

**REQUEST FOR PROPOSALS FOR
PURCHASE OF LEASE REVENUE BONDS
802 EMMETT ROUSCH DRIVE PROJECT)
SERIES 2014**

**TO BE ISSUED BY THE BERKELEY COUNTY BUILDING COMMISSION
FOR THE BENEFIT OF THE COUNTY COUNCIL OF BERKELEY COUNTY**

The County Council of Berkeley County (the "County Council") is requesting proposals from investment banking firms, banks and other qualified entities in connection with the purchase of Lease Revenue Bonds (802 Emmett Rousch Drive Project) Series 2014 to be issued by the Berkeley County Building Commission (the "Issuer") for the benefit of the County Council in an original aggregate principal amount of not to exceed \$3,000,000 (the "Bonds"). The proceeds of the Bonds will be used to finance costs of the renovation, improvement, furnishing and equipping of the Berkeley County 911 Central Dispatch facilities located at 802 Emmett Rousch Drive, Martinsburg, Berkeley County, West Virginia (the "Facilities") and to pay costs of issuing the Bonds and related costs. The Facilities are currently owned by the County Council and will be conveyed by the County Council to the Issuer contemporaneously with the issuance of the Bonds. The Issuer will execute a deed of trust (the "Deed of Trust") to secure the repayment of the Bonds and will then lease the Facilities back to the County Council pursuant to a Lease Agreement (the "Lease") between the Issuer, as lessor, and the County Council, as lessee. The County Council will be required pursuant to the provisions of the subject Lease to make lease payments equal to the debt service on the Bonds and to operate, maintain, repair and insure the Facilities. The Issuer will assign to the holder or holder of the Bonds the right to receive the lease payments from the County Council pursuant to the Lease as further security for the repayment of the Bonds. The County Council reserves the right to enter into agreements with one or more boards, commissions or agencies of Berkeley County for the use of all or a portion of the Facilities. The principal of and interest and redemption premium, if any, on the Bonds will be payable solely from the lease payments to be made by the County Council pursuant to the Lease and the proceeds of any foreclosure sale of the Facilities pursuant to the Deed of Trust. As required by the laws of the State of West Virginia, the County Council will have the right at least once each fiscal year to terminate the Lease without any further obligation thereunder after such termination.

The Bonds will be limited obligations of the Issuer payable solely out of the lease payments to be made by the County Council pursuant to the Lease and any lease payments received pursuant to any other lease of the Facilities authorized under the Bond Purchase Agreement to be executed in connection with the issuance of the Bonds and from proceeds of any foreclosure under the Deed of Trust. The Bonds and any other obligations, agreements, covenants or representations contained in the Bond Purchase Agreement, shall never constitute an indebtedness of the Issuer, the County Council or the State of West Virginia within the meaning of any constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Issuer (except as expressly provided in the Bonds), the County Council (except as expressly provided in the Lease) or the State of West Virginia. The principal of and interest and redemption premium, if any, on the Bonds shall never be a charge against the general credit or taxing power of the Issuer, the County Council or the State of West Virginia.

The source of repayment will be lease payments to be made by the County Council pursuant to the Lease. The County Council desires an amortization period for the Bonds of between fifteen and thirty (30) years. The County Council would also like to receive proposals for the Bonds to be structured as a bond anticipation note in the form of a non-revolving construction/renovation line-of-credit loan in an amount not to exceed \$3,000,000 with a term of eighteen (18) months, with monthly interest only payments and all outstanding principal due at maturity. The Bonds will be “bank qualified” meaning that they will be a “qualified tax-exempt obligation” for purposes of Section 265(b) (3) of the Internal Revenue Code of 1986, as amended.

CONTENTS OF PROPOSALS.

Proposals responsive to this request should contain at a minimum the following information:

1. The interest rate or rates on the proposed Bonds (a fixed rate is preferred);
2. Redemption premiums or other prepayment penalties, if any. The County Council would prefer that there not be any redemption premiums or other prepayment penalties but will accept proposals with or without redemption premiums or other prepayment penalties.
3. The proposed maturity date and amortization schedule for the proposed Bonds. The County Council would like to receive proposals for amortization periods of 15, 20, 25 and 30 years but it is not mandatory that proposals include all of the requested amortization periods. The County Council would prefer a construction period of up to eighteen (18) months during which only interest would be payable on the Bonds and the proceeds of the Bonds would be advanced from time to time as needed to pay project and issuance costs up to the maximum amount of the Bonds with the understanding that less than the maximum principal amount of the Bonds may ultimately be advanced.
4. The County Council would also like to receive proposals for the Bonds to be structured as a bond anticipation note in the form of a non-revolving construction/renovation line-of-credit loan in an amount not to exceed \$3,000,000 with a term of eighteen (18) months, with monthly interest only payments and all outstanding principal due at maturity. It is anticipated that the principal due at maturity would be permanently financed with proceeds of Lease Revenue Bonds to be issued by the Issuer at that time.
5. The County Council desires to receive proposals for up to \$3,000,000 in original principal amount of the Bonds but reserves the right to have the Bonds issued in an original principal amount less than \$3,000,000. At the option of the County Council, the fees and expenses of Bond Counsel and other issuance costs may be added to the principal amount of the Bonds.
6. Whether a debt service reserve fund will be required with respect to the Bonds and, if required, the amount of the debt service reserve fund.
7. The amount of any loan origination fees and a list of all other costs of issuance relating to the issuance of the proposed Bonds that would be payable by the County

Council or Issuer, excluding the fees and expenses of Bond Counsel which has already been retained by the Issuer.

8. Approximate time schedule for the issuance of the proposed Bonds, it being required that the Bonds be issued by November 1, 2014;

9. Whether payments will be made on the Bonds biweekly, monthly, quarterly, semi-annually or otherwise (the County Council would like to have the option of paying the Bonds on a biweekly basis);

10. Location/address of the investment banking firm, bank and other qualified entity submitting the proposal and name, address, telephone number and e-mail address of local representative/contact for all issues or problems relating to the subject financing;

11. Whether an appraisal will be needed and, if so, the timeframe for appraisal completion and the party responsible for payment of the appraisal and also the maximum loan-to-value percentage; and

12. Fully executed Non-Collusion Certificate (see Attachment A).

Proposals submitted in response to this request should be enclosed in a sealed opaque envelope marked “**Berkeley County Building Commission Lease Revenue Bonds (802 Emmett Rousch Drive Project) Series 2014.**” Proposals must be submitted and time-stamped into the County Council Office, Room 201, 400 W. Stephen Street, Martinsburg, WV, 25401 **no later than 4:00 p.m. on Wednesday, September 24, 2014.** Failure to provide the required information as requested in the RFP for the County Council’s review may result in disqualification. Questions and requests for information relating to this Request for Proposals should be directed to Alan J. Davis, County Administrator, at (304) 267-5102. Proposals will be opened and entered into public record at 10:00 AM on September 25, 2014 in the County Commission Meeting Room, 400 W. Stephen Street, Room 205, Martinsburg, WV 25401.

Neither the County Council nor the Issuer will be responsible for any expenses incurred in the preparation and/or presentation of the proposals and oral interviews, if conducted, or for the disclosure of any information or material received in connection with this solicitation, whether by negligence or otherwise. The County Council and Issuer reserve the right to reject any and all proposals, with or without cause, and waive any irregularities, technicalities, or informalities in the proposals and to take whatever action is in the best interest of the County Council. The County Council and Issuer further reserve the right to make such investigations as it deems necessary as to the qualifications of any and all parties submitting proposals. In the event all proposals are rejected, the County Council and Issuer reserve the right to solicit additional proposals.

The County Council shall make positive efforts to utilize Disadvantaged Business Enterprises for its supplies and services and shall allow these sources the maximum feasible opportunity to compete for contracts, including without limitation the financing described herein. Berkeley County does not discriminate on the basis of race, color, national origin, sex, religion, age or disability for the provision of services.

Only written responses to this RFP shall be considered. All materials submitted shall become part of the proposal.

PROPOSALS AND AWARD SCHEDULE:

- A. Proposals received prior to the deadline will be treated as confidential, until receipt of all proposals and opening of the same. Proposals received after the deadline will not be considered in the evaluation process and will be returned unopened.
- B. It is expected that the award of the subject financing will be made within ten (10) business days after the opening of proposals. The contract will be awarded to the investment banking firm, bank and other qualified entity whose proposal, conforming to this request, will be the most advantageous to Berkeley County.
- C. Proposals must give the full name and address of the proposer and the person signing the proposal shall indicate his or her title and/or authority to bind the investment banking firm, bank and other qualified entity submitting the proposal in a contract.
- D. Proposals may not be altered or amended after they are opened.
- E. The approval or disapproval of the Proposal will be determined by its response to this request and on past performance. No assumptions should be made on the part of the investment banking firm, bank and other qualified entity submitting a proposal that the County Council has prior knowledge of their abilities.
- F. The County Council reserves the right to request clarification of information submitted and to request additional information of one or more applicants.

TERMS AND CONDITIONS:

- A. Any proposal may be withdrawn up until the date and time set within this RFP for the opening of the proposals. Any proposal not so withdrawn will constitute an irrevocable offer, for a period of ninety (90) calendar days, to provide to the Issuer and the County Council the financing set forth above, in the manner and at the costs set forth in the subject proposal.
- B. Prior to the closing, the selected investment banking firm, bank and other qualified entity shall not assign any interest in the financing and shall not transfer any interest in the same without prior written consent of the County Council.
- C. Investment banking firms, banks and other qualified entities submitting a proposal shall give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not

be disclosed by the County Council under the West Virginia Freedom of Information Act.

- D. The County Council reserves the right to request interviews.
- E. By submitting a proposal, the investment banking firm, bank or other qualified entity submitting a proposal agrees that it is satisfied, as a result of its own investigations of the conditions set forth in this request, and that it fully understands the obligations set forth therein.
- F. By submitting a proposal, the investment banking firm, bank or other qualified entity submitting a proposal agrees to abide by and comply with the true intent of the RFP and agrees that it shall not take advantage of any unintentional error, ambiguity or omission.
- G. By submitting a proposal, the investment banking firm, bank or other qualified entity submitting a proposal represents and warrants:
 - 1. That it is currently licensed to do business and to provide investment banking or banking services, as the case may be, in the State of West Virginia and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 - 2. That it is not in arrears with respect to the payment of any monies due and owing the State of West Virginia, or any department or agency thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not fall into arrears during the term of the contract; that it shall comply with all federal, State, and local laws, ordinances, and legally enforceable rules and regulations applicable to its activities and obligations under the contract;
 - 3. That it shall procure, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations with respect to the requested financing;
 - 4. That the facts and matters set forth in its proposal are true and correct.

Should any investment banking firm, bank or other qualified entity find discrepancies in or omissions from, this RFP or be in doubt of the meaning, they should at once request in writing an interpretation from the County Council. All necessary interpretations will be made available to all recipients of this RFP in the form of addenda to the RFP, and such addenda shall become part of this RFP. Failure of any recipient of this RFP to receive any such addendum or interpretation shall not relieve such recipient from any obligation under their proposal as submitted. The County Council will assume no responsibility for oral instructions or suggestions. **ORAL ANSWERS SHALL NOT BE BINDING ON BERKELEY COUNTY OR THE COUNTY COUNCIL.** Every interpretation made by the County Council will be made in the form of an addendum that, if issued, will be sent by the County Council to all interested parties.

ATTACHMENT A

NON-COLLUSION CERTIFICATE

I HEREBY CERTIFY I am the _____ (Title)
and the duly authorized representative of _____

_____ whose
address is _____.

AND THAT NEITHER I nor, to the best of my knowledge, information and belief, the above entity nor any of its other representatives I here represent have:

- (a) Agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the proposal or offer being submitted herewith;
- (b) Not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the proposal of the bidder or offeror herein or any competitor, or competitive bidding in connection with the financing for which the within proposal or offer is submitted; and that no member of the County Council of Berkeley County, West Virginia, administrative or supervisory personnel or other employees of Berkeley County have any interest in the proposing entity except as follows: (complete if applicable)

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Signature

Date

Printed or Typed Name