

FOR CONSIDERATION

January 20, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: State Small Business Credit Initiative – Bonding Assistance Program

REQUEST FOR: Authorization to Amend the Contract for Consulting Services with The Cayemitte Group; and Take Related Actions

CONTRACT AMENDMENT SUMMARY

Consultant: The Cayemitte Group

Amendments: Addition to the original scope of work (stated below in Background section) of the following services: review, evaluate and make recommendations on credit risk of deals received by ESD for enrollment into Bonding Assistance Program (“BAP”) with the goal of preservation of Program funds for revolving use, while maximizing impacts; monitor BAP portfolio of issued standby letters of credit (“LOCs”) from issuance to closeouts in order to minimize potential claims and extension of maturities; report to ESD on the performance of the Program; relay instructions to ESD for issuance of LOCs, draw downs, close outs, and any other BAP related financial processing and procedures.

Extension of the contract term from 3/31/12 to 12/31/12

The contract amount is to be increased from \$60,000 to an amount not to exceed \$120,000.

BACKGROUND

In November 2011, the Directors authorized a contract with The Cayemitte Group (TCG). TGC has performed well under the contract. TCG has extensive unique experience in design, administration and management small business and minority-owned and women-owned contractor bonding assistance programs similar to BAP, including work as the consultant for the New York State Dormitory Authority (DASNY) for its first statewide surety bond/letter of credit bonding assistance program for minority-owned and women-owned companies. TCG provides the Corporation’s Small Business Division with advice and assistance in creating the operational model, form documentation, and compliance procedures for the program, engaging and

recruiting surety companies, bonding agents, and agencies for participation in the program, and establishing program guidelines, in line with U.S. Treasury operational requirements.

TCG is a New York State certified minority-owned and woman-owned business enterprise (M/WBE). Due to TCG's M/WBE certification, pursuant to Executive Law 15-A, and the fact that the contract is within the discretionary buying threshold of two hundred thousand dollars set forth in State Finance Law Section 163(6) for the purchase of services from small businesses and M/WBEs, the Corporation is not required to conduct a competitive procurement process.

The current scope of work is reviewing and providing comments to New York State Urban Development Corporation d/b/a Empire State Development (ESD or the Corporation) on Bonding Assistance Program (BAP or the Program) rules and regulations; sharing with ESD a comprehensive contact list of sureties and bond producing agents and their relevant key personnel; reviewing the applicable bond forms of agencies; work with bond producers to gain their acceptance; conducting outreach to sureties and bond producers; managing outreach to bond producers through National Association of Surety Bond Producers (NASBA); developing the program materials, including internal operating guidelines, screening criteria for applicants, the bond program application, a program guide for applicants, the collateral agreement between ESD and bond producers; advice regarding triggers, use, and release of bonds and letters of credit; and developing form documentation and tracking worksheets necessary for fund management and program operation and compliance. The amendment will add to this scope the additional Program operations work described in the Amendment section above.

Firm principals, David Cayemitte and Liz Gilmour-Duncan, will continue to be responsible for the performance of the work. These principals use associates and other staff as appropriate, but these two principals will lead the firm's efforts.

Small Business Division staff now recommends amendment of the contract as described above in the Amendment section of these materials.

CONTRACT PRICE AND FUNDING

The Contract is, and as amended will be, entirely funded with from the proceeds of a federal grant for the State Small Business Credit Initiative. Compensation under the amended contract will not exceed \$120,000.

RESPONSIBLE PARTY

Pursuant to State Finance law Sections 139-j and 139-k and ESD's policy related thereto, staff has: (a) considered TCG's ability to perform the services provided for in the proposed contract; and (b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers TCG to be responsible.

NON-DISCRIMINATION AND AFFIRMATIVE ACTION

ESD's non-discrimination and affirmative action policy applies to this contract.

ENVIRONMENTAL REVIEW

The requested authorization to amend the contract for consulting services 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 this authorization.

REQUESTED ACTIONS

The Board is requested to (1) make a determination of responsibility with respect to the proposed contractor; and (2) authorize the Corporation to amend the consulting services contract with The Cayemitte Group for in an amount not to exceed One Hundred Twenty Thousand Dollars (\$120,000) and on substantially on such terms and conditions as described above.

RECOMMENDATION

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

ATTACHMENTS

Resolution

January 20, 2011

State Small Business Credit Initiative – Bonding Assistance Program – Authorization to Amend the Contract with The Cayemitte Group for Consulting Services 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 The Cayemitte Group to be responsible; and be it further

RESOLVED, that in accordance with the Materials, the Corporation is hereby authorized to amend the contract with The Cayemitte Group for consulting services as described in the Materials, the cost of which (as amended) is not to exceed one hundred twenty thousand dollars (\$120,000) for the purposes and services, and substantially on the terms and conditions, as set forth in the Materials; and be it further

RESOLVED, that the President, or other Officer 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 resolutions.

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