

FOR CONSIDERATION

August 19, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Slate of Underwriters/Financial Advisors/Financial Products Providers

REQUEST FOR: Authorization to Approve a Rotating Team of Underwriters, Financial Advisors and Financial Products Providers

I. Introduction

In April 2007, the New York State Urban Development Corporation d/b/a Empire State Development Corporation (“ESDC” or the “Corporation”) selected a rotating team of underwriters to assist in the sale of its bonds.

At that time, a rotating team consisting of 22 underwriters with nine (9) financial product providers, and three (3) financial advisors were selected to serve for an initial period of 4 years with a 1 year extension with the approval of the Chairman.

The Directors are now being asked to consider a new slate of underwriters, financial product providers, and financial advisors.

II. Background/Current Selection

Governor Patterson, by Executive Order No. 10, established a Task Force to increase utilization of minority and women owned business enterprise (MWBE) firms in the State’s negotiated debt offerings. The MWBE Task Force, created with representatives from various State entities, recommended that a Uniform Request for Proposal (RFP) template or Common RFP be created and used by the various issuers of State debt as a means of standardizing the underwriter procurement practices, and revised the associated assessment criteria. Further, the Task Force recommended that the intervening period between RFP issuances be shortened to a two year cycle with the option for a one year extension and that they be issued in a staggered rotation by the various State agencies.

While the basic format of the Common RFP was utilized by the Corporation, it was expanded to also solicit responses from Financial Advisors and Financial Product Providers in keeping with ESDC's past practice to combine its underwriter procurement process with that for financial advisors and financial product providers.

On June 1, 2009, the Corporation placed an advertisement in the New York State Contract Reporter pursuant to which it solicited responses to its Request for Proposals from firms interested in qualifying to serve as underwriters on a rotating basis, as well as, financial advisors and financial product/swap providers.

The Corporation also posted on its website, a notice advising that the Corporation was soliciting for professional services pursuant to a Request for Proposal for Underwriters, Financial Advisors and Financial Product Providers/Swap Counterparties. Further, the Corporation emailed notices of the upcoming RFP to 323 representatives of 117 firms.

By the June 22, 2009 deadline, fifty seven (57) firms responded to the RFP with several firms applying for more than one position. Forty seven (47) firms requested to serve as underwriter, seven (7) requested to serve as financial advisor and fifteen (15) firms asked to serve as financial product providers. Additionally, the Corporation received proposals from four (4) firms requesting to be considered only as members of the Selling Group.

A. Underwriters

A team of staff from Finance, Treasury, and Legal reviewed and rated the firms requesting to serve as Underwriters. Rating criteria included:

- Experience of Firm & Individuals
- Knowledge and Technical Expertise
- Diversity and Commitment to Equal Opportunity Programs
- Assistance in secondary market; ideas, analyses or work provided to ESDC
- Innovations
- Bond Sales; Retail and Institutional Distribution

In addition, each firm's staff growth in its public finance area, excess net capital positions, staffing plans and compliance with State Finance Law procurement requirements were reviewed.

On the basis of overall rankings of the written presentations of the responding firms, a final recommended group was selected comprised of eleven (11) Senior Managers and seventeen (17) Co-Managers and twenty-three (23) Selling Group members.

The initial Selling Group will include respondents who did not earn scores sufficient to qualify for the Senior or Co-Manager tier as well as firms that requested only to be considered for inclusion in the Selling Group. The composition of the Selling Group may change from time

to time. These firms will receive no designations, assume no liability for purchasing bonds and will only sell bonds of the Corporation as requested and as available.

It has been the Corporation's practice in the prior cycle to invite MWBE firms in the Co-Manager category to serve as Co-Senior Managers and this practice has proved to be very successful. As a result, there are four (4) MWBE firms that earned scores sufficient to be recommended for inclusion in Senior Manager tier. The Corporation's practice provided a model that was followed by other State issuers and included as part of the recommendations to the Governor by the MWBE Task Force.

The staff proposes to continue this practice of inviting minority and women-owned enterprises from the co-manager group and to expand this practice to include inviting emerging or small regional firms from the co-manager group to participate as a co-senior manager in future ESDC bond transactions. This invitation will be based on the firm meeting two or more of the following criteria:

- Strong performance in bond distribution of ESDC debt;
- Providing unique financial proposals or refunding ideas resulting in savings to the Corporation and/or the State;
- Credit enhancement assistance or obtaining letters of credit with favorable terms for transactions;
- Providing ideas that enhance marketing and/or ratings of ESDC or State bonds.

It is hoped that this practice will provide these firms an opportunity to gain experience as well as partial underwriting credit and compensation.

Last year saw a number of financial firm mergers, acquisitions and consolidations and, given the continuing instability in the financial markets, this trend may continue in this cycle of underwriters. In the event that underwriting firms are acquired, merged or otherwise reconstituted, the new or reconstituted firm may be allowed to take the place held by the former firm.

Based on the foregoing reviews and appraisals, it is recommended that the following firms be approved to serve as underwriters on a rotating basis for a term of two years. The term can be extended for six months by an officer of the Corporation and, with the consent of the Chief Executive Officer (CEO), the term can be further extended an additional six months, for a total of a one year extension:

SENIOR MANAGERS:

Barclay's Capital Inc.

Citigroup Global Markets Inc.

J.P. Morgan Securities Inc.

Goldman, Sachs & Co.

Loop Capital Markets, LLC

Merrill Lynch, Pierce, Fenner & Smith Incorporated

Morgan Stanley

SENIOR MANAGERS (Cont.)

Rice Financial Products Company
Samuel A. Ramirez & Co., Inc.
Siebert Brandford Shank & Co., LLC
Wachovia Bank, National Association

CO-MANAGERS:

BB&T Capital Markets
Cabrera Capital Markets, LLC
Fidelity Capital Markets
Jackson Securities, LLC
Janney Montgomery Scott LLC
Jefferies & Company, Inc.
Lebenthal & Co., LLC
MR Beal & Company
Mesirow Financial
Morgan Keegan & Company, Inc.
Piper Jaffray & Co.
RBC Capital Markets Corporation
Raymond James & Associates, Inc.
Roosevelt & Cross, Incorporated
Sterne, Agee & Leach, Inc.
Stifel, Nicolaus & Company, Incorporated
Stone & Youngberg

B. Financial Product Providers

Fifteen (15) firms submitted proposals to serve as financial product providers. Staff ranked the responding firms based on the following criteria:

- Experience of Firm & Individuals
- Knowledge and Technical Expertise
- Diversity and Commitment to Equal Opportunity Programs
- Assistance in secondary market. Ideas, analyses or work provided to ESDC
- Innovations
- Swap Strategies/Creative Solutions

For each firm, the size of the swap portfolio, reputation and rating were also considered. On the basis of overall ranking of the written presentations of the responding firms, a final recommended group of nine (9) firms was selected and would be eligible to participate on a negotiated basis or bid on any competitive or quasi-competitive swap offering.

Accordingly, based upon staff ratings, it is recommended that the Corporation select the following firms to be eligible to serve as financial product providers, as needed, for a term of two years. An officer of the Corporation can extend the term for six months and with the consent of the CEO the term can be extended an additional six months, for a total of a one year extension:

FINANCIAL PRODUCT PROVIDERS:

Barclay's Capital Inc.
Citigroup Global Markets Inc.
Goldman, Sachs & Co.
Merrill Lynch, Pierce, Fenner & Smith Incorporated
Morgan Stanley
RBC Capital Markets Corporation

FINANCIAL PRODUCT PROVIDERS (Cont.)

Rice Financial Products Company
Siebert Brandford Shank & Co., LLC
Wachovia Bank, National Association

C. Financial Advisors

Seven (7) firms submitted proposals to serve as financial advisors. Staff ranked the responding firms based on the following criteria.

- Experience of Firm & Individuals
- Knowledge and Technical Expertise
- Diversity and Commitment to Equal Opportunity Programs
- Ideas, analyses or work provided to ESDC
- Innovations
- Compensation Arrangements

On the basis of overall ranking of the written presentations, a final recommended group of three (3) firms was selected to provide financial advisory services.

Accordingly, based upon staff ratings, it is recommended that the Corporation select the following firms to be eligible to serve as financial advisors, as needed, for a term of two years. An officer of the Corporation can extend the term for six months and with the consent of the CEO the term can be extended an additional six months, for a total of a one year extension:

FINANCIAL ADVISORS:

Butchermark Financial Advisors LLC
Public Resources Advisory Group (PRAG)
Public Financial Management (PFM)

III. Requested Action

At this time you are requested to approve the slate of the underwriters, financial products providers and financial advisors as set forth herein.

IV. Attachments
Resolution

August 19, 2009

NEW YORK STATE URBAN DEVELOPMENT CORPORATION - Selection of Underwriters,
Financial Product Providers and Financial Advisors for the Corporation

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the "Materials"), there is hereby appointed the following team of underwriters, to serve on a rotating basis as needed, for a term of two years, subject to extension by an officer of the Corporation for a six month term and by the Chief Executive Officer (CEO) for an additional six month term:

Senior Managers:

Barclay's Capital Inc.
Citigroup Global Markets Inc.
J.P. Morgan Securities Inc.
Goldman, Sachs & Co.
Loop Capital Markets, LLC
Merrill Lynch, Pierce, Fenner & Smith Incorporated
Morgan Stanley
Rice Financial Products Company
Samuel A. Ramirez & Co., Inc.
Siebert Brandford Shank & Co., LLC
Wachovia Bank, National Association

Co-Managers:

BB&T Capital Markets
Cabrera Capital Markets, LLC
Fidelity Capital Markets
Jackson Securities, LLC
Janney Montgomery Scott LLC
Jefferies & Company, Inc.
Lebenthal & Co., LLC
MR Beal & Company
Mesirow Financial
Morgan Keegan & Company, Inc.
Piper Jaffray & Co.
RBC Capital Markets Corporation
Raymond James & Associates, Inc.
Roosevelt & Cross, Incorporated
Sterne, Agee & Leach, Inc.
Stifel, Nicolaus & Company, Incorporated
Stone & Youngberg

and be it further

RESOLVED, that on the basis of the Materials, the following firms are appointed as Financial Product Providers, to serve on a rotating basis as needed, for a term of two years, subject to extension by an officer of the Corporation for a six month term and by the CEO for an additional six month term:

Financial Product Providers:

Barclay's Capital Inc.
Citigroup Global Markets Inc.
Goldman, Sachs & Co.
Merrill Lynch, Pierce, Fenner & Smith Incorporated
Morgan Stanley
RBC Capital Markets Corporation
Rice Financial Products Company
Siebert Brandford Shank & Co., LLC
Wachovia Bank, National Association

and be it further

RESOLVED, that on the basis of the Materials, the following firms are appointed as financial advisors, to serve on a rotating basis as needed, for a term of two years, subject to extension by an officer of the Corporation for a six month term and by the CEO for an additional six month term:

Financial Advisors:

Butchermark Financial Advisors LLC
Public Resources Advisory Group (PRAG)
Public Financial Management (PFM)

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 in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider necessary or proper to effectuate the foregoing.

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