

**FOR CONSIDERATION**

August 19, 2009

**TO:** The Directors

**FROM:** Dennis M. Mullen

**SUBJECT:** Loan Servicing Software and Hosting Services Contract

**REQUEST**

**FOR:** Authorization to Amend a Contract for Loan Servicing Software and Hosting Services with McCracken Financial Solutions Corporation.

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**I. Contract Summary**

**Contractor:** McCracken Financial Solutions Corporation (“MFS”)

**Scope of Services:** To provide (i) loan servicing software and implementation, (ii) hosting services, and (iii) system support services to manage ESDC’s and JDA’s commercial loan portfolios.

**Contract Term:** To amend the term of the current contract for a period of up to 5 years.

**Termination:** Cancelable with 90 days notice and payment of a fee based on 8% of average monthly billings for twelve months.

**Contract Amendment Amount:** Not to exceed \$250,000

**Funding Source(s):** Corporate Funds (50% of contract payments will be recorded on JDA’s books as a payable to ESDC)

## **II. Background**

In 2004, as part of its continuing effort to improve efficiency and increase cost effectiveness, the Empire State Development Corporation (“ESDC” or the “Corporation”) entered into a contract with MFS to provide loan servicing software and services to manage the commercial loan portfolios of ESDC and the New York Job Development Authority (“JDA”). As of July 31, 2009, the total commercial portfolio consists of 211 loans, 130 in the ESDC portfolio and 81 in the JDA portfolio, with a combined outstanding balance of \$198.5 million.

## **III. Contractor Selection Process**

In anticipation of the contract with MFS expiring on August 31, 2009, a Request for Proposals (“RFP”) for (i) loan servicing software and implementation, (ii) hosting services, and (iii) system support services to manage ESDC’s and JDA’s commercial loan portfolios was published in the May 4, 2009 issue of the New York State Contract Reporter. Three firms responded to the RFP: MFS, Junction Partners LLC and RJ Software Solutions. The bids were reviewed and rated by three ESDC staff members primarily on the basis of the bidders’ proposed software and hosting services, pricing, duration of implementation, training and client base. Of the three bidders, MFS overwhelmingly received the highest score from each reviewer. The second and third highest scores went to JP and RJ respectively.

## **IV. Scope of Work**

MFS is a leader in commercial real estate and has provided an affordable product with great utility. With 20 years of experience in the industry, McCracken handles commercial loans worth over \$700 billion. McCracken’s clients include over 50 of the leading real estate finance companies. It offers its clients software that improves efficiency, provides faster and more accurate reporting and 24/7 support. MFS has provided software and hosting services to ESDC in a highly satisfactory manner since the inception of the current contract. Previously, MFS provided loan servicing to JDA from 1988 through 1996, and its performance was deemed solid by staff. MFS’ fee structure is competitive and cost effective, as ESDC pays for support based on usage as opposed to a flat servicing fee. As the MFS system has been in place at ESDC since 2004, no further implementation costs or training fees would be applicable. MFS has become very familiar with the ESDC and JDA portfolios and is in the best position to provide the desired services.

## **V. Contract Term, Pricing and Funding**

We propose to extend the current contract with MFS for a period of up to five years in a total amount not to exceed \$250,000. MFS currently charges ESDC \$12.60 per active loan on the system per month with a requirement that ESDC pay for a minimum of 225 loans. MFS has proposed a fee structure based upon an annual increase of 4% adjusted for CPI over the

duration of the contract. This fee does not include the cost of connecting to MFS' Data Center which, based on 10 users, would cost an additional \$3,960 per year.

#### **VI. Non-Discrimination/Affirmative Action**

ESDC's Non-discrimination and Affirmative Action policy will apply. MFS is encouraged to use its best efforts to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with this contract, and to include minorities and women in any job opportunities created.

#### **VII. Environmental Review**

ESDC staff has determined that this request authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the action.

#### **VIII. Requested Action**

The Directors are requested to authorize ESDC to amend the term of a contract for Loan Servicing Software and Hosting Services with McCracken Financial Solutions Corporation for a period of up to five years in a total amount not to exceed \$250,000.

#### **IX. Recommendation**

Based on the foregoing, I recommend approval of the attached resolution.

#### **X. Attachment**

Resolution

August 19, 2009

Empire State Development Corporation - Authorization to Amend the Term of the Contract for Loan Servicing Software and Hosting Services with McCracken Financial Solutions Corporation for a Period of Up to Five Years in a Total Amount Not to Exceed \$250,000.

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BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds McCracken Financial Solutions Corporation to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to amend the term of the contract with the McCracken Financial Solutions Corporation for a period of up to five years in an amount not to exceed \$250,000 for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the Corporation is hereby authorized to issue a Notice to Proceed in an amount not to exceed \$50,000 to immediately commence the services under this contract; and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.