

FOR CONSIDERATION

December 18, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Consulting Services

REQUEST

FOR: Authorization to Extend the Term of the Contract with Adrienne Driben to Provide Consulting Services and to Take Related Actions.

I. Contract Summary

Contractor: Adrienne Driben

Scope of Services: To assist housing staff in negotiating workout agreements, implementing Tenant Repair and Improvement Loan Program (the “Tenant Repair Program”), evaluating portfolio’s capital repair needs, recommending ways to maximize existing resources, and evaluating the future of affordable housing in New York State and ESDC’s role in that arena.

Contract Term: To extend the term of the current contract for a period of six months with an option to further extend, at the discretion of the Senior Vice President & Chief Financial Officer, for an additional six month period.

Termination: Upon written notice to Ms. Driben.

Contract Amendment Amount: Not to exceed \$50,000 for six months or \$100,000 for one year.

Funding Source: Corporate Funds (Housing Repair Fund)

II. Background

At present, the ESDC housing portfolio consists of 62 projects with an aggregate outstanding mortgage indebtedness of \$546 million. During the last three years, there has been a significant increase in activity with nineteen projects prepaying and opting out of the portfolio. Currently,

15 projects have or are in the process of a preservation refinancing or other disposition. Approximately 11 other projects are preparing to commence major improvements under ESDC's Tenant Repair Program.

Some of the major issues affecting the portfolio include:

- Impact of proposed NYS/HFA policy initiatives.
- Increasing capital repair needs.
- Implementing the Housing Repair Program to address health and safety issues and tenant-related repairs and improvements.
- Renegotiating expiring workouts.
- Disposing of ESDC owned properties acquired as a result of defaults.
- Mortgage prepayments (either full or partial) made possible by HUD's increased flexibility in allowing properties to refinance.
- Declining collection rates from the housing companies.

III. Contractor Selection Process

ESDC has utilized the services of Adrienne Driben as a part time consultant for the past five years. Prior to amending Ms. Driben's contract in October 2005, ESDC placed an advertisement in the NYS Contract Reporter seeking proposals from individuals or companies to continue the work performed by Ms. Driben. Although several inquiries were received, no proposals were submitted.

IV. Scope of Work

Ms. Driben was formerly Vice President of Portfolio Management for HFA, in charge of the management and servicing of a 200 multi-family housing loan portfolio. Our experience with Ms. Driben during the past five years has been excellent. Her analytical skills and professional experience have enabled us to utilize her expertise in negotiating specific workout agreements, evaluating the portfolio's capital repair needs and recommending ways to maximize existing resources. With her extensive housing background, she has provided invaluable insight and guidance as we evaluate the future of affordable housing in New York State and ESDC's role in that arena.

We believe Ms. Driben is well qualified to provide these services to ESDC. Her eight years of experience at HFA, where she managed an aging subsidized housing portfolio with problems similar to those of the ESDC portfolio, and her five years of experience with the unique issues affecting our portfolio, enables her to provide expert invaluable advice and assistance to ESDC staff. It is extremely unlikely that a search for a different consultant would yield an equally qualified candidate at equally reasonable rates.

A Contract Reporter exemption has been requested for this current contract amendment. ESDC will not enter into this contract amendment unless or until the exemption request is approved.

V. Contract Term, Price and Funding

We propose to extend the term of the current contract for a period of six months at an additional cost of \$50,000 with an option to further extend, at the discretion of the Senior Vice President & Chief Financial Officer, for an additional six month period at an additional cost of \$50,000. Ms. Driben's work schedule will be based upon a 22.5 hour work week which may be increased or decreased subject to the needs of the Portfolio Management unit at a rate of \$85 per hour, which is unchanged from her current rate of pay. At any time, ESDC may terminate this Agreement upon written notice to Ms. Driben. The source of funding for this contract is the Housing Repair Fund.

VI. Non-Discrimination/Affirmative Action

The Corporation's non-discrimination and affirmative action policy will apply to this contract.

VII. Environmental Review

ESD staff has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of 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 extend the term of the contract with Adrienne Driben for a period of six months in an amount not to exceed \$50,000 with an option to further extend, at the discretion of the Senior Vice President & Chief Financial Officer, for an additional six month period for a total amount not to exceed \$100,000 for the twelve month period, and to take related actions.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

X. Attachment

Resolution

December 18, 2009

EMPIRE STATE DEVELOPMENT CORPORATION – Authorization to Extend the Term of the Contract with Adrienne Driben to Provide Consulting Services for a Period of Six Months with an Option to Further Extend, at the Discretion of the Senior Vice President & Chief Financial Officer, for an Additional Six Month Period, and to Take Related Actions.

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 Adrienne Driben to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into an amendment to extend the term of the contract with Adrienne Driben for a period of six months in an amount not to exceed \$50,000 with an option to further extend, at the discretion of the Senior Vice President & Chief Financial Officer, for an additional six month period for a total amount not to exceed \$100,000 for the twelve month period for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; 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.