Trust.

- J. The Respondent attests and confirms that where applicable, the Respondent has read and understands all RFP documents, and the proposal is made in accordance therewith.
- K. Conflicts of Interest:
 - a. The Respondent should disclose in writing as part of their proposal any possible or potential conflicts of interest which are known to, or reasonably should be known to the Respondent, which may exist between Respondent's firm, the City of New York and/or Governors Island Corporation d/b/a The Trust for Governors Island. All Respondents and business partners must disclose with their proposal, the name of any officer, director, agent or employee who is also employee or family member of an employee of the Trust.
 - b. Further, the Respondent must disclose the name of any employee or family member of any elected official who owns, directly or indirectly, an investment or other proprietary interest, in the firm or any of its parent company, subsidiaries or affiliates.
 - c. The Respondent and its business partners should disclose in writing as part of their proposal, any familial, personal or business relationships between members of Respondent's or business partner's firms and members of the Trust, whether or not there is any belief that the relationship might constitute a possible conflict of interest.
- L. Anti-Collusion: The Respondent, by virtue of issuing a proposal certifies that it has not divulged, discussed or compared the proposal with others and has not colluded with any other Respondent or participating parties whomsoever. Respondent further certifies and agrees that premiums, rebates or gratuities are prohibited whether with, prior to, or after any delivery of Legal Services. Any such violation will result in the cancellation of this proposal and the offending parties will be excluded from participating in future RFPs.

The undersigned further attests and confirms that:

- A. Where applicable, the Respondent has read and understands all RFP documents, and the proposal is made in accordance therewith.
- B. The Respondent is not presently barred from performing legal services in New York State.
- C. By submitting a proposal, the Respondent acknowledges that if written notice of acceptance of this proposal is received by undersigned within ninety days (written notice can be in the form of a draft contract) after date of opening of proposals, or any time thereafter before this proposal is withdrawn, undersigned will, within ten days after receipt of such notice, execute and deliver a contract.

Respectfully submitted by

Proposing Firm: _____

Signature _____

Print Name _____

Title _____

Date _____

NOTE: A representative empowered to execute contracts must sign this Proposal. If this is anyone other than a company officer, a letter must be prepared by a company officer authorizing the above individual and submitted with the Proposal.

Exhibit A Declaration of Understanding

By signing in the space provided below, the undersigned certifies that the respondent (i) has read and understands the scope and requirements of this project, as described in the RFP and all attachments; (ii) has the capacity to execute this project, and (iii) will, if its proposal is accepted, enter into a contract with the Trust for Governors Island.

The undersigned further stipulates that the information in his Proposal is, to the best of his/her knowledge, true and accurate.

Authorized Signature, Title

Date

Respondent

Business Address

City State Zip

Telephone Number

Federal Tax Identification Number

☐ Corporation

☐ Partnership

☐ Individual

☐ Other (State)

(Seal, if a Corporation)

Exhibit B Sample Fee and Cost Schedule

The Respondent shall set forth the names, positions and hourly rates for the staff Respondent proposes to use to perform the services. These schedules are for evaluation purposes only and shall not be used to determine payments or to define the Legal Services. If selected, prior to contract execution, the Respondent will provide a detailed Fee and Cost schedule which may be utilized for payment purposes.

Fee and Cost Schedule

Position/Title	Hourly Rate

Exhibit C Doing Business Data Form

Local Law 34 of 2007 (LL34) requires the creation of a database containing information about entities that do business with the City as defined by the law, and principal officers, owners and senior managers of these entities. This information will be collected on Doing Business Data Forms that are distributed, collected and reviewed by agencies, and forwarded to the Doing Business Accountability Project (DBAP) at MOCS for processing. Collected data will be used to identify entities and people who are subject to LL34's limitations on campaign contributions in municipal elections.

The doing business data form can be downloaded at:

<https://www1.nyc.gov/html/dot/downloads/pdf/open-street-doing-business-data-form.pdf>

and should be attached to the RFP submission.

If you have any questions or concerns, please contact the Doing Business Accountability Project at 212-788-8104 or DoingBusiness@cityhall.nyc.gov.

Exhibit D E.O. 50 Supply and Service Rider

E.O. 50 SUPPLY & SERVICE RIDER EQUAL EMPLOYMENT OPPORTUNITY

Note: For purposes of this rider, the “Contractor” means _____[law firm] and the “Department” or “City” means “The Trust for Governors Island”.

This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) (§10-14) as revised (“E.O. 50”) and the Rules and Regulation promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the Contractor agrees that:

- (1) it will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions or employment;
- (2) when it subcontracts it will not engage in any unlawful discrimination in the selection of subcontractors on the basis of the race, color, creed, national origin, sex, age disability, marital status or sexual orientation of the owner, manager or any officer, director, agent or employee of such, subcontractors.
- (3) it will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status or sexual orientation, or that it is an equal employment opportunity employer;
- (4) it will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder; and
- (5) it will furnish all information and reports including an Employment Report before the award of the contract which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the of the New York City Department of Small Business Services, Division of Labor Services (“DLS”), and will permit access to its books, records and accounts by the Bureau for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders such noncompliance shall constitute a material breach of the contract and noncompliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of DLS, the Director may direct the imposition upon the Contractor of any or all of the following sanctions:

- (i) disapproval of the Contractor;

- (ii) suspension or termination of the contract;
- (iii) declaring the Contractor in default; or
- (iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of DLS may recommend to the contracting agency head that a Board of Responsibility be convened for purposes of declaring a Contractor who has repeatedly failed to comply with E.O. 50 and the rules and regulations promulgated thereunder to be non-responsible.

The Contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of \$50,000 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance.

The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 (§10-14) and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 (§10-14) and the rules and regulations promulgated thereunder.